

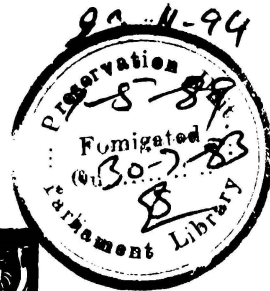
THE
LEGISLATIVE ASSEMBLY DEBATES
Official Report



Volume IV, 1947

(25th March, 1947 to 9th April, 1947)

THIRD SESSION
OF THE
SIXTH LEGISLATIVE ASSEMBLY
1947



LEGISLATIVE ASSEMBLY

President:

The Honourable Mr. G. V. MAVALANKAR.

Deputy President:

Khan MOHAMMAD YAMIN KHAN, M.L.A.

Panel of Chairmen:

Syed GHULAM BHIK NAIRANG, M.L.A.

Mr. P. J. GRIFFITHS, M.L.A.

Sardar MANGAL SINGH, M.L.A.

Shrimati AMMU SWAMINADHAN, M.L.A.

Secretary:

Mr. M. N. KAUL, Barister-at-Law.

Assistants of the Secretary:

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Mr. HASAN MOHAMMAD KHAN.

Mr. N. C. NANDI.

Marshal:

Captain Haji Sardar NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Petitions:

Khan MOHAMMAD YAMIN KHAN, M.L.A. (*Chairman*).

Syed GHULAM BHIK NAIRANG, M.L.A.

Shri SRI PRAKASA, M.L.A.

Mr. C. P. LAWSON, M.L.A.

Sardar MANGAL SINGH, M.L.A.

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LEGISLATIVE ASSEMBLY

Monday, 7th April 1947.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. G. V. Mavalankar) in the Chair.

MEMBER SWORN:

Mr. K. G. Ambegaokar, M.L.A. (Government of India: Nominated Official).

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS

TRAINING OF INDIAN GEOLOGISTS

1412. *Sjt. N. V. Gadgil (on behalf of Seth Govind Das): Will the Secretary of the Works, Mines and Power Department be pleased to state:

(a) if Government are aware that there is a shortage of competent and experienced Indian Geologists and lack of university departments to train young Geologists;

(b) if Government are aware that the knowledge of Indian mineral resources is still incomplete and is a hindrance to post-war development; and

(c) the steps that Government are taking to encourage training in Geology?

Mr. B. K. Gokhale: (a) Yes.

(b) Yes.

(c) Government appointed a committee to report on the improvement of geological education in Indian Universities and its report is now being carefully examined.

Government also propose to reorganise and expand the Indian School of Mines, Dhanbad, aiming at increasing the output of qualified mining engineers and geologists to 2½ times the present outturn. The Reorganisation Committee is expected to submit its report shortly.

I would also like to add that a few scholars are being sent abroad for training in Geology.

Shri Sri Prakasa: With reference to the Honourable Member's reply to part (b) of the question, could he tell us if there is any department of human endeavour in which knowledge is complete?

Mr. President: It is a hypothetical question; it need not be answered.

Sri M. Ananthasayanam Ayyangar: May I ask the Honourable Member what difference there is in the course given in Dhanbad as opposed to the instruction given in any university?

Mr. B. K. Gokhale: Universities give a degree whereas Dhanbad gives a Diploma.

Sri M. Ananthasayanam Ayyangar: Are any arrangements made or contemplated by the Government of India so as to give the additional training that is given in Dhanbad to those persons who take degrees in the Universities by allowing them access to suitable mines closeby?

Mr. B. K. Gokhale: I believe these points are under consideration of the Reorganisation Committee of the School of Mines.

EMPLOYMENT OF A TOWN PLANNER FROM ENGLAND FOR DEVELOPMENT OF
NEW DELHI .

1413. *Sjt. N. V. Gadgil (on behalf of Seth Govind Das): Will the Secretary of the Works, Mines and Power Department be pleased to state:

(a) whether Government are aware that a 'town planner' from England has been employed for sometime in connection with the future development of New Delhi; if so, what his name is and what are his emoluments; and

(b) whether this post was advertised in India? If not, why not?

Mr. B. K. Gokhale: (a) Mr. E. W. Harkness was appointed as Town Planner in the Central Public Works Department on contract for a period of three years from 1st December 1945 on a salary of Rs. 2,000 p.m. Mr. Harkness died on the 19th November 1946 and the question of appointment of a successor is now under consideration.

(b) The post was at first advertised in this country but as no suitable candidate was available, the post was advertised in the United Kingdom on the advice of Federal Public Service Commission and Mr. Harkness was appointed.

Lala Deshbandhu Gupta: How do Government propose to fill up this post?

Mr. B. K. Gokhale: The matter is under consideration but the proposal is to fill it up in India by promotion of one of our own men.

Sri M. Ananthasayanam Ayyangar: May I know how many applications there were for this post from Indians in 1945?

Mr. B. K. Gokhale: There was no suitable applicant.

Sri M. Ananthasayanam Ayyangar: I want to know the number of applicants who applied for the post.

Mr. B. K. Gokhale: I want notice of that question.

Sri M. Ananthasayanam Ayyangar: What steps have been taken to create such suitable number of qualified men here in India? Are we to go on indenting from foreign countries?

Mr. B. K. Gokhale: The whole question of architectural education is under consideration, but it is not easy to find a solution. There is only one school of architecture at present in India, and that is in Bombay. The output is limited. The question was recently considered informally at a meeting of architects, but no solution has yet been found.

Sri M. Ananthasayanam Ayyangar: Was not even the Principal of this School found competent for this post; was he found wanting in knowledge?

Mr. B. K. Gokhale: I said that only the applicants were considered unsuitable. I do not know whether the Principal of this School applied for the post, or not.

PURCHASE OF SHIPPING BY THE GOVERNMENT OF INDIA FOR INDIAN MERCANTILE MARINE

1414. *Sjt. N. V. Gadgil (on behalf of Seth Govind Das): Will the Honourable the Commerce Member be pleased to state:

(a) the total tonnage of shipping that the Government of India propose to purchase from the United States of America and other foreign countries in order to make additions to the Indian Mercantile Marine in 1947;

(b) whether Government are aware that a number of ships have already been purchased from the United States of America, and if so, their tonnage and cost;

(c) the steps that are being taken by Government, to encourage the Ship Building Industry in this country; and

(d) whether any indigenous concern has begun the manufacture of ships for the use of our navy and whether Government propose to place any orders with such concern?

The Honourable Mr. I. I. Chundrigar: (a) Government do not propose to purchase any ships on their account from the United States of America and other countries unless Indian Companies experience any difficulty in making purchases through private negotiations.

(b) Yes. As far as Government are aware, two Companies have so far purchased eleven ships of about 8 to 10,000 tons each at an approximate total cost of ten million dollars.

(c) Government have set up a Panel to investigate the development of the Ship-building industry and its report is awaited.

(d) Since the out-break of the second world War several new ships have been built in India for the Royal Indian Navy. In the event of more ships of the same type and class being required, orders may be placed with firms having facilities for building ships.

Sri M. Ananthasayanam Ayyangar: May I know why a panel is necessary when already during the war so many ships were built for the R.I.N.? Is there any new investigation called for?

The Honourable Mr. I. I. Chundrigar: Those ships were very small, and it was necessary to consider whether better arrangements could be made for building bigger ships.

Sri M. Ananthasayanam Ayyangar: Was not a shipbuilding yard established in Vizagapatam, or has it since been discontinued? If so, why?

The Honourable Mr. I. I. Chundrigar: The shipbuilding yard at Vizagapatam has been started by one private company, and it is not being discontinued.

Sri M. Ananthasayanam Ayyangar: Is it producing any ships, and during the past one year how many ships have been built?

The Honourable Mr. I. I. Chundrigar: So far as Government are aware, they are building two ships and they are still under construction.

REMOVAL FROM VOTING LIST THE NAMES OF INDIAN LABOURERS BY GAMPOLA DISTRICT REGISTERING OFFICER, CEYLON

†1415. ***Maharajkumar Dr. Sir Vijaya Ananda:** (a) Will the Honourable Member for External Affairs be pleased to state whether the attention of Government has been drawn to a report in the *Hindu*, dated 16th February 1947 that the Gampola District Registering Officer in Ceylon has removed from the voting list the names of the Indian labourers already registered, thereby insisting on property qualification even in cases where the claimants and their parents were born in Ceylon?

(b) If so, do Government propose to take steps to secure their enrolment on the voting lists?

The Honourable Pandit Jawaharlal Nehru: (a) Yes, Sir. In the Gampola District objections have been raised on behalf of prospective candidates under section 12 of the Ceylon (Parliamentary Elections) Order in Council, 1946, to the inclusion of the names of about 5,047 persons in the preliminary list and the

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

bulk of these refer to Indian labourers. It is not, however, known whether all these objections have been upheld and whether the names have in fact been removed from the lists.

(b) The Representative of the Government of India has already impressed on the Government of Ceylon the difficulties which the labourers experience in meeting such objections; but as the law stands at present the only course open to the voters is to appeal to the Revising Officer against the decision of the Registering Officer. It has since been understood that only one such appeal was lodged in the Gampola electoral district before the period for appeal closed and the decision of the Revising Officer on that appeal is awaited.

APPOINTMENT BY BURMA GOVERNMENT OF A DIPLOMATIC REPRESENTATIVE AND A TRADE COMMISSIONER IN INDIA

1416. *Pandit Sri Krishna Dutt Paliwal: Will the Honourable Member for Commonwealth Relations be pleased to state:

(a) whether Burma Government have appointed (i) a Diplomatic Representative and (ii) a Trade Commissioner in India; and

(b) whether Government propose to appoint a Diplomatic Representative in Burma?

The Honourable Pandit Jawaharlal Nehru: (a) No, Sir.

(b) There is already a Representative of the Government of India in Burma who is duly accredited to the Government of the country.

REPORT ON THE ENQUIRY INTO CHARGES AGAINST NAWAB MAHBOOB ALI POLITICAL AGENT, MALAKAND

1417. *Pandit Sri Krishna Dutt Paliwal: Will the Honourable Member for External Affairs be pleased to state:

(a) whether Mr. Justice Clark of the Madras High Court has submitted his report on the enquiry into the charges against Nawab Mahboob Ali, Former Political Agent of Malakand in connection with the incidents of 21st October 1946; and

(b) if so, the action taken by Government on the report?

The Honourable Pandit Jawaharlal Nehru: (a) Yes. The officer has been exonerated in the report.

(b) The necessary steps are being taken by Government as a result of the report.

Pandit Sri Krishna Dutt Paliwal: Will the Government lay a copy of the report on the table?

The Honourable Pandit Jawaharlal Nehru: I should imagine that it is not customary to place such reports of departmental enquiry on the table of the House. I cannot give any assurance on that point, but my first reaction to the question is that it is probably not desirable but if the House is insistent, I can reconsider that matter.

Mr. Manu Subedar: May I enquire whether it would be desirable to establish such precedents of publishing departmental enquiries and placing the same on the table of the House?

Mr. President: At present that question does not arise.

Shri Sri Prakasa: Will the Honourable Member give us an idea of the recommendations of the report?

The Honourable Pandit Jawaharlal Nehru: There is no question of any recommendations. The point was that certain very undesirable incidents took place and how far the officer concerned was responsible for the incidents which took place. Justice Clark held that the officer in question was not responsible for the incidents.

DEMAND OF THE AZAD HIND SANGH IN GERMANY FOR AN ENQUIRY INTO THE CONDUCT OF INDIAN SECURITY UNIT

†1418. ***Maharajkumar Dr. Sir Vijaya Ananda:** (a) Will the Honourable Member for External Affairs be pleased to state whether the attention of Government has been drawn to the demand by the members of the Azad Hind Sangh in Germany, published in the *Hindustan Times* of 31st January, 1947, who recently returned to India, that an inquiry be made into the conduct of the Indian Security Unit also known as the Indian Military Mission who ordered that Indians in Germany be arrested and treated as 'Security Suspects' and that India should appoint her representative to the Allied Administration in Germany?

(b) If so, what steps do Government propose to take in this direction?

The Honourable Pandit Jawaharlal Nehru: (a) and (b). Yes.

The Indian Security Unit were acting under the orders of Supreme Headquarters Allied Expeditionary Forces in arresting certain Indians in Germany who were suspected of collaboration with the Nazis and were therefore treated as security suspects. Government see no necessity to order any further enquiry into the conduct of the Indian Security Unit.

The Indian Security Unit is not and never has been known as the Indian Military Mission, which is a separate organisation created early in 1946, to represent the Government of India and operate under its instructions. The Indian Security Unit was disbanded on the 31st March 1946.

The Allied Administrations of Germany is under the control of four powers, namely United Kingdom, U.S.S.R., U.S.A. and France. The Indian Military Mission in Germany maintains liaison with the Central Council.

WITHDRAWAL OF INDIAN TROOPS FROM BURMA

†1419. ***Maharajkumar Dr. Sir Vijaya Ananda:** (a) Will the Honourable Member for Commonwealth Relations be pleased to state whether it is a fact that Indian troops were used to suppress the rebellion in Yamethin district in the Central plains of Burma in the middle of January 1947?

(b) If so, do Government propose to withdraw Indian troops from Burma, in view of the ill-feelings likely to arise between Indians and Burmese as a result of the use of Indian troops there?

The Honourable Pandit Jawaharlal Nehru: (a) There has been no rebellion in Burma. Serious dacoities have, however, taken place especially in Yamethin District. All types of troops including British Indian, Gurkha and Burmese troops have been used from time to time during recent months in anti-dacoity operations in various parts of Burma including Yamethin District.

(b) Government have no information that the presence of Indian troops is causing any ill-feeling between the Burmese and Indians or that such troops are being misused. It is the policy of Government to withdraw Indian troops from all places abroad, including Burma, and this is progressively being given effect to in consultation with the parties concerned.

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

SELECTION OF PERSONNEL OF THE TRADE DELEGATIONS SENT ABROAD

1420. *Sjt. N. V. Gadgil (on behalf of **Mr. Vadilal Lallubhai**): Will the Honourable Member for Commerce please state the number of Trade Delegations sent abroad by his department to participate in various international conferences, the personnel thereof, and the basis of their selection?

The Honourable Mr. I. I. Chundrigar: Three delegations have been sent to participate in International Conferences on trade. A statement giving particulars of the personnel of these delegations is laid on the table of the House.

The non-official members of these delegations to whom presumably the Honourable Member is referring have been selected from trade communities and from businessmen representatives of trade and industry in the country in consultation with the interest concerns.

Statement showing the personnel of delegations sent by Commerce Department to International Conferences

1. Delegation to the preparatory Commission of the International Conference on Trade and Employment held in October 1946 in London

Official Representatives :

1. Mr. R. K. Nehru, I.C.S.,
Joint Secretary, Commerce Department Leader.
2. Mr. B. N. Adarkar,
Deputy Economic Adviser to the Government of India, Com- Member.
merce Department.
3. Mr. M. A. Mulky,
Under Secretary, Commerce Department Secretary.

Non-official Representatives :

4. Dr. P. S. Lokanathan,
Editor, 'Indian Economist' Member.
5. Mr. B. N. Ganguly,
Professor of Economics, Hindu College, Delhi Member.
6. Dr. A. I. Qureshi,
Economic Adviser to the Government of H. E. H. the Nizam
of Hyderabad Member.
7. Mr. D. G. Mulherkar,
Secretary, Federation of Indian Chamber of Commerce and In-
dustry Member.
8. Mr. H. S. Malik, C.I.E. O.B.E., I.C.S.,
Prime Minister, Patiala State Member.

2. Delegation for the Drafting Committee of the International Conference on Trade and Employment held in January 1947 in New York

Official Representative—

1. Mr. B. N. Adarkar,
Dy. Economic Adviser to the Government of India, Com-
merce Department

Non-official Representative :

2. Dr. A. I. Qureshi,
Economic Adviser to the Government of H. E. H. The Nizam
of Hyderabad.

3. Delegation to the Second Session of the preparatory Committee on Trade and Employment to be held on the 10th April 1947 at Geneva.

Sole Delegate and Leader of the Delegation :

The Honourable Mr. Ismail I. Chundrigar,
Commerce Member, Government of India.

Substitute Delegate :

Sir Raghavan Pillai, K.C.I.E., C.B.E., I.C.S.
Secretary to the Government of India, Commerce Department

Official Representative :—

Mr. M. Ikramullah, C.I.E., I.C.S.,
Jt. Secretary to the Government of India, Commerce Department Member-Delegate

Nr. M. P. Pai, I.C.S.,
Jt. Secretary to the Government of India, Industries & Supplies Department " . .

Mr. S. Ranganathan, I.C.S.,
Secretary, Central Board of Revenue & ex-officio Jt. Secretary to the Government of India, Finance Department "

Mr. M. R. Ajuja, O.B.E.,
Indian Government Trade Commissioner, Canada "

Mr. B. N. Adarkar, M.B.E.,
Dy. Economic Adviser to the Government of India "

Mr. S. M. Yusuf, I.C.S.,
Dy. Secretary to the Government of India, Food Department "

Mr. B. N. Banerji, M.B.E.,
Dy. Secretary to the Government of India, Commerce Department "

Mr. M. A. Mulky,
Under Secretary to the Government of India, Commerce Department Member Secretary

Non-official Representatives :

Mr. H. A. Sattar Soth, M.L.A. (Central) Member-Delegate

Mr. D. P. Karmarkar, M.L.A., (Central) "

Mr. H. S. Malik, C.I.E., O.B.E.,
Prime Minister, Patiala State "

Mr. Habib Ibrahim Rahiintoola,
Federation of Muslim Chambers of Commerce & Industry "

Mr. G. L. Mehta,
Federation of Indian Chambers of Commerce & Industry "

Dr. P. S. Lokanathan,
Editor, *Eastern Economist*, New Delhi "

Dr. A. I. Qureshi,
Economic Adviser to H.E.H. the Nizam's Government, Hyderabad "

Mr. D. G. Mulherkar,
Federation of Indian Chambers of Commerce & Industry "

Dr. B. N. Ganguli,
Economic Department Delhi University, Delhi "

Mr. Naseer Ahmed Shaikh,
Mills and Factories Owner, Lahore "

Sardar K. D. Mahadik,
Commerce Minister, Gwalior "

NUMBER OF APPOINTMENTS MADE IN THE COMMERCE DEPARTMENT

1421. *Sjt. N. V. Gadgil (on behalf of Mr. Vadilal Lallubhai): Will the Honourable the Commerce Member please state:

(a) the number of new appointments made in his department during the periods (i) from 2nd September 1946 to 26th October 1946, and (ii) from 26th October 1946 till 14th March 1947; and

(b) the date of each appointment, the designation and the pay scales thereof, the number of appointments made from each community to these posts separately for the periods mentioned in (i) and (ii) of part (a) above?

The Honourable Mr. I. I. Chundrigar: (a) Ten appointments were made between 2nd September 1946 to 26th October 1946 and 48 appointments between 26th October 1946 to 31st March 1947.

(b) A statement is placed on the table of the House.

Statement showing the date of appointment, the designation, the scales of pay etc., of new appointments in the Department.

Designation	Scale of Pay	Date of appointment	Community
Rs.			
<i>A. Period 2nd September 1946—26th October 1946.</i>			
Joint Secretary	3,000 p.m. (fixed) .	7-10-46	Christian (European).
<i>(i) Assistants or Grade A Clerks.</i>			
'A' Grade Clerk	100—10—200 .	19-9-46	Hindu.
Assistant	140—10—310—15— 400.	14-9-46	Indian Christian.
<i>(ii) Grade B Clerks.</i>			
'B' Grade Clerk	60—5—100—10—120	14-9-46 (A. N.)	Hindu.
Do.	Do.	23-9-46	Indian Christian.
Do.	Do.	30-9-46	Sikh.
Do.	Do.	1-10-46	Muslim.
Do.	Do.	14-10-46 (A. N.)	Hindu.
Do.	Do.	19-10-46	"
<i>(iii) Stenographer.</i>			
Stenographer	125—5—300	5-9-46 (A. N.) .	"
<i>Period 26th October 1946—Date</i>			
Joint Secretary	3,000 p.m. (fixed) .	31-12-46 (A. N.)	Muslim.
Private Secretary to H. M.	Senior time scale of pay of the I.C.S., plus Rs. 400 p.m.	30-11-46 (A. N.)	"
Deputy Secretary	Do	24-3-47	"
Officer on Special Duty (Exhibition).	1,600 (fixed) .	3-12-46	"
Do.	1,000 (fixed) .	9-1-47	Hindu.
Do.	Do.	1-3-47	Muslim.
Officer on Special Duty	850 plus 250 s.p. .	10-3-47	"
Do.	1,000 (fixed) .	12-2-47	Hindu.

Designation	Scale of Pay	Date of appointment	Community
	Rs.		
Statistical Research Officer	625	15-2-47	Hindu..
(i) <i>Assistants or Grade A Clerks</i>			
'A' Grade clerk	100—10—200	11-11-46 . . . . .	..
Assistant	140—10—310—15—400.	16-12-46 . . . . .	..
'A' Grade Clerk.	100—10—200	23-12-46 (A. N.)	Muslim..
Do.	Do.	4-1-47 . . . . .	..
Do.	Do.	20-1-47	Hindu.
Do.	Do.	17-2-46 . . . . .	..
Assistant	140—10—310—15—400.	28-1-47 . . . . .	..
'A' Grade Clerk	100—10—200	3-2-47 . . . . .	..
Do.	Do.	6-2-47	Muslim..
Do.	Do.	10-2-47 . . . . .	..
Do.	Do.	20-2-47 . . . . .	..
Assistant	140—10—310—15—400.	22-2-47 . . . . .	..
'A' Grade Clerk	100—10—200	15-3-47	Hindu..
(ii) <i>B Grade Clerks</i>			
'B' Grade Clerk	60—5—100—10—120	14-11-46	Muslim..
Do.	Do.	18-11-46 . . . . .	..
Do.	Do.	22-11-46 . . . . .	..
Do.	Do.	1-12-46	Hindu..
Do.	Do.	20-1-47 (A. N.) . . . . .	..
Do.	Do.	23-1-47	Sikh.
Do.	Do.	1-2-47 . . . . .	..
Do.	Do.	Do.	Hindu.
Do.	Do.	Do.	Muslim..
Do.	Do.	Do.	Hindu.
Do.	Do.	7-2-47	Muslim.
Do.	Do.	10-2-47	Hindu.
Do.	Do.	17-2-47 . . . . .	..
Do.	Do.	19-2-47 . . . . .	..

Designation	Scale of Pay	Date of appointment	Community
	Rs,		
'B' Grade Clerk	69—5—100—10—120	20-2-47	Muslim.
Do.	Do.	1-3-47	„
Do.	Do.	20-2-47	Hindu.
Do.	Do.	22-3-47	Muslim.
(iii) <i>Stenographer.</i>			
Stenographer	125—5—300	30-11-46 (A. N.)	Muslim.
Do.	Do.	10-1-47	Indian Christian.
P. A. to H. M.	Pay yet to be fixed.	...	Muslim.

Sri M. Ananthasayanam Ayyangar: May I know what classes of officers the Honourable Member himself appoints and what classes he leaves for the Federal Public Service Commission?

The Honourable Mr. I. I. Chundrigar: The question of the Federal Public Service Commission comes in when a person who is not in Government service is to be recruited. But transfers between the various departments and appointments of persons who are already in Government service are not referred to the Federal Public Service Commission.

Sri M. Ananthasayanam Ayyangar: Is there any committee of the Cabinet which is looking into the cases of individuals who are promoted? In such cases does the Honourable Member himself take the decision, or are they dealt with by a separate committee?

The Honourable Mr. I. I. Chundrigar: Different rules apply to different appointments, but usually it is the Member in charge who does it.

Sri M. Ananthasayanam Ayyangar: Is it a fact that most junior officers have been promoted in the Department of the Honourable Member to the posts of Secretaryship, and the senior officers have been superseded?

The Honourable Mr. I. I. Chundrigar: No person has been appointed to the post of a Secretary in my department except that the Additional Secretary is acting for the Secretary during his absence on duty outside India.

Sri M. Ananthasayanam Ayyangar: Is strict seniority being observed or is it a matter of selection?

The Honourable Mr. I. I. Chundrigar: It is a matter of selection.

Lala Deshbandhu Gupta: May I know if the Honourable Member has selected some incumbents for the Pool Service for the Commerce Department?

The Honourable Mr. I. I. Chundrigar: People are selected whenever it is found necessary to do so.

Lala Deshbandhu Gupta: Is it a fact that the Honourable Member has sent a recommendation to the Honourable the Finance Member containing 17 names of officers who are to be selected, and all of them belong to one particular community?

The Honourable Mr. I. I. Chundrigar: As the particular community was under-represented in the Pool Services the letter written to the Finance Department suggested that these people may be interviewed and considered to find out whether any of them could be recruited in the Pool. None of them was asked to be recruited without an examination.

Lala Deshbandhu Gupta: Is it a fact that the officers for these services are as a rule essentially selected on merits from different provinces?

The Honourable Mr. I. I. Chundrigar: It is not a question of merits but one of suitability in the Pool Service and that is all that the Finance Department was requested to consider.

REDUCTION OF BRITISH EMPIRE PREFERENCE TARIFF RATES

†1422. ***Prof. N. G. Ranga:** Will the Honourable the Commerce Member be pleased to state:

(a) whether it is a fact that the Government of the United States of America are favouring the reduction of British Empire preference tariff rates;

(b) whether it is a fact that Sir N. R. Pillai said in London that the Commonwealth Trade Conference was examining these proposals and that he considered them to be reasonable:

(c) whether the Government of India propose to consult the Agricultural, Industrial and Trade interests of India before our delegation leaves India for the Geneva Conference; and

(d) whether Government propose to include the representatives of Agricultural interests, as represented by the Federation of Rural People's Organisations in the preliminary talks suggested and in the delegation?

The Honourable Mr. I. I. Chundrigar: (a) Yes.

(b) It is a fact that the Commonwealth Conference in London is examining proposals for the reduction of British Empire preference tariff rates. Government have however no information as to the statement said to have been made by Sir Raghavan Pillai.

(c) The various interests concerned with matters likely to arise at the Conference have been consulted.

(d) It is regretted that owing to shortness of time it has not been possible to include a representative exclusively of agricultural interests. The Honourable Member can be assured that several members of the delegation are qualified to, and will safeguard, the interests of agriculturists.

ATTEMPTS BY EUROPEAN AND THE GOVERNMENT OF RHODESIA TO TURN NEGROES AND OTHER COLONIAL PEOPLE AGAINST INDIANS

†1423. ***Prof. N. G. Ranga:** Will the Honourable Member for External Affairs and Commonwealth Relations be pleased to state:

(a) whether Government are aware that Europeans and the Government of Rhodesia have been attempting to turn the Negroes and other Colonial peoples of that State against Indians who are generally business-men and shopkeepers;

(b) whether Government are aware that there is actually a 'Boycott the Indian Shops' movement in existence and that Negro customers are being prevented from patronising Indian shops;

(c) whether Government have advised or propose to advise the South African Indian Congress to enquire into this matter and bring about a settlement between Indians and Negroes in Rhodesia;

(d) whether Government have tried to ascertain facts from the South African Indian delegates to the Inter-Asian Conference; and

(e) what steps Government propose to take to stop this new development?

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

The Honourable Pandit Jawaharlal Nehru: (a) and (b). The Government of India learn from the Government of Southern Rhodesia that there is no foundation for these allegations in respect of Southern Rhodesia. As regards Northern Rhodesia the position is as follows:—

There has been for some weeks a boycott in two towns of all shops dealing with African trade. The boycott is by Africans and is said by them to be on account of high prices. There has been indication also that it is directed particularly against Indian traders on the alleged ground that Indians have treated them unfairly in their trade concerns. There was some attempt by Africans at one time to picket shops in order to prevent other Africans from buying but this was stopped immediately by Government as soon as it occurred. The Government of Northern Rhodesia have informed the Government of India that there is no truth whatever in the suggestion that that Government has influenced Africans in the course that they have pursued, nor is there any evidence that any non-Africans have been in any way concerned in the boycott.

(c) and (d). No, Sir. The South African Indian Congress is not concerned with Indians in Northern Rhodesia which territory is not a part of South Africa.

(e) The question of making suitable representations to the Government of Northern Rhodesia is under consideration.

REPAIR OF FRENCH BOMBER AIRCRAFTS AT THE HINDUSTAN AIRCRAFT FACTORY AT BANGALORE

1424. *Sri V. Gangaraju: Will the Honourable Member for External Affairs be pleased to state:

(a) whether the attention of the Government has been drawn to the letter of Mr. A. Z. Sheriff published in *Blitz*, dated the 22nd March;

(b) whether it is a fact that nearly 20 French Bombers are sent for repairs or over-hauling to the Hindustan Air Craft Factory at Bangalore;

(c) whether Government are aware that the French Bombers are given priority;

(d) whether Government are aware that the French Bombers are meant for the suppression of Freedom movement in Indo-China; and

(e) if the answer to (c) and (d) are in affirmative, whether Government propose to consider the advisability of stopping this practice which is against the wishes of the people of India?

The Honourable Pandit Jawaharlal Nehru: I understand that this question will be answered by the Department of Industries and Supplies on a subsequent date.

Mr. Manu Subedar: The part which relates to repairs will be answered on a subsequent date. Whether in view of the declarations of sympathy of this country towards those whom the French Government want to force into submission, will the Honourable Member tell this House whether he would look into such cases wherever the previous declarations tried to remain neutral and not help one side or the other, particularly the aggressor side in case their equipments come here for repairs?

The Honourable Pandit Jawaharlal Nehru: I am afraid I have not been able to grasp the Honourable Member's question, but on the general trend of his question, I may be permitted to inform the House that we have been exceedingly careful that nothing should be done on behalf of the Government which might lead to help being given to the French in carrying on any military operations in Indo-China. So far as I can say off-hand, there were one or two cases of hospital planes being sent for repairs to Bangalore. I am not personally aware of a single case of bomber being sent for repair. In pursuance of an old standing

contract, some months ago a hospital plane had to be repaired and that could not be refused. In any event we could distinguish between hospital plane and fighting plane. To my knowledge not a single fighting plane was allowed any facility.

SCHEME OF SOCIAL INSURANCE FOR INDIAN SEAMEN

1425. *Miss Maniben Kara: (a) Will the Honourable the Commerce Member be pleased to state whether any member of the International Labour Office was invited by the Government of India in 1945 to prepare a scheme of social insurance for Indian seamen?

(b) Is it a fact that Dr. Bodmer came to this country at the cost of the Government of India to collect the necessary data for the social insurance scheme for Indian seamen?

(c) Have the Report and the scheme been submitted by Dr. Bodmer to the Government of India? If so, when was it submitted?

(d) What steps have been taken by the Government of India to give effect to the scheme prepared?

(e) Do Government propose to give an assurance that the scheme for social insurance for Indian Seamen will be brought before this House for discussion at an early date?

(f) Do Government propose to consider the desirability of circulating a copy of the report of Dr. Bodmer to the Trade Union Organisations with a view to inviting their opinion and suggestions on the scheme?

The Honourable Mr. I. I. Chundrigar: (a) No, Sir. The Government of India had requested the International Labour Office to send to India an official acquainted with the subject of Seamen's Insurance in order to assist them in the elaboration of a Scheme of Social Insurance for Indian Seamen which had been prepared earlier by Professor B. P. Adakar. In response to this request Dr. (Miss) Laura Bodmer was deputed for the purpose by International Labour Office in September 1945.

(b) No, Sir. Except small incidental expenses, all expenditure incurred in connection with the deputation of Dr. (Miss) Laura Bodmer was borne by the International Labour Office.

(c) A Joint Report by Dr. (Miss) Laura Bodmer and Professor B. P. Adarkar on the Scheme of Social Insurance for Indian Seamen was submitted to the Government of India in December 1945.

(d) The authors of the Scheme of Social Insurance for Indian Seamen and the Report thereon were definitely of the opinion that success of the insurance scheme would largely depend on a simultaneous organisation of recruitment, involving a reduction of the number of those admitted to sea service, and a system of rotation for seafarers who are not in continuous employment. The Government of India, therefore, intended to appoint a Committee on Recruitment with a view to exploring the possibility of bringing about an improvement in the existing system of recruitment of Indian seamen prior to the institution of the Social Insurance Scheme. In view, however, of representations from the interests concerned (*viz.*, the shipowners and seafarers) that they should be given a chance to evolve a machinery to remove some of the evils in present system of recruitment, the Government of India postponed the setting up of the Recruitment Committee for the time being. The Shipowners and seafarers have formed a bi-partite Maritime Board at Calcutta and are reported to be investigating the possibility of reorganising the present system of recruitment. A similar Board is being set up in Bombay also. The Government of India are watching the work of these Maritime Boards with interest. As soon as the system of recruitment is re-organised the Government of India will take the necessary steps with a view to instituting the Social Insurance Scheme for Indian Seamen.

(e) The Scheme for Social Insurance for Indian Seamen and the Report thereon require further examination in consultation with the interests concerned. The Government of India will place the Scheme of Social Insurance for Indian Seamen before the House as soon as possible.

(f) Copies of the Social Insurance Scheme for Indian Seamen and the Report thereon have already been circulated to all the interests concerned, including the Trade Union Organisation, for any comments that they may wish to offer. I also lay a copy on the table.†

Miss Maniben Kara: In view of the fact that the report has already been submitted to the Government of India by Dr. Laura Bodmer who came here at the express desire of the Government of India in December 1945, do Government not think advisable to immediately set up an organisation on the basis of Tripartite labour machinery, with a view to improving seamen legislation for recruitment, wages, accommodation, etc.?

Mr. President: That is asking for opinion. What is the information that the Honourable Member requires?

Miss Maniben Kara: The Honourable Member said that Government had intended to start a machinery for recruitment. I want to know whether they are going to establish this committee immediately with a view to improving the conditions of labour in sea, port trusts and docks?

The Honourable Mr. I. I. Chundrigar: The authors of the report themselves say:

"The success of any insurance scheme for seafarers will very largely depend on simultaneous organisation of recruitment involving a reduction in the number of those admitted to sea service and a system of reduction for seafarers who are not in continuous employment."

The authors themselves say that as long as the number of seamen is not reduced it is not possible to work out a scheme of social insurance. It is with a view to reduce their number that Government wanted to appoint a recruitment committee. But at the request both of the shipowners as well as the labour unions of seamen, Government postponed the setting up of such a committee because they wanted to try the setting up of a voluntary organisation, a bipartite organisation of the representative of the shipowners and seafarers; and Government wanted to give a trial to that scheme.

Miss Maniben Kara: I am not insisting on the social insurance scheme itself. I want to know whether the Honourable Member does not think it advisable to set up a tripartite machinery consisting of Government, employers and employees to consider the question of the condition of seaman's labour, and various other labour legislations.

Mr. President: I believe that has been replied to. This is a repetition.

Mr. N. M. Joshi: May I know why they took 17 months to circulate the report to the legislature when it was printed and made ready in 1945? What was the reason for the delay in publication? Secondly, will the Government of India at least now circulate the report to the members of the legislature?

The Honourable Mr. I. I. Chundrigar: I have already said that the organisations concerned, both of shipowners as well as of labour, were supplied with a copy of the report as soon as it was ready and a copy was laid on the table of the House today. If it is desired that it should be circulated to the Members of the House I shall do so.

Miss Maniben Kara: May I inform the Honourable Member that the report has not been sent to the Maritime Union of India which is an organisation recognised by the Government of India?

† Not printed in these Debates. A copy placed in the Library of the House.—Ed. of D.

The Honourable Mr. I. I. Chundrigar: According to my information it was circulated to all organisation concerned with this question.

Mr. N. M. Joshi: Is it the practice of the Government of India to treat this legislature as of secondary importance to the organisations of different interests?

The Honourable Mr. I. I. Chundrigar: There can be no comparison of the two. The question is that before Government make up their mind they must know the views of the persons affected.

Mr. N. M. Joshi: May I know why Government did not circulate the report to Members of the legislature before making up their mind?

The Honourable Mr. I. I. Chundrigar: The question of Government making up their mind did not arise because of the offer of the organisations concerned to set up a voluntary organisation.

AGRI-HORTICULTURAL GARDEN NEAR LODI COLONY IN NEW DELHI

1426. *Sri V. C. Vellingiri Gounder: Will the Secretary of the Works, Mines and Power Department be pleased to state:

(a) the annual expenditure incurred on the upkeep and maintenance of the Agri-Horticultural Garden near Lodi Colony in New Delhi giving figures for the Establishment and Garden separately from the year 1929 onwards;

(b) whether Government are aware that the garden is not properly kept;

(c) whether there has been change in the working hours of the gardeners;

(d) whether there have been complaints about the inadequacy of rations and the non-supply of sufficient and suitable implements for gardeners; and

(e) whether any suggestions have been received by the Department for improvement of the garden and if so, what action Government propose to take thereon?

Mr. B. K. Gokhale: (a) Presumably, the Honourable Member is referring to Joor Bagh Nursery. On this assumption a statement is laid on the table giving information which is available from 1934-35.

(b) No; Sir.

(c) The working hours have been reduced to 45 hours a week during Summer and 42 hours a week in Winter.

(d) No complaints about the inadequacy of rations have been received.

(e) There have been some complaints regarding the supply of implements and the matter is receiving attention. A proposal to transfer the nursery to a site near the Humayun Tomb is under consideration.

Statement of Expenditure on the upkeep and maintenance of Tree Nursery at Joor Bagh

Year	Establishment	Other charges water, sundries manure, etc.	Total
	Rs.	Rs.	Rs.
1934-35	17,316	18,425	36,341
1935-36	17,513	16,726	34,239
1936-37	15,351	15,26	31,177

Year	Establishment	Other charges water, sundries manure, etc.	Total
1937-38	14,412	15,718	30,130
1938-39	14,881	14,971	29,852
1939-40	14,869	13,839	28,708
1940-41	15,011	14,901	29,912
1941-42	17,008	12,675	29,683
1942-43	22,293	14,099	36,392
1943-44	26,100	15,087	41,187
1944-45	29,770	15,454	45,224
1945-46	36,217	16,698	52,915

Sri V. C. Vellingiri Gounder: With reference to part (b), may I know if the Honourable Member has himself ever visited this garden?

Mr. B. K. Gokhale: Yes, Sir, several times.

Sri V. C. Vellingiri Gounder: Then it is surprising that he cannot say whether it is properly kept or not. I submit that there is such neglect

Mr. President: The Honourable Member cannot argue on the answer; he can only ask for further information.

Sri V. C. Vellingiri Gounder: Did the Honourable Member notice any defects in the conditions there?

Mr. B. K. Gokhale: Whether the garden is properly maintained or not is a matter of opinion. If we can spend several lakhs on it, we can maintain it like a park and beautifully too. But it is not a park; it is a commercial proposition and the amount of money which we spend is limited to what we can get out of it. Moreover, there is a proposal to transfer the nursery from its present site to another site and that proposal will mature very shortly, before the next rains. So we do not want to spend money on a garden which is going to be dismantled and transferred to another site.

Sri V. C. Vellingiri Gounder: Is any catalogue or list of seeds vegetables and flowers, etc., maintained for the benefit of visitors?

Mr. B. K. Gokhale: I am not aware if a catalogue is maintained, but there is an office in this garden and I am quite certain that office has full information of what is available.

Sri V. C. Vellingiri Gounder: For a big garden like this is it not necessary to maintain a proper record of seeds and vegetables, etc., and of its activities so that the public may know about it?

Mr. President: That is a matter of opinion, and opinions may differ on this question.

Sri V. O. Vellingiri Gounder: Is it not necessary to maintain a record?

Mr. President: The record is already there.

Babu Ram Narayan Singh: What is the valuation of the present garden and what is the probable cost of transfer?

Mr. B. K. Gokhale: The cost of the transfer has not been estimated; it will be a few lakhs of rupees. The valuation again is a matter of opinion. The main reason for the transfer is that the existing site consists of very valuable building land which is essential for our building purposes, while the new site between Humayun's Tomb and the Purana Qila is in the green belt which will never be built upon and which is therefore very suitable for a nursery. Also the new site is said to be more suitable for a garden.

INCREASE IN THE EXPORT QUOTA FOR COTTON

†1427. ***Prof. N. G. Ranga:** With reference to the answers to supplementaries arising from starred question No. 1191, asked on the 26th March, 1947, relating to the proposed change in the ceiling price of cotton, will the Honourable the Commerce Member be pleased to state:

(a) whether Government are aware that most of the Textile Mills have on hand stocks of cotton to last for six months and that there is much surplus cotton in India; and

(b) whether Government propose to consider the advisability of increasing the export quotas for cotton, so as to encourage peasants to find remunerative markets for their surplus cotton?

The Honourable Mr. I. I. Chundrigar: (a) and (b). The Government are aware of the stock position of cotton and have therefore permitted the export of eight lakhs of bales of cotton during May-August period instead of five lakhs of bales permitted by them during the previous January-April period.

REPRESENTATION BY THE CHITTAGONG HILL TRACTS PEOPLE'S ASSOCIATION re THEIR OPINION ON THE FUTURE CONSTITUTION OF INDIA

1427A. ***Sree Satyapriya Banerjee:** Will the Honourable the Leader of the House be pleased to state:

(a) whether Government are aware that there is a strong feeling among the tribal people of the Chittagong Hill Tracts (Excluded Areas) that they are not allowed free expression of opinion regarding their position in the future constitution of India;

(b) the policy of the Government in the matter of ascertaining the opinion of the tribal people of the Chittagong Hill Tracts and other tribal areas (Excluded Areas) of the Country regarding the future constitution of the country; and

(c) whether the Chittagong Hill Tracts People's Association have made a representation to the Government regarding the matters referred to in parts (a) and (b)?

The Honourable Pandit Jawaharlal Nehru: (a) Government are unable to say whether there is such a strong feeling or not but they are aware that such views have been expressed. So far as Government are concerned they would like to encourage full freedom of expression of opinion.

(b) This matter concerns the Constituent Assembly rather than the Government of India.

(c) Government received a copy of the resolution adopted at the annual meeting of the Chittagong Hill Tracts People's Association held at Rangamati on 10th December 1946. The resolution was forwarded to Constituent Assembly. It is understood that the Sub-Committee of the Advisory Committee of the

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

Constituent Assembly concerned with Excluded and Partially Excluded Areas is at present touring the Chittagong Hill Tracts and have the resolution under consideration.

MOTION FOR ADJOURNMENT

COMMUNAL PROPAGANDA BY MR. ISPAHANI, LEADER OF THE INDIAN TRADE MISSION TO THE MIDDLE EAST

Mr. President: I have received notice of an adjournment motion from Mr. V. Gangaraju to discuss a definite and urgent matter of public importance, namely:—

"The communal propaganda indulged in by Mr. Ispahani, the leader of the Indian Trade Mission to the Middle East as admitted by him in his statement to the U. P. A. correspondent at Tehran on the 31st March, 1947, published in the Indian Express and other leading Indian newspapers."

I should like to make an observation with reference to adjournment motions of this type. Honourable Members should make such motions self-contained and definite, instead of putting them in this vague manner and trying to include various things by reference to the newspapers in which the particular news may have been published. In the first place I must say that the alleged admission by Mr. Ispahani seems to be not in his direct words but is alleged to have been made to the correspondent of a press service. That is what appears to be the case from the form of the motion which says: "as admitted by him in his statement to U.P.A. correspondent." One does not really know how far this admission is reliable so far as the party in question is concerned. Assuming that it is, then the question arises, so far as admission of this motion is concerned, as to whether Mr. Ispahani carried on that kind of propaganda during the course of his official duties or in other words, under any instructions given to him by the Government of India or he was giving his own views during his spare time or at a time when he was not actually engaged in his official duties. I require clarification on that issue.

Sri V. Gangaraju (East Godavari and West Godavari *cum* Kistna: Non-Muhammadan Rural): Sir, in his statement he says "that he was sent by Mr. Mohammad Ali Jinnah and the Government of India's Trade Member (Minister of Commerce) who is a Moslem Leaguer principally to strengthen Moslem bonds between India and the Middle East."

Mr. President: I am not concerned with the merits of what he said. He may or may not have said it. This is what the U.P.A. correspondent says that Mr. Ispahani said. I do not know whether he really said so to the U.P.A. correspondent or the latter understood him to say so. There is a good deal of difference between the two. Whatever it is, the question is whether this statement was made by Mr. Ispahani under the authority of the Government of India or any member of the Government of India. That is the relevant point so far as the admissibility of this motion is concerned.

Sjt. N. V. Gadgil (Bombay Central Division: non-Muhammadan Rural): There is a reference in the newspapers to the Honourable the Commerce Member. We should like to know exactly whether what Mr. Ispahani said was said under the instructions of the Commerce Member as such or otherwise.

Mr. President: Let us then have the relevant facts which are within the knowledge of the Commerce Member.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, when a man goes on a delegation.....

Mr. President: I do not want to hear arguments on the rights of people who go on delegations: that will take us nowhere. Let us first be clear on the facts.

Mr. Muhammad Nauman: He has expressed a personal opinion, which is absolutely different from the opinion that he has to express as a delegate on behalf of Government otherwise on a certain matter.....

Mr. President: I am trying to have the facts clarified. If the Honourable Member will hold himself in patience he will have the clarification.

The Honourable Mr. I. I. Ohundrigar (Commerce Member): Sir, the Delegation consists of four members. The Delegation has been sent with the object of exploring the possibilities of developing trade between India and the various countries of the Middle East which they are visiting. From the very nature of the Delegation I do not know how any member can entertain any doubt that Mr. Ispahani had any other brief than the one of developing trade between India and these countries of the Middle East. But, Sir, as you yourself very rightly remarked, outside the scope of his duties as the Leader of this Delegation, if he has got any spare time and if he discussed any question with any parties he is free to do so.

Mr. President: I take it that Mr. Ispahani was not doing so under the instructions of the Government of India and whatever he may have done is unconnected with the Delegation, which he was leading. Therefore I do not see how this adjournment motion is permissible on the floor of the House and I disallow it.

ELECTION TO STANDING COMMITTEE FOR HEALTH DEPARTMENT

Mr. President: I have to inform the Assembly that upto 12 Noon on Thursday the 3rd April 1947, the time fixed for receiving nominations for the Standing Committee for the Department of Health, ten nominations were received. As the number of candidates is equal to the number of vacancies, I declare the following members to be duly elected to the Committee for the financial year 1947-48:—

(1) Mr. Madandhari Singh, (2) Mr. Sasanka Sekhar Sanyal, (3) Sjt. B. S. Hiray, (4) Mr. P. B. Gole, (5) Lala Deshbandhu Gupta, (6) Mr. Nagendranath Mukhopadhyay, (7) Mr. Leslie Gwilt, (8) Haji Chowdhury Mohammad Ismail Khan, (9) Mr. Habibur Rahman, and (10) Choudhury Md. Abid Hussain.

ELECTION TO INDIAN OILSEEDS COMMITTEE

Mr. President: I have to inform the Assembly that upto 12 noon on Thursday, the 3rd April 1947, the time fixed for receiving nominations for the Indian Oilseeds Committee, four nominations were received. As the number of candidates is equal to the number of vacancies, I declare the following members to be duly elected to the Committee. (1) Sri V. Gangaraju, (2) Mr. Krishna Chandra Sharma, (3) Mr. Mohammad M. Killedar, and (4) Sardar Mangal Singh.

SUMMARY OF PROCEEDINGS OF NINTH MEETING OF STANDING LABOUR COMMITTEE—LAID ON THE TABLE.

Mr. B. K. Gokhale (Government of India: Nominated Official): Sir I beg to lay on the table of the House a copy of the summary of *proceedings of the Ninth Meeting of the Standing Labour Committee held at New Delhi on the 25th and 26th July, 1946.

CAPITAL ISSUES (CONTINUANCE OF CONTROL) BILL

PRESENTATION OF THE REPORT OF SELECT COMMITTEE

The Honourable Mr. Liaquat Ali Khan (Finance Member): Sir, I present the report of the Select Committee on the Bill to provide for the continuance of control over issues of capital.

INCOME-TAX AND EXCESS PROFITS TAX (AMENDMENT) BILL

Shri Mohan Lal Saksena (Lucknow Division: Non-Muhammadian Rural): Mr. President, when the House adjourned the other day I was making some personal remarks and I tried to assure the Honourable the Finance Member that there was nothing in my speech that warranted the inference that he had drawn that I had attributed any dishonest motives to him. I am glad that he made the categorical statement on the floor of the House that so long as he is there he will consider the interests of the whole country and not of any particular community or class. I believe that he meant what he said. But I would like to make a further submission that this does not take us very far, for surely there must be cases within your knowledge, Sir, (and I can also cite instances) where individuals had been actuated by the best of motives and still through lack of experience or foresight or through faulty or hasty judgment or even over-enthusiasm, a lot of injury has been done to the cause which they professed to serve. That being so, when we suggested that we have to proceed a little more cautiously we did not question his *bona fides*. He made a complaint that we on these benches saw *Pakistan* in everything that he said or did. I submit there is no justification in the statement that he has made. If you just consider the facts as they are you will know, Sir, that when the Budget Statement was made none of the members of our party denounced the Budget as such. In fact it was welcomed by several members of the party and it was welcomed by the so-called Congress press. Not only that. When motions for reference to Select Committee were made we allowed the Bills to be referred to Select Committee without speeches. We did so because there was much common ground between the Honourable the Finance Member and ourselves. We agreed with the social objective which he had laid before himself. We also agreed with the proposition that no more burden should be imposed on the poor classes. In fact we wanted, if possible, to remove the existing burdens and that taxation should be imposed on those classes and sections of the community which could bear them. Therefore in the Select Committee we tried our best to examine the measures on their merits. We also were prepared to offer alternative suggestions for making up the deficit. If you see the minute of dissent you will see that at one stage when a statement was supplied to us by the Finance Department which showed that by the imposition of E.P.T. at the rate of 33 1/3 per cent the Honourable the Finance Member would be receiving more money than by B.P.T., we accepted the suggestion, though it was made by a member of another party and not from among ourselves. But to our great regret and surprise the next morning we were told that the Honourable the Finance Member was not prepared to consider it. And one of the members of the Select Committee holding a responsible position in the House told us that he was agreeable to that suggestion. He was supporting us. But he told us the next morning that he could not support us. It was all political and he said that we were just attacking the proposals of the Finance Member because we wanted to drive him out of the Cabinet. Nothing was farther from our minds. It was he who suspected our motives.

The Honourable Mr. Liaquat Ali Khan (Finance Member): Who, I?

Shri Mohan Lal Saksena: I refer to the gentleman who said that we were actuated by political motives. We have no such motives. You will find in this Report that we have expressed that it was not so. I wanted to say all

this because the Honourable the Finance Member himself has said that we on the Congress Benches saw *Pakistan* in everything that he said or did. As a matter of fact I think the boot is on the other leg. Whether it is Quit India resolution or the Asian Conference, they are supposed to be parts of a conspiracy organised by the so-called Hindu Congress to defeat *Pakistan*. So much for this. I may assure him once again that so far as we on these Benches are concerned we wanted to examine these proposals on their merits, I am glad that at last a compromise has been arrived at and I welcome it. But I want to tell the House that whatever we have said in our Minutes of Dissent we stand by every word of it. As a matter of fact if we did not want to press it it is because we hope that the points that we had raised would be considered and would be accepted on their merits.

One point raised by us was that Departmental officials should not be Members of Select Committees. I am glad that in the motion that the Honourable the Finance Member made in regard to one of these Bills none of the Departmental officials was included in the Select Committee.

Sir, there was another remark made by the Deputy Leader of the Muslim League Party. He quoted a Persian couplet by which he suggested that the Congress members said one thing on the platform and another thing in the Select Committee. My respectful submission to him is this. I will refresh his memory that so far as we are concerned, whatever we said in the Select Committee is public knowledge but whatever he did or said in the Select Committee is not known to the public. We said in the Select Committee what we are saying now and what we said in public. What he said in the Select Committee will remain secret. He also threatened us with the consequences of our action. He said that we are supplying to our opponents, the socialists, the Communists and others an instrument which will destroy us. He warned us of the consequences. Sir, we may tell him that this is not the first time that we have not kept an eye on the electorate. We know what would serve the best interests of the people. You know, more than once, on these communal questions we have been blamed. We have been accused of being partial, of following a policy of appeasement towards the Muslim League. But we have withstood all those criticisms. Elections have shown that though once or twice we might have failed the electorate has stood by us and by whatever we say or do here. The one consideration which guides us is the welfare of the people as a whole, the welfare of the whole country and not one section or another. I am quite sure of my electorate and I assure him that I will stand by every word of what I have said in the Select Committee or what I am saying here. And I know that the electorate knows me much better than he perhaps knows my electorate.

Coming to the present Bill I do not want to repeat the points which have already been made by my friend Mr. Manu Subedar. I want only to read two extracts from the Report of the Select Committee. They are:

"Though the Bill is based upon American precedent, we are afraid that the authorities have not made a full study of the circumstances that justify its operation in America, or of the history of its administration. No information on these points has been made available to us beyond the text of the law on the subject. From what we have been able to gather, however, American experience in this matter, and the periodical changes in the relevant law effected there, should have a bearing on the consideration of the present proposal. Likewise, the British view should be given adequate importance. In the absence of much-needed information on these points, we feel very much handicapped in the consideration of the Bill which bristles with complexities."

And in the end we said:

"We are convinced that an expert enquiry should be made into all those complex problems and their implications on the structure of business and society in this country should fully be examined. In any event, such a measure which is foreign to the Indian tax structure, should not be rushed through in its present form."

[Shri Mohan Lal Saksena]

Now that the compromise has been arrived at the Bill is going to pass through. I would still request the Honourable the Finance Member to appoint a Committee to examine the Bill in the manner suggested in the Minute of Dissent. Further, in regard to the provisions of the Bill I would draw his attention to clause 6. There is a proviso where it is said:

"Provided that the tax shall not be payable by an assessee in respect of any profits or gains arising from the sale, exchange or transfer of a capital asset, being property the income of which is chargeable under section 9 and which has been possessed by the assessee for not less than seven years before the date on which the sale, exchange or transfer took place."

That means that if an assessee has been in possession of a residential house for seven years and if he sells at a profit he will not be assessed to tax but there may be a case in which the assessee himself may not be in possession. His father or predecessor in interest might have been in possession. So I understand that under the present wording of the clause as such a person who has inherited from his father or someone else who is his predecessor; in interest will not be covered by this clause. So, I hope that when the occasion comes the Honourable the Finance Member will accept an amendment to that effect to clarify the position. I am sure that is also his object that those persons who have inherited the residential property should also be benefited under the provisions of this clause. With these words I support the consideration of the Bill.

Sir Cowasjee Jehangir (Nominated: Non-Officials): It is not safe to try experiments with the financial proposals of a great country, which is more a continent than a country. That is exactly what is being done with this Capital Gains Tax, a tax which was examined and rejected by England, a tax which is being imposed without investigation with regard to its incidence or repercussions. I repeat it is not safe and why it should have been done is inconceivable. The only country, it appears, where such a tax exists, is America and it is surprising to find that the department that framed this Bill did not know the exact terms of the Act in America, its latest terms and they still have made bold to draft a Bill for this country without a precedent before them.

Mr. President, I should have thought that the Honourable Member would have insisted upon a proper examination of this question before it was brought before us and that at least the safeguards that are contained in the only other precedent that exists in the world should have been embodied in this Bill. Sir, when we copy a particular tax of a particular country, it is as well that we look at the background of the system of taxation of that country. Now, I am informed that in America monies that are ploughed back into industry or business are free of tax. I am only giving it as an example to show the want of knowledge of the background of the American system of taxation, when this Bill was framed. There are other facilities given to the assesseees in America which do not exist in England or in India and yet you take this one example of an Act and bring it into India without any of the safeguards. In America they take good care to see that there is a distinction between a *bona fide* long term investment and a short term speculative gain. Has anything been done in this Bill for that purpose? In America they do all in their power to give an incentive to long term investors of scrip. Here you are doing all you can to discourage long term holding. I have no objection to discouraging speculation. If you are to copy the taxation of a country, why not copy its good points also. Why go out of your way to discourage the holding of industrial scrip. If you are going to nationalise every industry in this country within the next two years, I do not care what you do but you are not in a position to nationalise and you will not do so, and then to discourage in this way the further expansion of trade and industry is not wise in the interests of this country. Sir, there have been many who have held scrips year in and year out, through good times and bad, who have held scrips in industrial concerns when they have received no interest at

all. There are many who have had to sell scrips at a loss, because they could not hold them any longer. May I ask the Honourable Member whether he will take a share in those losses as he wants to take a share in the profits. His answer will be in the negative. If he does not desire to take a share in the losses, if he wants a share in the profits, then I consider it illogical not to include in this Bill a clause to encourage long term investment as it is in America.

Sir, a good deal has been said about this Bill all over India and we can only hope and pray that wisdom will dawn on the department at last. The wisest man in the world is not infallible. He makes a mistake and we have to bear the consequences of such mistakes. But a wise man does not make a mistake twice. I will say no more.

Now, Sir, as you know very well, under the income-tax law in England and in India, if an industrial concern or a business concern makes a practice of selling and buying scrips or properties or any other assets as a business, they pay tax on the profits. They are allowed a rebate on the losses. It is only a casual sale that is being brought under the mischief of this Bill, the casual sale that makes a profit. The casual sale that makes a loss is not taken notice of. It is only the casual sale that makes a profit that is affected by this Bill. The large numbers of people who trade in properties, who trade in scrips and in other assets are caught already under the law in England and in India. Therefore let us not forget that this Bill affects only profit on casual sales and for that purpose safeguards are introduced in the American Act which are missing here. The safeguard has been extended to real properties, not to land. That was a concession made by the Select Committee and accepted by the Honourable the Finance Member. It does not include any land in a city. I would suggest that if this Bill is to be equitable in any measure at all without further investigation, the safeguard should apply to all assets that come within the mischief of this Bill. I will move such an amendment for the acceptance of the Honourable the Finance Member and this House, because it is the only amendment that can make this Bill acceptable.

Now, Sir with regard to the last financial Bill that we discussed, the Business Profits Tax Bill, I readily admitted that it had been improved out of all recognition by the Select Committee and we expressed our gratitude to the Finance Member for having it so amended. But we also reminded the Finance Member that although that Bill, as it now stands, appears to us to be fair and equitable, the cumulative effect of all this taxation has caused the great depression that exists in India today. This Budget came at an inappropriate time
12 Noon when there was depression due to political causes over which the Finance Member had no control, but making these taxation measures of such a very drastic character at this psychological moment has had a disastrous effect and they will continue to have it. If trade and industry is not to be encouraged in this country, let us know. Let us know where we are and people will know what it is that they have at stake. But if it is the object of Government to encourage trade and industry and to expanded trade and industry, then the policy of the Government will have to be different. Not only the policy of Government will have to be different, but may I say rather in sorrow than in anger that the speeches of front Benchers must also be different.

We are asked what has caused this panicky feeling? It is this taxation of 36 crores and also the speeches that support that taxation. Some of them were completely illogical, as I said before. I am glad to see that the Railway Member is present here today. I had an opportunity to criticise him, I regret, in his absence.

Sri M. Ananthasayanam Ayyangar (Madras Ceded Districts and Chittoor. Non-Muhammdan Rural): Do it now.

Sir Cowasjee Jehangir: I cannot repeat all I have said. His was the most

illogical speech that did the greatest damage to the trade and industry of this country.

The Honourable Mr. Liaquat Ali Khan: You are now repeating what you said.

Sir Cowasjee Jehangir: I am only summarising what I said for his benefit and for your benefit in particular.

Well, Sir, I do not want to take up the time of the House. I only ask that this question of trade and industry and the encouragement of trade and industry be given more careful consideration at the hands of the Honourable Members of Government. And if their policy is to change, they should let us know. That is all we ask. I do hope and trust that the Honourable the Finance Member will seriously consider the amendment I have put on the order paper. I may tell him that if that amendment is accepted, it will go a great way to meet public criticism. I will ask for his careful consideration of that amendment.

Mr. P. B. Gole (Berar: Non-Muhammadan): Mr. President, Sir, this is the new form of taxation which is being introduced for the first time and with great haste. As has been observed by several speakers, this kind of tax is unknown so far as the United Kingdom is concerned. Its incident in America is being copied here for the first time, although we do not know exactly how this capital gains tax is imposed in America. In fact, we do not know what the American constitution is. We know our constitution and we have got to consider all the taxes we can impose according to our constitution. I find that in this case the Finance Member or the Finance Department do not appear to have taken into consideration the Government of India Act, whereby we are authorised to levy taxation. I do not know whether under List No. I of the Government of India Act, 1935, such taxation can at all be levied. I do not know whether it has escaped his attention but I have got my own doubts and I would like to place my difficulties about the levying of this tax before the House. List No. I is the Federal List and according to which alone this House now has power to levy taxation. There are two items with which we are concerned, items 54 and 55. Item 54 is taxes on income other than agricultural income. That is, of course, mentioned in the Income-tax Act. This Bill is sought to be an amendment of the Income-tax Act and income has not been defined here, but capital assets have been defined under this new Bill. Now, let us see whether this will fall under income which is allowed to be taxed under List I, item 54. I submit that so far as the law goes, income means not the capital assets because so far we have not heard of any such taxation before. Then, there is item 55—taxes on the capital value of assets, exclusive of agricultural land and of individuals and companies. Taxes on the capital of companies is one thing, but the question is whether the taxes on the capital value of assets can also be considered taxes. I submit that they should not be considered as taxes, because, after all, who has to pay the tax. It is the seller who pays the tax generally. Of course, in certain cases it is also the buyer who has to pay. But generally it is the seller who has to pay because he earns the profit. And these taxes on the capital value of assets in this class are the taxes which are now sought to be levied on account of the transfer of assets, which, in my opinion, is not right. Then, there is another difficulty. It may be only my difficulty, and I am open to correction. That difficulty relates to the Provincial List. In this Provincial List there are two items which ought to be noted, namely, taxes on lands and buildings, hearths and windows, and item 48, taxes on the sales of goods and on advertisements. Now, Sir, here certain buildings are sought to be taxed. How can that be allowed if it goes to the Provincial List? There is also another item in the Provincial List, taxes on the sale of goods. Now, this is a particular tax on the sale of goods. Here I find from the definition of capital assets that all kinds of goods are included in this. Capital assets mean property of any kind other than agricultural land held by the assessee whether or not connected with his business, profession or vocation, any kind of property held by him as a capital asset within the definition of this section 4-A. If that is correct, then this conflicts with Part II of the Provincial List, namely, taxes on sale of

goods. Therefore any property which can be called goods which are sold and on which the provincial government alone can levy a tax, this Central Government has no power to tax, because this is an exclusive list for the provinces, whereas List No. 1 is exclusive for the Central Government. I do not understand how this is to be reconciled. What does the Finance Member mean by levying this tax on sale of goods, by this he wants to take certain portion of profits, whatever the percentage. I have no quarrel for the present with the principle of the Bill. Here the provincial government is allowed to levy a tax on transfer, whereas his Government has not got the power because it comes within the exclusive list No. II, within the provincial list of taxation. I have also tried to bring to the notice of the Finance Member that the Federal List item 55 cannot cover such taxes at all, the taxes on capital value of assets. Now, Sir, this is not a tax on capital value of assets. I can understand a man who owns a crore worth of property, because his property is valued at one crore, then he has got to pay a certain percentage. I can understand this kind of taxation; but because he happens to sell that property or part of it, and then to say that he made certain capital gains, therefore we can very well come in and tax him under item 55 of the Federal List, I very much doubt this argument. When such a kind of taxation is sought to be levied, the Government should have given really speaking longer time to consider whether this tax should be levied or not. What will be the effects of this tax on provincial list, what will be its effect on the federal list? All these points have to be considered before any such tax is levied or at least before any Bill is introduced in this House. Whatever may be the case, I know last year when the Finance Member introduced the Death Duties Bill, there also after introducing it, he circulated the Bill for eliciting public opinion thereon. Although similar death duties have been levied in U. K., still the Finance Member thought it advisable to circulate the Bill for finding out whether people liked it or not, what will be effect of such duties on commerce, industry and trade and individuals in the country, and he wanted to ascertain public opinion and therefore he circulated it. This is a new kind of tax which is sought to be levied. What does he expect to get out of this tax? Two crores. Suppose the budget were not balanced to the extent of two crores, I do not think heavens would have fallen. When the Finance Member wanted to introduce such a tax of far-reaching importance, with which the people in this country are not familiar, he should have circulated it for the purpose of eliciting public opinion. Instead of that, in great haste and rush, he wants to get through this measure in the House and put it on the statute book. It is going to cause great harassment to the public. I will try to show how it will cause hardship and harassment to the public. Capital gains have not been taxed upto now. You will find they are being taxed in other forms. For instance, in the provinces when property is transferred, then stamp duty is levied, registration fee is levied and all these taxes are collected when property is transferred. In addition to these provincial duties, the Central Government wants to come in with this new tax on property. The same property is now taxed on account of transfer. What does this mean? On the same property there is to be provincial duty as well as central government duty. That is the object of the Bill. I would have expected the Finance Member not to tread upon the provincial list. It is really the business of the provinces to tax sales or transfer of property in one form or another. The Finance Member now pounces upon the same property. I would draw the attention of the Finance Member to certain remarks made by Mr. Smith. He has given there certain principles of taxation. This is what he says:

"While property remains in the possession of the same person, permanent taxes imposed on it have never been intended to diminish its capital value, but only part of the revenue arising from it, but when property changes hands, such taxes have frequently been imposed upon it as necessarily take away some part of its capital value. The transference of all sorts of property from the dead to the living, and that of immoveable property from the living to the living, are transactions which cannot be concealed. Such transactions may be taxed directly. The transference of moveable property from the living to the living may

[Mr. P. B. Gole.]

be taxed indirectly by requiring that the deed containing the obligation to repay should be written upon paper or parchment which has paid a stamp duty and that it should be recorded in some public or private register and by imposing duties on registration."

This is the way in which the author points out how the sale of property can be taxed. You can levy stamp duty, registration duty and in this way tax on capital could be levied. But here a novel method is suggested by the Finance Member for levying tax on transfer of certain capital gains, as he terms it. I would try to show that this Bill will cause a good deal of harassment. I have got many difficulties. Of course I have given notice of amendments. But those amendments do not affect the principle of the Bill. But they do show the difficulties that arise in rushing through such Bills. I will give you one or two instances. Here exemption is sought to be made in the case of buildings or house property which was in possession of the assessee for more than seven years before the sale. Now, Sir, the wording is so vague. Supposing before the expiry of seven years, say one month before the lapse of seven years, the assessee's father dies and the assessee succeeds. Then the assessee would be considered to be in possession of the property only for one month as really speaking it has descended to him by inheritance. Here under the law as it stands today unless it is amended, the assessee would mean the assessee and not his predecessor in interest, namely the father or any other person to whom he succeeds. Within the period of seven years the assessee must be alive. Suppose that man dies and the assessee succeeds; then that assessee is not entitled to the benefit of exemption that is made in the case of property in possession of the assessee for seven years and more. Now, this is a very glaring injustice. I do not understand how it escaped the attention of the Select Committee, nor do I know specially when the Finance Department insists that the assessee should mean the assessee himself and not predecessor in interest. I mean that predecessor by way of transfer but by way of succession. Supposing there is a man to whom the assessee succeeds. If the property is in the possession of the assessee or his predecessor in interest, namely, father or brother or uncle to whom he succeeds, that whole period should be considered in giving exemption. I have given notice of an amendment which will at least give effect to the intention of the exemption that is sought to be made.

Mr. President: In the case just cited by the Honourable Member, he perhaps includes even transfer by way of gift?

Mr. P. B. Gole: Not only gift but exchange also.

Mr. President: In his argument the Honourable Member was referring to succession and he said, "not by way of transfer".

Mr. P. B. Gole: Yes.

Mr. President: Therefore I was pointing out whether he would not in that argument include transfer by way of gift.

Mr. P. B. Gole: I will show that transfer by way of gift has been specially excluded. But in this new clause the wording is like this:

"The tax shall be payable by an assessee under the head 'Capital Gains' in respect of any profits or gains arising from the sale, exchange or transfer of a capital asset", etc.

I can understand sale but I do not understand exchange and transfer. The words 'exchange' and 'transfer' have a specific meaning under the Transfer of Property Act. Transfer would include mortgage, lease and also gift. 'Exchange' is another word which is sought to be introduced here. Supposing a man exchanges his house for certain jewellery, this will come under this category and the Income-tax Officer will call on both the transferor and the transferee to show the original value of the house as well as the jewellery and both will be liable to tax. Is that the intention? If a man exchanges his house for a field, both he and the owner of the field will be taxed. The value of the House will be assessed according as it existed on 1st January 1939. Although it is only an

exchange and there is no profit as such, the Income-tax Officer will value the house at such and such a rate and impose a tax because he will say it is a capital gain. This will cause unnecessary harassment. Then I do not understand what is meant by "transfer". Transfer, as I said, includes mortgage because it has been defined in the Transfer of Property Act as transfer of an interest in immoveable property. So if a mortgage is executed will it be taxed? It is after all a debt which a man wants to incur because he is in distress. Will the Income-tax Officer come down and tax this mortgage because he gets more money than he would have got in 1936 or 1937? If that is the intention I must oppose it. There is no gain; it is just a debt.

Sir Cowasjee Jehangir: Does the Honourable Member interpret those words as making a mortgage also subject to taxation?

Mr. P. B. Gole: Yes. If you go to a lawyer or a judge he will say that mortgage is included in transfer. The gains in this case will be ascertained like this. If a property is valued at Rs. 5,000 in 1939 and it is mortgaged for Rs. 7,000 in 1946, there will be a gain of Rs. 2,000. Or, a property valued at Rs. 50,000 in 1939 may be mortgaged for a lakh in 1946. There is Rs. 50,000 more, and that may be taxed.

Sir Cowasjee Jehangir: What is the legal position of the property when it is mortgaged?

Mr. P. B. Gole: The mortgagee is the legal owner; even in the case of possessory mortgage it is the mortgagee.

So transfer by itself is so vague that it may include mortgage also. And it will also include lease. Suppose a lease is given for 99 years, they will say it is a sale and so the man who gets the premium will be liable to taxation. Why introduce these words 'exchange' and 'transfer' in a legislation like this? The Honourable Finance Member said that this is going to be for one year.

The Honourable Mr. Liaquat Ali Khan: I did not say that.

Mr. P. B. Gole: Then is it going to be permanent?

The Honourable Mr. Liaquat Ali Khan: Yes, of course.

Mr. P. B. Gole: That is all the greater reason why we should be more circumspect about this legislation and not rush it through. We must weigh every word and consider the effect on the tax-paying public. For the sake of two crores to rush this Bill through will be injurious to the people affected. I should like to ask the Finance Member whether by using these words 'transfer' and 'exchange' he intends to tax both the transferor and transferee in the case of exchange and whether in the case of mortgage and lease he wants to tax the lessor and mortgagor. It is really a case of distress and that is why a man wants to part with property. As my Honourable friend Mr. Gadgil tells me, you can call it a distress tax; it is not a gains tax. Why not have this 'distress' tax because all people are in distress today. If at this time the Finance Member comes up with a Bill to tax the distress money, I can understand it, but if he says that he is going to tax the capital gains, then certainly the way in which he wants to do it is open to objections in more than one way.

There are certain principles which seem to have been violated by this proposal for taxation. Really speaking, tax has been defined and some of the main principles of taxation are that it should be easily understood, it should be easily calculable, and it should be easily payable. In the case of these capital gains where the property is in the hands of a person for more than 50 years and he sold it in 1945 or 1946, on what basis is the value of that property to be calculated in order to assess the profits? It has been stated in this Bill that the 1st of January 1939, will be taken as the basis for calculation. What

[Mr. P. B. Gole.]

is that basis? Are you going to give power to the Income-tax Officer to ascertain the value of that property as on the 1st January 1939, and then calculate the profits. I would humbly submit that that would be very injurious.

The Honourable Mr. Liaquat Ali Khan: For how long did he have this property?

Mr. P. B. Gole: 50 years.

The Honourable Mr. Liaquat Ali Khan: Then there is no capital gains.

Mr. P. B. Gole: That is in the case of house only, but not in the case of other property. Even the outlying land, barring of course the courtyard, you will tax if it is not an agricultural land.

The Honourable Mr. Liaquat Ali Khan: Any land that is with the House is included in the House.

Mr. P. B. Gole: Yes, but supposing he has got a piece of land which is not an agricultural land and which he wants to turn into building sites and he sells that, how are you going to assess the profits? On the basis of its value on the 1st of January 1939?

The Honourable Mr. Liaquat Ali Khan: Yes, that is so.

Mr. P. B. Gole: Why have you fixed that date? We do not know why the 1st of January 1940 is not taken as the basic date. This date is arbitrary. You wanted some date, and you have fixed the 1st of January 1939 as the basic date. If a man possesses land and he wants to sell it because he cannot make his both ends meet, he is to be assessed. I concede one thing that the Honourable the Finance Member has been very slow in levying this tax; he has proposed a tax of one anna in the rupee. But the principle is wrong, and therefore when you want to tax the first thing which will be extremely harassing to the assessee will be to ascertain the value as it stood on the 1st of January 1939. If a man possessing a lot of property wants to sell a part of it, he has got to ascertain the value of it—barring of course house property which has been exempted—and that power is to be given to the Income-tax Officer or the Assistant Income-tax Officer. This is an instrument in the hands of the Income-tax Officers and that should not be made an instrument of harassing the assesseees as it is going to be, and I shall presently show you how.

There is another difficulty which the Honourable the Finance Member does not appear to have noticed. A man with a lot of property has got certain things in reserve; for instance he may have got certain materials—bricks, timber, etc.—stored in the House, and he feels that he cannot make use of them and sells that material. Now in the definition of personal effects it is not included, but he is expected to keep an account of it. The tax is for what has happened in the past. If the accounts are to be kept hereafter, people will take care to maintain such accounts but those who have sold property during the last two or three years have not kept any accounts of that. And the Income-tax Officer will pounce upon such people and will ask them to show the accounts, and if the accounts are not shown then of course either they are liable to be taxed heavily and they are liable to be prosecuted also for not giving proper information to the Income-tax Officer.

The Honourable Mr. Liaquat Ali Khan: May I point out to the Honourable Member that this tax will apply to profits made between April 1946 and April 1947. It has nothing to do with the profits that were made before.

Mr. P. B. Gole: I agree. But my argument still stands, namely, that those persons who did not anticipate this tax did not keep any accounts of their disposals.

The Honourable Mr. Liaquat Ali Khan: Of timber and bricks!

Mr. P. B. Gole: Yes, and any other property. What will happen to them? They will be called upon to produce accounts and if they fail to do so, they will be punished. The Honourable the Finance Member wants two crores of rupees and for this all these assessments. They may be called upon to produce an account which they may not have kept. This is very harassing, and as I have said, although the tax which has got to be collected is very small, it is going to cause so much of harassment to the public.

Now, I would draw the attention of the Honourable the Finance Member to certain words in clause 6. He may consider whether it is necessary and why it has been put in there. In the first proviso to sub-clause 2 it is stated:

"Provided that where a person who acquires a capital asset from the assessee, whether by sale, exchange or transfer, is a person with whom the assessee is directly or indirectly connected, and the Income-tax Officer has reason to believe, etc., etc."

I have not been able to understand why the words 'directly or indirectly' have been put in there. I do not understand the legal phraseology, but I know that it is within the discretion of the Income-tax Officer to ascertain whether a person who acquires a capital asset from the assessee is 'directly or indirectly' connected or not. If there is no direct connection, then he may be taken as indirectly connected.

Another wording which is very curious and which occurs in a Bill of this nature is "he has reason to believe that the sale, exchange or transfer was effected with the object of avoidance". I know the Honourable the Finance Member is also conversant with the Indian Penal Code. The phraseology used in this legislation is not really understandable. As soon as an Income-tax Officer suspects that such and such a thing has happened he calls upon the assessee to explain and if he does not, he will be liable to prosecution. This is another handle given to the Income-tax Officer to harass the assessee. In a legislation of this nature a phraseology which is generally used in the Indian Penal Code has been used.

If an Income-tax Officer has reason to believe that a transaction has been effected with the object of avoidance, that is not sufficient. The inspecting Assistant Commissioner has to give sanction for the prosecution. Supposing the Income-tax Officer commits a mistake and an appeal is made. In the appellate court it would be at once suggested that the inspecting Assistant Commissioner has already looked into the case and sanctioned the prosecution. The appeal therefore will be useless. In a simple legislation for raising 2 crores of rupees such a kind of phraseology should not be used and as the Honourable the Finance Member just now said this is going to be a permanent measure on the statute book. In these circumstances I do expect that legislators should be more circumspect. They must weigh the effect of each word upon the assessee or the person to be affected by it. Unless that is done such a kind of legislation should not be rushed through and it would be highly dangerous to the public.

The Finance Member was kind enough to exclude house property and personal effects. Why has he not made that distinction with regard to other property? I could have understood if he had restricted himself to the transactions on the stock exchange. The transactions which took place during the last year would have easily got him 2 crores. Every transaction that takes place there will be liable to tax as soon as profits are earned. After all in a transaction on the stock exchange whereas one party might lose, another party is sure to gain. Therefore his tax is certain, whether the shares go down or go up. Somebody has profited and somebody has lost. Those who have profited will be liable to tax and you can easily calculate the tax and collect it. But in order to get 2 crores all the assesseees in India are liable to suspicion under this measure and they have to render account for every transaction that

[Mr. P. B. Gole.]

they make during the year. And they have also the sword hanging upon them of a possible prosecution or a possible penalty. This is not really necessary at this stage. After all the Finance Member wants only 2 crores and for this purpose a legislation of such a far-reaching character as this one is should not be taken up even for consideration at this stage.

Another difficulty which seems to have been lost sight of by the Finance Member is that there is no basis for the Government to ascertain the market value, and the gains on property which has been sold in 1945-46 are to depend on the market value which existed in 1939. Leaving aside the stocks and shares on the stock exchange, with regard to other property what basis is there for the Government to ascertain the market value of any property in January, 1939, unless of course so far as goods are concerned the value may have been published in the Gazette of India. With regard to other property I submit that the Government has not got any basis. After all this is going to be by way of approximation and the Incometax Officers will be tempted to underestimate the value of property in order to show that they are efficient people. Perhaps it will also open the floodgates of corruption. I do not know whether all that is necessary at this stage. After all we are experimenting for the first time. We have got an Indian Finance Member and he wants to make experiments in taxation. I have no objection to that provided he had given sufficient time to the public and this House to consider the possible effects of such taxation on the ordinary incometax-payer. Instead of that it creates new instruments of harassment and gives wider powers to the Incometax Department. This should have been avoided at this stage at least. I do not know why the Finance Member is enamoured of this capital gains tax at this stage. So far as the general public is concerned they are very much afraid that they will be taken by surprise. At any stage they may be called upon to account for all the transactions that they carried on during the year and very often distress money will be charged, as my friend Mr. Gadgil pointed out, it will be distress tax, not capital gains tax. I think it will fall heavily on the general public. As a compromise has been arrived I am not going to object to the principle of the Bill. I do find that there are certain very material defects in the Bill and they should be removed if the Finance Member wants to give effect to his intentions. I have given notice of certain amendments and I hope the Finance Member will take them into consideration and make the Bill less vague than it is at present.

Sri M. Ananthasayanam Ayyangar: Sir, as regards transfer, it applies only to actionable claims. I do not understand how the Capital Gains Act can apply with respect to mortgage. There is no question of gain so far as mortgages are concerned. My friend has raised unnecessary alarm where really there is no cause for it. If my Honourable friend is asked to redraft the Bill he will use the same word "transfer"

Mr. P. B. Gole: I can understand the expression actionable claim.....

Sri M. Ananthasayanam Ayyangar: Transfer of an actionable claim, sale of immovable property, sale of an asset and so on are general expressions which apply *mutatis mutandis*. Sale, exchange or transfer are compendious expressions where property belonging to one party is conveyed to another in some form or another. Mortgage also is a transfer. It comes under the general term. It does not come under capital gain because there is no gain. Let us wait till the next session and my Honourable friend can then question whether this is so or not.

Then my Honourable friend is trying to kick at every taxation measure. I am not prepared to do that. Up to Rs. 15,000 it is exempted. Let us not walk into the lobby supporting Mr. Gole under the impression that it affects

the poor man. That man is not poor who by transfer of property gets a net gain of Rs. 15,000. Then this country will be the richest country in the whole world. I am not worried about that. But how it affects the general industry has to be noted. It is true that the rich man only has only to pay this. But I have a few suggestions to make both regarding the form and the substance of this measure. Regarding the form of the Bill you will see that in clause 8 the rates of tax are given. This is an amendment to the Income-tax Act. That fact cannot be escaped. Ordinary income is taxed under the Income-tax Act. Capital gains are also now sought to be taxed. Therefore this must be an amendment to that Act. The rates have been given for this particular year. These must apply for this particular year and not for all time to come.

The Honourable Mr. Liaquat Ali Khan: They will apply for all time to come till an amendment is made in these rates.

Sri M. Ananthasayanam Ayyangar: I am trying to point out to the Honourable Member that the rates themselves are included here. Please see clause 8 where it is stated that where such amount exceeds Rs. 15,000 but does not exceed Rs. 50,000 the rate is one anna in the rupee. I am not taking exception to this having included it in this Bill. But I say this is the Finance Bill for the current year. I would suggest to the Honourable the Finance Member that this may be restricted for this year.

The Honourable Mr. Liaquat Ali Khan: This Bill is not restricted for one particular year. This Bill is an amendment to the Income-tax Act and therefore it will become a part of the Income-tax Act.

Sri M. Ananthasayanam Ayyangar: Evidently I have not made myself clear to the Honourable Member. I agree that this consists of two portions. One is a substantive amendment to the Income-tax Act so as to make capital gains also liable to tax from year to year. The Income-tax Act makes particular kinds of income liable for taxation. That is a general tax. But each year the Honourable the Finance Member introduces a Finance Bill specifying the rates of the tax. Last year's rate may vary from this year's or other year's rates. Likewise I would also desire that the rates that have been given this year should be confined, so far as clause 8 is concerned, to this year only. He must incorporate it in the next financial year along with the other slabs and rates with respect to Income-tax. It is not two crores, it may yield 20 crores. It is possible that next year we may have a deficit and we may have to change the rate accordingly. Let us not change a permanent Act like the Income-tax Act. Let this come before the Assembly in the form of a financial measure from year to year. That is my submission with respect to the form of the Bill.

Then as regards companies, clause 8 says:

"Where the total income of a company includes any income chargeable under the head 'Capital gains', the supertax payable by the company in any year shall be reduced by an amount computed on that part of its total income which consists of such inclusion at the rate of super-tax (excluding the rate of additional super-tax if any). . . . etc."

The small company should not be hit and should be excluded from the operation of this. The slab should apply to companies also. That is the suggestion I would make. Instead of imposing a five annas super-tax over all kinds of incomes I would suggest the slab system. If it is a company which has got enormous profits, say over Rs. 5 lakhs, then it may be done.

Let us see to what kinds of incomes this Act would apply. So far as agricultural lands are concerned it does not apply. So far as house property is concerned, if the house has been occupied for seven years it belongs to him

[Sri M. Ananthasayanam Ayyangar.]

and this does not apply. So far as the representative of an interest is concerned I do not agree with my Honourable friend. An assessee means a representative of the interest. If the father dies fresh proceedings need not be taken up.

Mr. President: I believe, if the Honourable Members will refer to the definition of 'assessee' in the Indian Income-tax Act he will find that it clearly says that an assessee is a person who pays the tax. That is the difficulty which Mr. Gole finds.

Sri M. Ananthasayanam Ayyangar: It means a person, his heirs or representatives. That is my interpretation unless there are particular decisions upon this point.

We have disposed of both agricultural lands and houses. Then to what kinds of incomes does this apply? If a person is a brick-layer and goes on indulging in it as a profession he comes under the Act. Similarly a jeweller comes under the Income-tax Act. If he deals in stocks and shares he comes under the Income-tax Act. Even though it might be against all canons of finance I would have liked that the Honourable Member must have taxed all the war profits gains. A number of companies, for instance some of the newspapers, changed hands. The amounts were Rs. 69 lakhs, 70 lakhs and so on. For one or two years whatever gains have been made by capital transfers during the period of the war may be taxed and the whole amount might have been funded. Unless there is a war hereafter there will not be so many transactions, the gains of which will accrue to the exchequer which my Honourable friend wants to fill as early as possible.

All this argument is for leading to this suggestion. The suggestion is this. In the case of landed property, in the case of house property, for a period of seven years you allow an exemption. I would like sales to be taxed likewise. Hereafter whatever sales take place, if a person is in possession for a period of four years and then sells, this ought not to apply. If he purchases for the purpose of merely selling, then he is speculating so that he may make a profit. But if he keeps it for a period of four or five years then it may not be for profit. He may sell it on account of extraneous circumstances. The Honourable Member may kindly consider that suggestion.

Above all I am anxious about industries—it is not with respect to the rich man, but industries as a whole in the country. I am anxious that no taxation measures should so affect the industrialist as will make it impossible for him to enter upon some new ventures. There are a number of new ventures for which money has to be thrown blindly. It may end in a loss in which case the Government is not going to give it. But if there is a profit Government would tax it. In either case he will be at a loss. Until we industrialise or until the Honourable Member appoints a number of Committees in various Departments to industrialise I would submit to the House that we have to go cautiously. That does not mean and it ought not to be open to any section of the House or outside to say that we are against taxing the rich. Absolutely not. The rich alone can pay. I am addressing myself to another aspect. I will give one instance. I was told, and reliably, that during the war a number of our young men who had had training in electrical, mechanical and other kinds of engineering were asked to prepare a number of secretaphones, carriers, which were used during the time of the war in the Postal Department. Afterwards they have closed that section. They are not producing any more secretaphones or carriers. They are very valuable. If that industry is to be developed it can be done only as a state industry. Capitalists or industrialists may hesitate to risk upon the venture. It is full of possibilities. The robot machine and the radar which were used in the war were discovered

by persons who had had training in such directions. Cables can be manufactured, automatic telephones can be manufactured. Somehow the persons who are in charge are not interested in allowing our young men to make researches in these directions. Our Government must become practical in view of the freedom for the country which is in sight. Hereafter we will have to address ourselves to economic issues. Therefore I am asking the Honourable Member to have a kind of balance with respect to this matter. If he, along with the members of the Cabinet, has decided to start a number of industries, that is a different matter but otherwise let the industrialists be given some latitude so that they may embark upon new industries. Whether they sink or swim, some latitude is necessary. That is the object with which I have said a few words. I suggest that he should proceed cautiously in this matter.

Sir Cowasjee Jehangir: It is one thing for a non-official member to explain the Bill and it is a different thing for an official to do so. I would therefore suggest that Mr. Lal should get up and explain the position.

Mr. Shavax A. Lal (Government of India: Nominated Official): As my Honourable friend Mr. Ayyangar has pointed out, the use of the word 'transfer' is necessary in order to rope in such transactions as are not strictly describable as sale. He has given one instance. I would give another instance by referring to the third proviso, where transfer of irrevocable trust is exempted. If the transfer is revocable, it is not exempted but such transfer cannot be described as sale. It can only be described as transfer. The use of the words 'sale, exchange or transfer' is necessary in order to include or embrace all those transactions which yield capital profits. For instance mere mortgage does not yield any capital profits. It will obviously not be included, because before it can be included there must be profits or gains arising from the transfer. When a property originally worth 5,000 is subsequently mortgaged for 50,000, there is no gain at that stage. It is just a borrowing transaction and a security has been furnished, there being no capital profits or gains. A mere mortgage will not be hit but there are other transfers which, as I just now said, are not properly describable as sales but which all the same yield profits.

Mr. P. B. Gole: What about usufructuary mortgage?

Mr. Shavax A. Lal: Mortgage will not be hit. If the mortgage is foreclosed and then the profits result, naturally that foreclosure is nothing but a sale. At that stage it will be hit. If there are no capital gains, then there will be nothing to tax but the word 'transfer' is necessary.

Mr. P. B. Gole: Where are the gains in the case of a foreclosure?

Mr. Shavax A. Lal: You get that property as owner.

Mr. P. B. Gole: Who is to be taxed—the mortgagor or the mortgagee?

Mr. Shavax A. Lal: Whoever derives a profit.

Sir Cowasjee Jehangir: Take the case of a man who has borrowed money on mortgage. He gets no further money?

Mr. Shavax A. Lal: If he does not get any further money, he is not taxed.

Sir Cowasjee Jehangir: What happens to the foreclosure under the clause?

Mr. Shavax A. Lal: If he does not make any profit, he certainly would not be liable to pay. If the original vendor had made profit on that he will certainly be liable.

Sir Cowasjee Jehangir: The whole thing is confused and ill-considered.

Mr. President: The difficulty of the members, as it appears to me, is this. Suppose property worth 5,000 is mortgaged for Rs. 25,000, because of rise in prices. I assume it is a question of taxation of gains or profits. The original value is lower than the value at the time of mortgage, which is higher. He has mortgaged for 25,000 which is foreclosed. Will the original mortgagor be liable to tax in respect of the difference of Rs. 20,000 (Rs. 25,000 minus the original value)? That is the question which I believe Honourable Members want to be answered.

Mr. Shavax A. Lal: In that case he realises the money. It will be much more than his original investment and he will be liable.

Sir Cowasjee Jehangir: At the time of foreclosure, which is the time of the actual sale, the rise in the value of the property is Rs. 1,000. Take the case the Honourable President has put before you. Rs. 5,000 worth of property is mortgaged for 25,000. The mortgagor cannot get his money. He forecloses and at that time, the value of the property is only 6,000. Then what happens? Is the profit Rs. 1,000 or is it 20,000.

The Honourable Mr. Liaquat Ali Khan: That fellow has got 25,000.

Sir Cowasjee Jehangir: He has got it through mortgage. That is a legal point. The Finance Member is also a barrister. He is a lawyer. The point will be discussed in a court of law.

Mr. President: The point is clear. The mortgagor having received the benefit of the extra Rs. 20,000, whatever the value of the property may be at that time, he will be liable. That is the position.

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau: Indian Commerce): If it is foreclosed the man is bankrupt. How will Government collect the tax?

Mr. President: Government may not be able to realise the tax.

Mr. P. B. Gole: I wanted some explanation from the Honourable Member about exchange, whether he wants to tax the transfer.

Mr. Shavax A. Lal: In the case mentioned by Mr. Gole, jewellery will not be hit but the man who parts with the house in exchange for the jewellery and makes profit on that house, he will certainly be liable. If it is a case of shares, the man who transfers the shares and makes a profit—he will of course have to pay the tax. Similarly, the man who gives the house in exchange, if he makes profits, he will also be taxed. It is not a double tax, because the taxpayers are two different persons. When both parties make capital gains, why should not both of them be taxed. There is no inherent reason why they should be exempt.

Mr. P. B. Gole: Take the mortgagor and the mortgagee. Both would be taxed?

Mr. Shavax A. Lal: You referred to exchange.

Mr. President: The property belongs to the mortgagor. That would be the answer. Suppose it is a transfer by way of lease. Lease of property originally worth 5,000 is effected. It is a permanent lease and the premium is 10,000. The reversion is kept in the owner. How will the premium be treated?

Mr. Shavax A. Lal: It will be a transfer of the lease. If the original lessee who paid a premium of Rs. 1,000 subsequently transferred that lease for a premium of one lakh of rupees, he makes a profit of 99,000 and he will be liable to pay tax on that, because that is a transfer of lease interest from A to B. If there is a profit, it is a capital profit.

Mr. President: The case which I am putting is this. A man is the owner of property which is worth Rs. 5,000. The owner leases that property himself for a premium of Rs. 10,000 and the lease is in perpetuity. For all practical purposes it is for all time to come. How will that be treated? In my opinion it is a legal transfer. (Interruption.) My Honourable friends may take it that it is a case of transfer as defined in the Transfer of Property Act.

Mr. Manu Subedar: I raised this point elsewhere and I was told that only when it is a transfer by way of sale it is affected and where a capital asset is permanently leased out, the question does not arise.

Mr. Shavax A. Lal: In that case what he recovers is really a rent. Instead of charging so much rent per year, he takes it in a lump sum. That is the only difference. All the same, he is leasing out his property and he may be liable to income-tax. I will not answer that point. But whatever he gets as rent, he will be chargeable under the Income-tax Act.

Mr. President: We are not concerned with the income-tax.

Mr. Shavax A. Lal: He may be caught there; but he won't be caught here. But if the lessee has obtained that for Rs. 10,000, he will be liable to pay.

Mr. Manu Subedar: Supposing a man has leased a property at Rs. 500 a month and he is holding the lease. In due course, somebody wants to possess this property and lease. The other man says: 'I will give you the benefit of my lease of Rs. 500 a month on the basis that you give me a premium of Rs. 50,000'. It is a transfer from one lessee to another lessee and he earns a premium of Rs. 50,000. That premium is neither by way of sale nor transfer.

Mr. President: It is a transfer of lease-hold all rights.

Mr. Manu Subedar: I would like to know whether that premium is regarded as falling within this category.

Mr. President: It fall within this category.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I had no desire to take part in this debate but a few remarks made by my Honourable friend Mr. Gole have prompted me to intervene in this debate. I could not really understand the whole trend of his argument when he was trying to impress upon the House that capital gains are probably the normal things and they arise out of normal conditions and therefore there should be no special tax on them. He forgets that these profits are not made in normal conditions nor was there any effort on the part of the individual who has been benefited by the gains. They are incidental to certain conditions which have arisen in this country and by which condition the Government of India had to lose. Government had to be put to certain expenses due to those conditions and those expenses had to be met by certain conditions which had made people earn certain over-trick profits. It is this common man for whom Mr. Gole was arguing.

Mr. P. B. Gole: A poor man is not liable to tax.

Mr. Muhammad Nauman: My Honourable friend was using the expression 'common man'. It is this common man who gains Rs. 15,000 and more. Even if he gains upto Rs. 15,000, the incidence of taxation is very small.

Mr. President: If the Honourable Member is going to enter into another point, then he might resume his speech after Lunch.

TAXATION ON INCOME (INVESTIGATION COMMISSION) BILL

[PRESENTATION OF THE REPORT OF SELECT COMMITTEE]

The Honourable Mr. Liaquat Ali Khan (Finance Member): Sir, I present the report of the Select Committee on the Bill to provide for an investigation into matters relating to taxation on income.

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. President (The Honourable Mr. G. V. Mavalankar) in the Chair.

INCOME-TAX AND EXCESS PROFITS TAX (AMENDMENT) BILL—contd.

Mr. Muhammad Nauman: The point I was making was that capital gains which are proposed to be taxed are gains which have accrued to the assessee without any effort on his part. As a matter of fact as a result of the unprecedented misery of many millions of people and as a consequence of inflation, this capital gain accrues to the assessee. I would not ask my Honourable friend Mr. Gole to be a party to that sort of thing where profit accrues to a man without any effort. It is only right that the State should step in and take a share thereof. This Bill ought to have been introduced long ago and it would have been very useful in fighting inflation.

Shri Sri Prakasa (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Why should not members of the Assembly part with a portion of their daily allowances? That is also earned without any effort.

Mr. Muhammad Nauman: My Honourable friend could move in that way if he likes, if the allowance that he earns is without any effort on his part. I was just saying that this tax was not introduced by the earlier Finance Members because he is not interested in fighting inflation. Further the foreigners who were till now Finance Members did not want to disturb vested interests in this country and they never wanted that the State should take a share in the gains of vested interests people of this country. A lot of discussion was raised about mortgage. I think the Honourable Member tried to clear the point. I can give one instance. In a particular case, a gentleman in Calcutta was owning ten houses and because of certain depression, he had to mortgage all of them for a certain amount. When inflationary conditions prevailed, he sold away one of the houses for the entire mortgage amount on the ten houses and thereby he redeemed the nine houses free from mortgage. In that case no question of capital gain would arise. Supposing a house is mortgaged for Rs. 5,000 and because of inflationary conditions supposing the same house is mortgaged for Rs. 50,000 again. There is a distinct gain of Rs. 45,000 in that case.

Mr. P. B. Gole: To the mortgagor it is a gain.

Mr. Muhammad Nauman: It is not perfectly clear whether that Rs. 45,000 will be subject to this tax. The house when it was mortgaged for Rs. 5,000 was naturally valued at about Rs. 15,000 and when it was further mortgaged for Rs. 50,000—on account of inflationary price—the house would have been valued at Rs. 2 lakhs. This is a clear case of capital gain. I do not know what interpretation would be put on this transaction and I do not know what Government would say on this point. This is my way of interpreting the Bill before the House.

Sri M. Ananthasayanam Ayyangar: God save us from this interpretation.

Mr. Muhammad Nauman: Of course, lawyers are there to argue in a court of law. I submit this is a perfectly good tax and it should have been brought in

earlier. I further think the Bill has been amended in a way in the Select Committee as would be acceptable to the House and it would be unanimously accepted by the House.

The Honourable Mr. Liaquat Ali Khan: Sir, I am indeed grateful to my Honourable friend Mr. Mohanlal Saksena for his statement that he did not intend to impute any motives to me. I accept that statement and I am very glad to have this assurance. Sir, I do not mind criticism. As a matter of fact a debate without criticism is like food without salt. Just as salt has been made free, so is criticism free.

Shri Sri Prakasa: It is selling at a higher rate than it did before.

The Honourable Mr. Liaquat Ali Khan: So is criticism. Now, Sir, my Honourable friend Sir Cowasjee Jehangir, who unfortunately is not here has stated that this tax was rejected in England. The only country where a tax of this kind is imposed is U. S. A. Sir, I do not go by what other countries do. As a matter of fact it has been pointed out by several Honourable Members that England has not accepted this tax. I am glad to find that Honourable Members follow England so closely. But I am not concerned with whether England or any other country has or has not got this tax; what I am concerned with is whether the tax is or is not a fair tax.

Shri Sri Prakasa: Or whether the State deserves it. Why do you want the tax when you cannot even maintain law and order?

The Honourable Mr. Liaquat Ali Khan: If men like my Honourable friend break law and order it is difficult to keep it. No Government in the world can maintain law and order with the forces under its command and the sooner we get rid of this idea the better; I think it is the duty of every citizen to help in the maintenance of law and order. No Government can have a policeman behind every citizen in the State.

Shri Sri Prakasa: But they can take taxes all right.

The Honourable Mr. Liaquat Ali Khan: If I did not take the taxes my Honourable friend would not be here to criticise the taxes.

Shri Sri Prakasa: I should be here all right.

The Honourable Mr. Liaquat Ali Khan: Sir, it has been said by my Honourable friend Sir Cowasjee Jehangir that when we introduced this Bill we had not adopted all the provisions of the Act in the U. S. A. But my Honourable friend forgot that the U. S. A. Act has been amended, as far as I am aware, at least four times since it was introduced. Conditions in every country differ, and this is the first time that we are introducing a tax of this kind; and I can visualise a time when it will be necessary for us also to amend our Act from time to time in the light of the experience gained in its administration.

An Honourable Member: Is it going to continue?

The Honourable Mr. Liaquat Ali Khan: Yes, it is a permanent tax; I said that.

Now, Sir, my Honourable friend Sir Cowasjee Jehangir stated that losses are not set off against gains in this Bill. If he had taken the trouble to read clause 10 he would have found that losses in capital transactions are to be set off against gains; and it is not only for one year or two years or three years but up to six years. Therefore this criticism of my Honourable friend is based on ignorance of the provisions of the Bill.

Shri Sri Prakasa: Will the losses be deducted from the total income of the assessee?

The Honourable Mr. Liaquat Ali Khan: No, out of capital gains. This is a separate account. If you do not want me to tax this income as total income of

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the assessee you surely cannot expect me to set off losses from his total income against this particular head of income.

My Honourable friend Mr. Gole raised a number of points. He started by raising a legal point; he was not quite sure whether this legislature was empowered to levy a tax of this kind. As a matter of fact this was pointed out to me when this Bill was being framed; and I am quite sure that it is within the power of this legislature to impose this kind of tax. It is not a sales tax: it is a tax on income.

Mr. P. B. Gole: May I know whether it comes under item 54 or item 55 of the Government of India Act?

The Honourable Mr. Liaquat Ali Khan: It is a tax on income and whatever item covers income-tax will cover this also.

Mr. P. B. Gole: But under which of these items does my Honourable friend want to class this?

The Honourable Mr. Liaquat Ali Khan: To me it is immaterial whether it is item 54 or item 55.

Mr. President: I think this discussion is practically of no use here because, whether it is *ultra vires* of this House or not is a point that will be decided elsewhere, if taken up.

Shri Sri Prakasa: If it is *ultra vires*, Sir you also can give a ruling.

Mr. President: I do not propose to give it. I will err on the side of *intra vires* and will not take the risk of ousting the legislation; the decision will fall more appropriately within the jurisdiction of the courts.

The Honourable Mr. Liaquat Ali Khan: It is not really a sales tax: it is a tax on income which is taken from a certain source. Therefore if my Honourable friend Mr. Gole has any doubt about it I have no doubt that either he or some of those who are affected by it will not hesitate to spend some money to have lakhs and lakhs and prove that this Act is *ultra vires* of this legislature.

Then as far as the question of lease, transfer and mortgage is concerned. I need not deal with that because my Honourable friend Mr. Lall has already discussed that. There was another point raised by my Honourable friend Mr. Gole; he asked why we have chosen 1939 as the year for fixing the value of the asset. We fixed that because, as I have said on previous occasions, it is during the war years that the value of assets has grown without any effort on the part of the asset-holder. And, as I have said—and I repeat it again—I think the State is perfectly justified in getting a share out of this unearned increment which people have made during these years. Apart from that let me tell the House that this Act will be applicable only to capital gains made from 1946-47. My Honourable friend Mr. Ayyangar said—and quite rightly because I entirely agree with him—that we should not confine it only to 1946-47 but should tax all the profits or gains that people have made during the war years. All I can say is that I wish it had been possible for my Honourable friend Mr. Ayyangar to convert Honourable Members of this House to agree to that proposition.

My Honourable friend Mr. Ayyangar raised another point and said that we should not do anything under this Bill which would affect industries in any way. As a matter of fact the Bill as it has emerged from the Select Committee has kept that in view, and wherever any machinery is sold with the object of buying other machinery to replace that there is no capital gain charged on it. Therefore we have tried to see that industry does not suffer in any way on account of this tax. But where people have sold their businesses at very large profits I do not see why they should keep the whole of it without the State getting a share of it. So it is not going to affect industrialisation in any way whatever;

it will only affect those who have sold their industries to other people and who have taken advantage of the present depreciation and made very large profits. Those who buy these concerns will not be asked to pay this tax; they are not liable to pay. It is only those who want to get out of this business and who want to make profits on account of the present conditions who will be made liable to pay this tax.

Then, Sir, my Honourable friend, Mr. Gole, said that why I am anxious to get this Bill passed when I expect to get only two crores of rupees from it. My Honourable friends cannot have it both ways. They cannot take advantage of my calculations in one instance and take advantage of that experts calculations in another. According to what has been stated on the floor of this House by no less a person than the Honourable Mr. Manu Subedar the Government should get 20 crores of rupees, and as I stated at that time nobody would be happier than myself if I can get 20 crores of rupees. As I stated in one of my previous speeches, it is indeed very difficult to make any correct calculation because this is the first time that we are introducing a tax of this kind and unless we have worked this for a couple of years or so, we will not be able to make any correct or nearly correct calculation of the income that we are likely to derive from this source.

Mr. P. B. Gole: Why are we proceeding with so much haste with it?

The Honourable Mr. Liaquat Ali Khan: There is no haste. My Honourable friend has had this Bill for five weeks in his hand and if the Honourable Members of this House cannot realize all the significance and all the fine points in this Bill after five weeks, then I can assure you, Sir, that they will not be able to realize it even after five years. It is not that I introduced the Bill yesterday and I am rushing it through today. The Bill has been very carefully examined in the first instance by the Select Committee, after that it has been examined in an informal conferences and as the Bill is before the House today, it has gone through very searching examination, but at the same time let me tell the Honourable Members of this House that it has never been my desire, nor I hope it will ever be my desire, to do anything which is not right. I have listened very carefully and very attentively and I greatly appreciate the doubts that have been expressed by the Honourable Members of this House, and it is my intention to appoint a committee of experts to examine this legislation and to recommend to the Government after very thorough and careful examination whether there are any defects in this Act—I hope it will soon become an Act—and what amendments the Government can make to make this Act more effective and easy of administration. I wish to assure the Honourable Members of this House that I shall always be willing to receive any helpful suggestions and I will never turn down any suggestion or any proposal which would improve any piece of legislation or any policy which we may be following. I want to carry with me, as far as it is possible, every section of this House, because I do feel that it is not really the responsibility of any one individual member of the Government or the Government as a whole, but whatever we do in this House every Member of this House should feel and take responsibility for that act of ours, and therefore it would be my earnest endeavour and sincere desire to carry with me, as far as it is possible, every section of this House in every measure that I put before this Assembly.

I do not think there is any other point which needs any answer from me except I think Mr. Manu Subedar's point regarding new buildings to be put up in the next three years. If any individual is dealing in buildings, then he will really be paying tax under the Income-tax Act, and therefore let me tell you that he will be paying much more than he would be under this Bill, and therefore his case is not covered by this, and it is only in cases where some people who are not really dealing in buildings as business but who might construct

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one or two houses and want to sell it. I think, Sir, that there is every justification that they should pay some of the profit that they make out of this transaction. For one thing it will be because of the assistance that the Government would give in giving permit for building material, and so on and so forth, that any private individual would be able to have any construction made during this difficult period and after having secured all those facilities from the State, I do not see any reason why all the profit that he makes out of that particular transaction should be pocketed by him alone and he should not share some of it with the State.

Shri Sri Prakasa: As this Bill is going to be a permanent measure as my Honourable friend has said, may we take it that this permit system is also going to continue for ever?

The Honourable Mr. Liaquat Ali Khan: I do not think so. I am not saying anything about the permit system, and I do not think either that the present conditions where there are inflated prices of buildings and other materials will also continue, and in the ordinary course I do not think that any one individual will make very large profits by these transactions. These large profits have come because of the conditions, that have been created on account of the war and its aftermath.

Sri T. A. Ramalingam Chettiar (Madras: Indian Commerce): Why not confine this Bill to three years?

The Honourable Mr. Liaquat Ali Khan: Why should I confine it to three years? The point is this. Is it fair and right or not that if a man makes any profit on these transactions he should pay some of that profit to the State. That really is the proposition before the House, and as the Bill has emerged from the Select Committee, I do submit that the incidence of tax is very low. For one thing, with regard to the first 15,000 there is no tax, so that all your lower middle and middle class people are excluded from the operations of this tax, because I do not think many people would really make a profit of Rs. 15,000, and after that if anybody makes a profit of Rs. 50,000 then all that he has to pay is one anna in the rupee, and, mind you, even if you make a profit of over 10 lakhs of rupees, all that you pay is five annas or 1/3rd of the rupee. It is not really a capital levy; it is only a tax on the profits which you make by transactions, by exchange or sale or transfer of any capital asset that you may hold.

Then, Sir, as I stated, I have agreed to accept an amendment to exclude personal effects from the operations of this Bill. That will I am sure save people from any unnecessary harassment by the Income-tax Officers as it was pointed out. I do not for a moment agree that the Income-tax Officers are such bad people that they go on doing nothing but harassing people. It is a very difficult office that these poor devils hold, because after working on these taxation measures for over a month they have all my sympathy for trying to collect money from people who really owe it to the State. At the same time, I have agreed to accept an amendment to the effect that personal effects will not come under the purview of this Bill.

Lala Deshbandhu Gupta (Delhi: General): May I enquire from the Honourable Member what these personal effects will consist of?

The Honourable Mr. Liaquat Ali Khan: If my Honourable friend had read the amendment notice of which has been given by Mr. Gadgil, he would have known what it consists of. When we consider that amendment we will be

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able to discuss this matter more fully.

Mr. President: The question is:

“That the Bill further to amend the Indian Income-tax Act, 1922, and the Excess Profits Tax Act, 1940, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Mr. Manu Subedar: Sir, I beg to move.

"That in part (a) of clause 2 of the Bill, for the proposed clause (4A) of section 2 of the Indian Income-tax Act, 1922, the following be substituted, namely :

'(4A) "capital asset" means property of any kind (other than agricultural land) held by an assessee, whether or not connected with his business, profession or vocation, but does not include—

- (i) any stock-in-trade, consumable stores or raw materials, held for the purposes of his business, profession or vocation;
- (ii) personal effects that is to say movable property (including wearing apparel, jewellery and furniture) held for personal use by the assessee or any member of his family dependent on him."

In support of this amendment I do not wish to take much of the time of the House. The difficulties of the income tax administration on one side and the difficulties of the assesseees on the other side clearly indicated that while large business assets and large transactions should come in and pay a part of the gains which the Honourable Member has indicated, it was neither right nor desirable that personal effects of an individual of the type which has been described in this amendment (*viz.*, wearing apparel, furniture jewellery, etc.) should become the subject matter of this head of income-tax. For one thing millions of assesseees in this country are not maintaining particulars and accounts of these. Government have no means of comparing what there was before and what was added. A double appraisalment would necessarily be involved in the operation of the main clauses of this Bill and that double appraisalment would create enormous difficulty with regard to the condition and the value of the various items of personal effect. This was pointed out in the Select Committee when we were considering the matter and I am happy that notwithstanding his stern exterior the Finance Member has the wisdom and shrewdness to take in the essence of a suggestion made to him and he has very wisely listened to us, for which I congratulate him and I am sure the members of this House will recognise that it is not due to what certain sections of my friends here (I am sorry Mr. Griffith is not here) call as his weakness but it is due to his strength. He is a strong man who is willing and able to take a suggestion made and to absorb it. It is not due to his weakness, I regard it as his strength that he in his exalted office considers the points made out and responds to public opinion. As he said just now in clear terms (it could not be said in clear terms by any other man holding that office) he will consider both the policy and the details of this measure and it is his effort to take every section of the House and every section of the public outside, with him. This amendment therefore makes the administration of this law relatively lighter. It exonerates millions of people from unnecessary worry and anxiety and from having to maintain particulars and proofs and double valuations and it is a sound amendment. I am sure every section of the House will be glad that the Finance Member has accepted this. The amount of money which he might lose by accepting this amendment minus all the worry which the administration would have had will not be so considerable, whereas it would be better to devote the time of the department to the large sections who have made profits during the war, profits in which unearned increment has entered very largely, profits due to inflation and due to conditions outside their own exertions. I commend this amendment to the House.

Mr. President: Amendment moved:

"That in part (a) of clause 2 of the Bill, for the proposed clause (4A) of section 2 of the Indian Income-tax Act, 1922, the following be substituted, namely :

'(4A) "capital asset" means property of any kind (other than agricultural land) held by an assessee, whether or not connected with his business, profession or vocation, but does not include—

- (i) any stock-in-trade, consumable stores or raw materials, held for the purposes of his business, profession or vocation;

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(ii) personal effects that is to say movable property (including wearing apparel, jewellery and furniture) held for personal use by the assessee or any member of his family dependent on him."

I should like to know whether Mr. Gole wishes to move his amendment which is similar to this amendment.

Mr. P. B. Gole: I would draw the attention of the Finance Member to my amendment. There I have excluded property held in trust for public or charitable purposes. The Income-tax Act is not quite clear on this point. . . .

Mr. President: There is another amendment by Mr. Deshbandhu Gupta, which will come separately. If the Honourable Member restricts himself to that only.....

Mr. P. B. Gole: In the Income-tax Act incomes from trusts held for charitable or religious purposes are not liable to taxation. It ought to be made clear whether under this new enactment these charitable and religious trusts will be similarly exempt from this taxation. This is not quite clear. Therefore I had given an amendment and also Mr. Deshbandhu Gupta has given notice of an amendment.

Mr. President: The Honourable Member does not wish to move amendment No. 5?

Mr. P. B. Gole: No, Sir. But may I point out that I have given notice of another amendment, No. 6 on the list.

Mr. President: That will come as amendment to this amendment.

Lala Deshbandhu Gupta: Sir, I move:

"That in part (a) of clause 2 of the Bill, in the proposed clause (4A) of section 2 of the Indian Income-tax Act, 1922, the following be added at the end, namely:

'and properties held in trust for public and charitable purposes'."

Mr. President: Instead of taking it as an amendment to the original clause, I shall take it as an amendment to the amendment. I understand that this amendment has been accepted by the Honourable the Finance Member. So I shall take it as an amendment to the amendment rather than as an independent amendment to the clause. It is purely a point of procedure. As Mr. Subedar's amendment is going to be agreed to by the Government is it not better to have Lala Deshbandhu Gupta's amendment as an amendment to the amendment rather than as an amendment to the clause? I shall put it as an amendment to the amendment.

Amendment to the amendment moved:

"That the following be added as clause (iii) at the end of Mr. Manu Subedar's amendment:

'(iii) and properties held in trust for public and charitable purposes'."

Mr. P. B. Gole: I move:

"That in Mr. Manu Subedar's amendment, after the word 'assessee', the words 'or his predecessor in interest' be inserted."

Mr. President: Amendment to Amendment moved:

"That in Mr. Manu Subedar's amendment, after the word 'assessee', the words 'or his predecessor in interest' be inserted."

I may invite the attention of the Honourable Member to one little change. In his amendment to clause (c) he has put in the words "for public or charitable purposes" while in the amendment of Lala Deshbandhu Gupta the words are "for public and charitable purposes". What is it that is desired?

Lala Deshbandhu Gupta: "or".

Mr. Manu Subedar: The proper wording should be "public charitable purposes". If it is a sectional charity it does not count.

Mr. President: The matter may be considered in the meantime.

Mr. P. B. Gole: Throughout this Bill the word 'assessee' has been used. According to the definition in the Income-tax Act 'assessee' would not include a person to whom an assessee succeeds though I must confess that the amendment which I have proposed may include also the predecessor in title on account of transfer. What I mean is the person to whom the assessee succeeds by inheritance—that is what I want to be conveyed by my amendment. If the wording is not happy I am willing to change it. I would substitute the words 'predecessor in interest' by the words 'a person to whom the assessee succeeds'. My object is that the assessee or his predecessor entitled by succession should always be included. I want to restrict the amendment only to the cases of succession or inheritance. It ought to have been more precise. To be more precise I would suggest for the words 'his predecessor in interest' the words 'a person to whom the assessee succeeds by the law of inheritance'. If the amendment is accepted it would carry out the intentions of the Finance Member. Sir, I move:

"That after the word 'assessee' the words 'or a person to whom the assessee succeeds' be inserted."

Mr. President: The Honourable Member wishes to have the wording changed. I would like to know if the Government is agreeable to his objective.

The Honourable Mr. Liaquat Ali Khan: No.

Mr. President: Then there is no use wasting time.

Mr. P. B. Gole: I want to know why the person to whom the assessee succeeds is not to be tacked on to the assessee. It is all right for the Finance Member to say 'no'. Throughout the word 'assessee' had been used and while I was making my observations in the course of the general discussion I pointed out to you that the property in the possession of the assessee for seven years or more is to be excluded. Suppose the assessee's father died and the assessee succeeded him within those seven years and the assessee sells the property. Then the assessee is not in possession for seven years or more. Although the intention of the Legislature seems to be that the property in possession of an assessee or his father or his uncle, to whomsoever he may succeed, should be excluded from taxation, I do not know why, because he succeeds the father or the uncle and if he sells the property the profits are to be taken into consideration. He might have been in possession for two or three years but his father or uncle might have been in possession of the property for 50 years. If the intention is really to exclude such a property from taxation, then why is it that the Honourable Member is not willing to accept such a suggestion whereby his real intentions would be carried out? It would act as an injustice. In the case of persons who succeed to the property by the law of succession or survivorship they will be liable to the tax as soon as they sell the property. It comes to this that the person must not die for seven years and then only the property will be excluded from taxation. If that is the intention of the Honourable the Finance Member then I have nothing to say. I should like to know why the Honourable the Finance Member is not willing to accept the amendment.

Mr. Manu Subedar: My honourable friend's point would be met and the embarrassment to the Government would be very much less if they accepted the amendment suggested here in the second proviso to clause 6. I think the Government will have no difficulty in accepting the amendment to the second proviso to clause 6—and not here because in clause 2 it would create other complications to which I do not propose to refer just now. But the Honourable

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Member's object would be entirely met if Government could see their way in accepting the alteration in the second proviso to clause 6.

Mr. President: The Honourable Member may well worth consider the point. All that he wants is a continuity of seven years.

Mr. P. B. Gole: May I just point out to you that the word 'assessee' has been used in several places?

Mr. President: The Honourable Member will see that the amendment to the present clause would seek to suggest the general definition of capital asset. That is not the objective of the Honourable Member. If that is not his objective, then the proper place will be the second proviso to clause 6.

Mr. P. B. Gole: All right, Sir.

Mr. President: I take it that the amendment is not pressed by the Honourable Member. He might speak on the old amendment relating to property held in trust for public or charitable purposes. I find in the Income Tax Act the phraseology is "religious or charitable purposes". But this is a point for the Honourable Member and the Finance Member to consider.

Lala Deshbandhu Gupta: I do not mind amending that.

Sir John Sheehy: (Government of India: Nominated Official): I do not think this amendment is necessary. As the Act stands, sub-section (3) of section 4 of the Act exempts any income derived from property held under trust for religious or charitable purposes. Now capital gains are made income by this Act. Therefore capital gains from property held under trust for religious or charitable purposes will be exempt.

Mr. President: There is already exemption. This is an amendment to the Income Tax Act. By this amendment capital gains are made a sort of income. I believe that is Item No. 6. Therefore the general provision governing the whole of the Income Tax Act will govern this also. If that is the clear statement of law, I do not think there is anything to argue further.

Sri S. T. Adityan: (Madura and Ramnad *cum* Tinnevely: Non-Muhammadan Rural): On a point of information. In the Consolidated List, in the amendment to clause 2 moved by Mr. Manu Subedar, in part (ii), the word 'personnel' appears, instead of 'personal'.

Mr. President: All these obvious mistakes will be corrected when the law is finally passed. The President has the power to correct such mistakes.

I take it that the other two amendments are not pressed and the members who moved them would like to withdraw them. Have Messrs. Deshbandhu Gupta and Gole leave to withdraw their amendments.

The amendments were by leave of the Assembly withdrawn.

Mr. President: Then I shall put the other amendment to the House. The question is:

"That in part (a) of clause 2 of the Bill, for the proposed clause (4A) of section 2 of the Indian Income-tax Act, 1922, the following be substituted, namely:

"(4A) "capital asset" means property of any kind (other than agricultural land) held by an assessee, whether or not connected with his business, profession or vocation, but does not include—

- (i) any stock-in-trade, consumable stores or raw materials, held for the purposes of his business, profession or vocation;
- (ii) personal effects that is to say movable property (including wearing apparel, jewellery and furniture) held for personal use by the assessee or any member of his family dependent on him."

The motion was adopted.

Mr. President: The question is:

“That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clauses 3, 4 and 5 were added to the Bill.

Mr. P. B. Gole: Sir, I move:

“That in clause 6 of the Bill, in the proposed section 12B of the Indian Income-tax Act, 1922, the words ‘exchange or transfer’ wherever they occur, be omitted, except from the third proviso to sub-section (1).”

I am not satisfied with the explanation given for the necessity of putting in these words ‘exchange or transfer of a capital asset’. My Honourable friend Mr. Ayyangar understood the word ‘transfer’ to mean transfer of an actionable claim. In the case of a transfer of an actionable claim, it is a sale really speaking, although the word ‘transfer’ may be used but the word ‘transfer’ here has a wider meaning, as I pointed out. The point is whether it is necessary to include in this legislation exchange or transfer. I pointed out that in the case of exchange it is quite likely that the income-tax officers may call upon the transferor or transferee to submit his statement and he will ascertain the market value of the things exchanged and both of them are likely to be hauled up before the Income-tax officer for paying this capital gains tax. My view is this—that in the case of exchange, there is neither loss nor gain on either side. I do not understand why at this stage exchanges are sought to be roped in for levying this capital gains tax. The Honourable the Finance Member wants this whole tax to be examined by a committee of experts. If that is so, why is the word ‘exchange’ being introduced now. I would request the Honourable the Finance Member just to exclude this word. The Act should be as free from complication as possible. This Bill has been before them for several weeks and they had ample time to consider this. But we have not been loitering here. We have been fully engaged with other measures and talking personally. I have not that power to master the details of all the Bills that come up. Some Honourable Members may have superhuman powers. Mr. Ayyangar is a different man altogether. This is a very important Bill and I have not been able to devote as much time to it as I should have liked to. After all the intention of the Finance Member is to rope in the huge profits made during the war. In the case of exchange, there is no gain or loss and under those circumstances it is not necessary to bring in cases of exchange. If the Honourable Member will kindly look into this and see his way to exclude exchanges and transfers, it would be much better.

Mr. President: Amendment moved:

“That in clause 6 of the Bill, in the proposed section 12B of the Indian Income-tax Act, 1922, the words ‘exchange or transfer’ wherever they occur, be omitted, except from the third proviso to sub-section (1).”

The Honourable Mr. Liaquat Ali Khan: Sir, this matter has already been discussed and I do not think I can add anything more. I am afraid it is not possible for me to accept this amendment.

Sri M. Ananthasayanam Ayyangar: May I ask my Honourable friend.....

Mr. President: I am afraid the question has already been sufficiently discussed and no further discussion can be allowed.

Mr. P. B. Gole: I beg leave of the House to withdraw the amendment.

The amendment was by leave of the Assembly withdrawn.

Lala Deshbandhu Gupta: Sir, I beg to move:

"That in clause 6 of the Bill, in sub-section (1) of the proposed section 12B of the Indian Income-tax Act, 1922, after the words 'capital asset', the following be inserted, namely:

'after deducting such amounts not exceeding ten per cent. as the assessee may contribute to public charities including research and educational institutions approved by the Government out of such profits or gains.'

Mr. President: Amendment moved:

"That in clause 6 of the Bill, in sub-section (1) of the proposed section 12B of the Indian Income-tax Act, 1922, after the words 'capital asset', the following be inserted, namely:

'after deducting such amounts not exceeding ten per cent. as the assessee may contribute to public charities including research and educational institutions approved by the Government out of such profits or gains.'

The Honourable Mr. Liaquat Ali Khan: I will be as brief as my Honourable friend. I am sorry I cannot accept it.

Lala Deshbandhu Gupta: I beg leave of the House to withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. P. B. Gole: Sir, I move:

"That in clause 6 of the Bill, in the proposed section 12B of the Indian Income-tax Act, 1922, after the word 'assessee' wherever it occurs in the second Proviso to sub-section (1), the words 'or his predecessor in interest' be inserted."

I would like to point out that I am prepared to substitute for the words 'or his predecessor in interest' the words 'or a person to whom the assessee succeeds'. That would convey exactly what I mean.

Mr. President: I am afraid that won't serve the Honourable Member's purpose. I believe the Income-tax Act specially defines succession. The word 'succeed' will not satisfy his requirements. The question is this. As I have understood the difficulty of the Honourable Member, it is this. The Income-tax Act defines 'assessee' and I will just read the definition: "Assessee means a person by whom income-tax is payable." That is the definition of the word 'assessee'. Obviously, the object is that if a person is in possession for a period of 7 years, he should be exempted. But it may as well happen that for the first 5 years his father was in possession and for the subsequent 2 years his son was in possession. So far as the income-tax records go, the assessee, as defined in the Income tax Act would be the son and his father's possession of 5 years may not be computed for the purpose of the 7 years' possession.

The Honourable Mr. Liaquat Ali Khan: That is right.

Mr. President: Is it the idea to exclude that period?

The Honourable Mr. Liaquat Ali Khan: Yes.

Sir Cowasjee Jehangir: If the father owned the property for 5 years and then left it to his son, who then owned it for another 2 years, then the son has owned it for 7 years.

Mr. President: The idea as I thought it to be was that if the property came from father to son by way of inheritance, then the period could be tacked on.

Shri Mohan Lal Saksena (Lucknow Division: Non-Muhammadan Rural): I think the House has already accepted this principle in Rent Control Bill.

Mr. President: I am not at present referring to the merits. My impression up till now was that the idea was acceptable to both the parties and the only question was one of improving the language.

The Honourable Mr. Liaquat Ali Khan: This question was thoroughly discussed in the Select Committee. As a matter of fact, after discussing this

question, this was what my Honourable friend Mr. Yamin Khan wanted and the Select Committee rejected that proposal. There is no doubt about it. The intention is quite clear.

Lala Deshbandhu Gupta: Will the Honourable the Finance Member kindly explain as to why the Select Committee rejected it?

Mr. President: Then, let the Honourable Member (Mr. Gole) put his amendment in any form he likes. If it is not going to be accepted, the wording does not matter.

Mr. P. B. Gole: Sir, I would like to substitute for the words 'or his predecessor in interest', the following words:

"or any other person from whom it has come to the assessee by survivorship or inheritance".

Mr. President: May I suggest the following words for the words which the Honourable Member has suggested:

"or it has been possessed by the assessee or a person from whom he gets it by bequest, inheritance or survivorship."

I think that would serve the purpose of the Honourable Member.

Mr. P. B. Gole: I agree; the wording should be changed as suggested by you. I thought the Government was prepared to accept this amendment and it stands to reason also. Of course, I do not know what happened in the Select Committee. Many members of the Congress Party were also in the Select Committee but none of them has given us the reason why those assesseees who succeed to the property and who happen to sell the property should be excluded from the exemption claimed by persons who are in possession for more than 7 years. Really speaking there is no change of possession at all. There is no transfer at all, there is no exchange, no transfer, no sale. But even in those cases simply because a man has the misfortune of inheriting his father's property, he is not to be given the advantage of exemption which is sought to be given to every assessee. I have not been able to follow his reasoning, I must confess. The Finance Member told us that this was discussed threadbare in the Select Committee. I am not able to know from any of Honourable Members who were Members of the Select Committee what were the reasons why they particularly excluded these unfortunate assesseees who inherit property from their fathers. Unless I have some valid explanation, I am not prepared to withdraw my amendment.

Mr. President: I believe the amendment requires some drafting changes. He says, the word 'assessee' wherever it occurs, what he really means is where it occurs a second time.

Amendment moved:

"That in clause 6 of the Bill, in the proposed section 12B of the Indian Income-tax Act, 1922, after the word 'assessee' where it occurs in the second Proviso to sub-section (1), the following words shall be added namely, 'or by a person from whom he gets it by bequest, inheritance or survivorship'."

Khan Mohammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, of course, I do not want to divulge what took place in the Select Committee except this, that I was myself the mover of this amendment. The Select Committee, did not accept my amendment, and result is that it does not find a place in the Bill. I am still of opinion that this amendment should be made. When we take persons who continue to live for seven years in possession of a property, if they suddenly die and if some other persons get it by inheritance and they want to sell then they should not be called upon to pay this tax. People have got no control over their lives or deaths. It is not for the mere pleasure that people die. If a man dies within seven years of being in possession of a property and if his child who continues in possession to complete

[Khan Mohammad Yamin Khan].

seven years is deprived of the same concession on his death unless he pays heavy tax on it, it would be very hard. If the children find the property not worth keeping, they would be forced to keep it continuously for seven years in order to avoid taxation in this respect. I think this is a very equitable amendment. Of course, I do not know why the Select committee thought at that time that this amendment should not be allowed. I do hope that the Finance Member will accept this reasonable amendment of Mr. Gole. It would be very hard that a son who inherits a property should not be able to sell the property unless he pays the tax. This is not a temporary law. We are making it permanent so that seven years will count in future from any date. So, it must be laid down that a property which is held by the man himself or by his successors who get it through inheritance, in other words, if it is handed down as family property from father to son it should not be liable to this tax. I may further add that it will act as great hardship on the Muslim community. My friend Mr. Gole may not be so much affected because the moment he was born he became the owner of his ancestral property. But I was not the owner of property when my father was alive. I became the owner after my father died. It is really hard that anybody who receives through inheritance should be deprived of his right to sell his property for seven years and that he should continue in possession of the same. We Muslims do not get it through survivorship or by will, we become full owners on the death of the deceased who has been holding it. A Joint Hindu family also will be hard hit as far as the share of the father is concerned. Muslim families will be hit harder because they will not alienate the property which they will inherit and will find unsuitable to them. I think Mr. Gole's amendment is a very reasonable one and I do hope it will be accepted.

Sir Cowasjee Jehangir: Sir, my Honourable friend the Finance Member impressed the House when he gave the promise that he would be very reasonable.....

The Honourable Mr. Liaquat Ali Khan: As far as possible. That is always so, but here it is not possible.

Sir Cowasjee Jehangir: He said he would be reasonable and accept any fair suggestion made by the Opposition. I should not call it 'Opposition', that is a wrong term, I should say his friends on this side of the House. Now, I cannot really understand how this is an unreasonable demand. After perhaps considerable discussion, the Honourable the Finance Member was persuaded to admit the principle already admitted in the American Act that property, not land, mind you, if owned for seven years and then sold should not fall within the mischief of this Act. The logical conclusion and the logical sequence of that would be that if a man owned a property for more than seven years—it may be 50, 60 or 70 years—if he leaves it to his heirs, surely the right that he possesses over that property of not falling within the mischief of this Act would also pass to those who inherit it. They would not be inheriting the property with its full rights, if they did not inherit also the right of not falling within the mischief of this Act. I ask the Honourable Member to consider that point. A property has a certain value, the value is that it can be sold without falling within the mischief of this Act. Then it should be left to his son or to his successor with that extra value, namely, that it cannot fall within the mischief of this Act. It otherwise means that as soon as his successor gets into the shoes of his father or whoever it may be, he must get the property worth less than what it was worth when owned by his predecessor. I think that is not quite fair. I hope the Honourable the Finance Member would look into it from that point of view. It is no use trying to depreciate unnaturally property when it is owned from father to son. That is what he will do if he persists in refusing to accept this amendment. I see there is considerable support for this amendment from all sides of the House. Now, Sir, since the Honourable Member

has given us an undertaking, I will repeat his words—as far as possible—that he will try to meet the views of this side of the House, let him come forward and accept this amendment which is in the opinion of a large section of the House a fair and equitable one.

Mr. Manu Subedar: Sir, the Honourable the Finance Member has to consider with regard to this amendment whether the concession that he gave for continuous possession of seven years with regard to property is or is not to be a really valid concession with regard to such properties which are held in family as my Honourable friend Mr. Yamin Khan mentioned. Has my Honourable friend the Finance Member considered fully the effect of all that he has been doing for the past five weeks, the number of shocks he has given? Whereas the business people may recover from the shocks which he has imparted to them it is not so in the case of property owners of this country. The property owners in this country are all conservative sections and those old people who are over 50 and 60 will get the most violent shock out of merely calculating how much their property will be worth now and how much after a few years if it is subject to the tax proposed in this measure. And if it is the intention of Government not to deprive the sons of those weak fathers who on account of shock and the magnitude of the levy may die in the next year or two—when the property has been held continuously for seven years—I feel that this amendment is of a kind which should be accepted. I am not very happy about the words selected. I feel that the natural heirs of a man ought to get it and I am not too keen about the bequest part of it. A bequest may go to some third party, one who is not in the family. On those words I do not think any side of the House will make any difficulties if Government will consider that it is a legitimate extension of the original intention that properties which have remained in one family in continuous possession for seven years will not become the subject-matter of this levy, particularly now when it has been explained and every one has realised it. This realisation is only in this House. I am glad there is no casualty here, but as soon as this realisation spreads throughout the country I have no doubt that a certain number of property owners, in an advanced age and perhaps in an advanced stage of apprehensions may expire. I feel, Sir, that this is worth considering. The natural heirs of a man who succeed to his property which has been in continuous possession deserve the benefit of the concession which Government have given in the second proviso to clause 6. Sir, I support the amendment.

Sri M. Ananthasayanam Ayyangar: Sir, I was really surprised at the interpretation given by the Finance Member. I wish to ask one or two questions and he will consider the answer that he himself will give in relation to the interpretation that he has given in regard to the income-Tax Act to which this is an amendment we will assume there is an assessee to be assessed this year on his income of the previous year. We will assume in this case that it is a Muslim family and the father died at the end of the last year. This year it is no longer there and therefore his income cannot be assessed. His son gets the income this year by way of accumulation. It is not his income in the previous year. Therefore if his interpretation is correct he escapes assessment this year. On the answer to that depends the answer to this.

Secondly, a man is possessed of property for 6½ years. At the end of that period that man passes away leaving minor children. His minor children cannot afford to live in a palace that their father had been keeping and so they sell away that property. Now you want to tax property in the hands of the minor children. Is it a question of prestige that the Select Committee did not approve of this, and therefore the bigger House ought not to approve? What is the object of bringing it before the bigger House if really the Select Committee has decided everything for us? I therefore request the Honourable

[Sri M. Ananthasayanam Ayyangar.]

Member to consider this matter; if he thinks he will take some more time I can continue till 5 O'clock. I appeal to him that there is a unanimity of feeling on this side of the House and I am sure that if he had been along with us he would have shared the same views.

Mr. P. J. Griffiths (Assam: European): Sir, I rise to support this amendment. I do not propose to explain the reasons in detail because they have been already set forth very clearly by the Honourable Mover and by Sir Cowasjee Jehangir. I want to make it clear that we in this group agree with this amendment and the fact is that on this matter there is unanimity among all the non-official sections of this House.

Shri Mohan Lal Saksena: Sir, I also happened to be a member of the Select Committee and unfortunately my impression was that these persons were provided for. As a matter of fact I had a talk with Pundit Thakurdas Bhargava and I realised that it was not properly drafted. But I am now told that this had been discussed threadbare; I do not know who were the persons who opposed it. But if we had known we would have brought it out in our minute of dissent. Anyway we know that this House has already accepted this principle in the Rent Control Bill. There we have provided for eviction by landlords subject to the condition that only those landlords who had acquired possession before a certain date were entitled to evict tenants; but we have also provided that that also included persons who were not in possession before that date if their predecessor in interest was in possession of the house he could also evict the tenant. So I think so far as the House is concerned it is committed to this principle that wherever the person actually in possession is concerned, we also take into account the person who was in possession before him, that is, either the father or uncle or some other predecessor in interest.

One thing more to be considered is this. Generally in case of such house property when it devolves upon a person it is mostly to meet the debts of the person who has died that the property is parted with. And if you impose this tax it would certainly be a distress tax and not a capital gains tax because the person would be parting with property not to make any gains but because he has no other alternative. In most cases after the death of the father or any one else from whom one inherits property one has to dispose of property in order to pay off the debts. Just now I had a talk with the Finance Member and he said that he should continue in possession for seven years and evade the tax. Certainly he would do that if he could. But we have to provide for hard cases where they cannot help disposing of the property. Again we know there is the Estate Duty Bill pending. And if that is enforced, and this is also going to be a permanent measure, this man may be taxed twice. Therefore taking all these into consideration and also in view of the feeling among all sections of the House I think this should be reconsidered. The Finance Member said that he was always prepared to consider the feelings of the House notwithstanding his personal views. I therefore hope he will see his way to accept this amendment and I hope it will not mean a large financial loss to him.

Sjt. N. V. Gadgil: Sir, I only want to make an appeal to the Finance Member who in reply to the general debate stated that he shared responsibility with every Member of this House.

The Honourable Mr. Liaquat Ali Khan: I beg to withdraw that assurance.

Sjt. N. V. Gadgil: The House will not grant him leave to withdraw.

Now he has seen two things. Those who were members of the Select Committee stated that this was exactly what was understood to be the position.

But that is a question of fact of which at least I have no knowledge. But in this House in the course of discussion on this particular amendment it seems to be the unanimous feeling of the House that it is not only reasonable and logical but also just. If I am told that the acceptance of this amendment would make a lot of difference financially, that is something worth considering. If my Honourable friend thinks that this is a point which requires further consideration I will not object to that; he may consider it when the Bill goes to the Upper House. Or if he thinks that he requires still more time he may refer the matter to the expert committee that he proposes. But I would still appeal to him that in view of the unanimous wish of this House he will accept the amendment and prove once more that he is not only reasonable but always inclined to accept the popular wish.

Sri S. T. Adityan: The question as to how far the heirs of the person who has died should be made liable to pay income-tax has already arisen.

Mr. President: I would suggest another argument. The real point is that property is passing from one to other without any consideration and if this amendment is not accepted the anomaly seems to be that tax is being levied though no consideration has passed.

Sri S. T. Adityan: I was only going to point out, Sir, that some such consideration arose when Section 24B of the Income-tax Act was passed. Formerly, Sir, when a person earned an income and died then there was no procedure to charge the son. Such considerations do arise because.

4 P.M. as the Chair has pointed out, this is not a transfer, at all; it is a mere question of procedure. When a person dies and his heirs succeed, there is absolutely no transfer; there is absolutely no passing of consideration; it is a mere question of procedure which we find in every Act that we have passed. In the Civil Procedure Code, and in fact in every conceivable Act, we have such a procedure. In fact according to law the same person continues, only the procedural difference is there, not any substantial difference—that is the general principle, and I submit that this general principle is accepted also in this Act—section 24B. What we claim is that Section 24B may not be applicable to a case like this, and therefore the same may be extended to this case also.

The Honourable Mr. Liaquat Ali Khan: I am afraid my Honourable friends are really taking an undue advantage of my good nature. Let me point out, Sir, that this matter was considered in the Select Committee and was thoroughly examined. My Honourable friend, Mr. Saksena, said that he did not know how it came and who opposed it. How could he know when he was busy all the time drafting his Minute of Dissent and not paying any attention to what was happening in the Select Committee. But any how I have rather a kind heart unfortunately and I am willing to make a certain change because I am afraid I cannot go to the length which is embodied in this amendment. I am prepared to accept this amendment that in fifth line after the word 'assessee' 'or a parent of his' may be inserted.

Shri Sri Prakasa: Who is a parent?

The Honourable Mr. Liaquat Ali Khan: Mother or father.

Sri Cowasjee Jehangir: Adopted or natural parent?

Mr. President: That will be a matter for the Court to interpret.

An Honourable Member: Also grandfather?

Mr. President: Grandparents will be included in parents.

The Honourable Mr. Liaquat Ali Khan: I am prepared to accept that. But here I would like to point out one thing. Honourable Members of this House

[Mr. Liaquat Ali Khan.]

have been pressing me to bring forward the Death Duty Bill, but the concern they are showing for the descendants does not really encourage me to come forward with that Bill. If this is the feeling that even in the case of capital gains, where a man makes a profit and a large profit on account of the conditions prevailing at the moment, should not be charged a light tax, then I do not know how this House would feel if out of that capital a portion had to be taken by the State.

Sjt. N. V. Gadgil: Because I do not think it is equitable.

The Honourable Mr. Liaquat Ali Khan: My Honourable friend, Mr. Gadgil, says I do not think it equitable at all. Any how I do not wish to argue this point although I feel that logically I am on very strong ground, but sentimentally I feel that I should accept what my Honourable friends of this House have suggested, and I am prepared to accept the change.

Mr. President: A separate amendment may be moved.

Mr. Shavax A. Lal: Sir, with your permission, I move:

"That in Clause 6 of the Bill, in the proposed Section 12B of the Indian Income-tax Act, 1922, after the word 'assessee' where it occurs for the second time in the second Proviso to sub-section (1) the following words be inserted, namely:
'or a parent of his'."

Mr. President: Amendment moved:

"That in Clause 6 of the Bill, in the proposed Section 12B of the Indian Income-tax Act, 1922, after the word 'assessee' where it occurs for the second time in the second Proviso to sub-section (1) the following words be inserted, namely:
'or a parent of his'."

Mr. P. B. Gole: Although I am not convinced at all, but in view of the concession shown by the Honourable the Finance Member and believing in the saying that something is better than nothing, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President: The question is:

"That in Clause 6 of the Bill, in the proposed Section 12B of the Indian Income-tax Act, 1922, after the word 'assessee' where it occurs for the second time in the second Proviso to sub-section (1) the following words be inserted, namely:
'or a parent of his'."

The motion was adopted.

[At this stage Mr. President vacated the chair, which was then occupied by Mr. Deputy President (Khan Mohammad Yamin Khan)]

Sir Cowasjee Jehangir: Sir, I beg to move:

"That in clause 6 of the Bill, in the second Proviso to sub-section (1) of the proposed section 12B of the Indian Income-tax, Act, 1922, the words and figure 'being property the income of which is chargeable under section 9 and' be omitted."

This is an amendment which will go far to meet the criticisms that have been offered against this Bill all over the country.

The Honourable Mr. Liaquat Ali Khan: Only by interested people.

Sir Cowasjee Jehangir: So far as the Honourable the Finance Member is concerned everybody who has anything to say against any of his proposals are interested parties, and he is the only disinterested party in this House.

Shri Sri Prakasa: He is only interested in collecting taxes.

Sir Cowasjee Jehangir: Let me tell you that there are many other disinterested parties in this country who can also express an opinion, and let me

tell you that there is one large class of people who have been left out of this legislation altogether—landed proprietors. There are certain landholders under the Central Government. However, I do not want to go into that question. Since interested parties were mentioned, I only brought that out to remind my Honourable friend.

The Honourable Mr. Liaquat Ali Khan: How are the landholders left out of this tax, I would like to know?

Sir Cowasjee Jehangir: All agricultural land is left out. There is a large section of people who have made large profits during this war. Their incomes have risen by leaps and bounds in some parts of India and they have not been affected by one rupee by any of the direct taxes that have been levied during this session of the Assembly. Not one rupee of theirs has been touched. It is a notorious fact that they have benefited more than any other class of people in India. I do not grudge them the benefits that they have derived. I shall be sorry to see a class of people who have served their country well in the past hurt or injured in any way.

Coming to this amendment, in short it means that all assets that fall within the mischief of this Bill, which had been owned for seven years by the assessee shall not be taxed on the profits made. It is carrying the amendment accepted by the Finance Member through the instrumentality of the Select Committee a good deal further. He applies it merely to landed property. I want it to apply to all classes of assets that fall within the mischief of this Bill. As has been said so often in this House this is an Act which has been taken from America. In America all assets owned for four years are not taxed. Here for properties it has been extended to 7 years. That is more severe than the American Act. There has been no explanation given to us up till now as to why this precaution taken in the American Act has not been embodied in this Bill. Surely they had very good reason for having such a provision in the American Act. That is why, Mr. Deputy President, some of us want an investigation or an enquiry by qualified persons before this tax is levied. The Finance Member has now stated that he is going to have an inquiry into the incidence and repercussions.....

The Honourable Mr. Liaquat Ali Khan: Not repercussions.

Sir Cowasjee Jehangir: Then inquiry into what?

The Honourable Mr. Liaquat Ali Khan: Into the effects of this legislation. There are no repercussions.

Mr. P. J. Griffiths: The repercussions are so obvious.

Sir Cowasjee Jehangir: As my friend Mr. Griffiths says they are so obvious they do not want any investigation, they are so obvious that the consequence will be felt all over the country. The investigation will have to take that line.....

The Honourable Mr. Liaquat Ali Khan: No.

Sir Cowasjee Jehangir: Then what is the investigation going to be, may I ask? If the investigation is not going, investigate the incidence and repercussions of this tax, how it will hurt the industries of this country.....

The Honourable Mr. Liaquat Ali Khan: It will not hurt.

Sir Cowasjee Jehangir: What then is your investigation worth? It is worth nothing at all. You may as well throw the report into the waste paper basket. Let us be frank. We want an investigation. That will show not only the defects of this Act but it will also show the harm it will do. That is what we want.....

The Honourable Mr. Liaquat Ali Khan: It will do no harm.

Sir Cowasjee Jehangir: It may be that his constitution is such that he cannot see the defects. It might be that there are other reasons why he cannot see the defects. But we want this investigation not by the members of this House nor by a Select Committee. We want the investigation by men of experience and knowledge, who can examine this legislation in all its aspects. That has been conceded and I am glad that it has been conceded. But it is putting the cart before the horse. In all countries an enquiry has always preceded taxation and it has been the case in India as well. Taxation of this character has been preceded by a wide enquiry by men of knowledge and experience. But we are having the taxation before the enquiry. You have got to take things as they are. We have to learn by experience and I am quite prepared to suffer for the experience to be gained by the Treasury Benches. It is inevitable and we must take it with a smile and willingly. But let the mistakes be honest and *bona fide*. To say that we have had five weeks to study this Bill is rather exaggerating the position. You may give us five years to study the Bill; yet we may not be capable of studying it.....

The Honourable Mr. Liaquat Ali Khan: I know that!

Sir Cowasjee Jehangir: That is exactly why we want an enquiry a proper enquiry by men of experience, men who have seen the ups and downs of industry and trade in this country.

One of the safeguards in the American Act is the safeguard I am now demanding and if that is conceded I agree that an enquiry after the Bill is passed may be of some use. If you take the Bill as it stands, with all its defects, without any of the good points in the American Act, you are not doing justice to yourself or the country. Is it not a fact that this legislation has been brought before the House without a proper investigation? Can there be any doubt about that? There are defects in the wording of this Bill throughout, which cannot be remedied under the present conditions. I fully realise the constitution under which we are working and it is useless to try to remedy the defective wording of the sections. Let them go. But where a fundamental principle is involved I urge that it should be remedied.

There is another aspect of the case which has not been properly discussed in this House and that is the aspect of inflation and I would like Honourable Members and the Finance Member to devote a little time to the consideration of this point. Is the rupee today worth what it was before the war broke out? If you are to value an article in 1939 and value it today purely by the rupee, the difference of its value today in rupees is not a correct valuation? What was the buying power of the rupee in 1939 and what is it in 1947? If an article was worth Rs. 1,000 in 1939, it may be worth Rs. 3,000 or 4,000 today. There are many who will argue that the value has not increased. The value may have increased in rupees but the buying power of the rupee having decreased, it may well be that the increase in value in rupees is a decrease in the real value of assets. I can give instances but still that point of view has not been taken into consideration at all. When you are going to take a part of the profit which is really no profit, it is not just. When you want to compare values of 1939 and 1947 you have laid down no rules or conditions under which those values can be compared. As I said before and I will repeat it again, an article worth Rs. 1,000 in 1939 which is worth Rs. 3,000 or 4,000 in 1947 may be of equal value and there has been no increase in real value during that period.

There is another point that I would like to bring forward. The Honourable Member is quite right when he desires to get a share of the profit from the speculator who bought and sold during the war and made big profits. But what about the man who has held assets for years and years, who has suffered

loss on those assets and lost interest on them? When he gets a chance and sells them Government pounces upon him and wants a share of the profits while not paying one rupee for the losses he has incurred in the years past. That is the point that is forgotten. By the amendment that I have moved none of these speculators will get off. The Honourable Member will get his share of the profits from those speculators. By my amendment anything that is bought after 1940 and sold will fall within the purview of this Bill. Anything that is bought before 1940, that is to say, bought *bona fide* before the war broke out, for the purpose of investment, and that is then sold, will not fall within its purview. Therefore I suggest that my amendment is a perfectly equitable one and will meet all criticism and follow a precedent which the Honourable Member has tried to follow in this Bill—the precedent in America. Let him follow it completely and then let us have this investigation. Nobody is against his getting his share of the profits from speculators. But the trouble is his attempt to get a part of the profits from the *bona fide* investor who has invested his money in property or in any other asset long before the war broke out. That is the point. I claim by this amendment that the speculator will still be caught. The man who has bought after 1940 and sold and made his profit will be caught. But the man who has bought before 1940 and then takes his opportunity of selling will escape. That is the American precedent. If you want to follow a precedent from a far off country of which we have no experience, at least I urge that the safeguards included in the legislation of that country should be included in our legislation, the more so when you are to have an investigation into the incidence and the repercussions of this tax. I would strongly urge the acceptance of my amendment in this or in any other form that the Finance Member may suggest. Something of this principle should be introduced. That will meet with a good deal of the criticism and will not mean much loss of revenue, because the largest part of the revenue he is getting is from the assets bought after 1940 and sold. That is the biggest part of revenue he is going to get. He will let off the *bona fide* investor. That is what it will be. And that will be the right, honourable and just thing to do. I urge my amendment for the acceptance of this honourable House and the Honourable the Finance Member.

Mr. Deputy President: Amendment moved:

"That in clause 6 of the Bill, in the second Proviso to sub-section (1) of the proposed section 12B of the Indian Income-tax, Act, 1922, the words and figure 'being property the income of which is chargeable under section 9 and' be omitted."

Mr. Manu Subedar: We are prone to be carried away first of all by the deficit in the Government of India, then there were large, spectacular transactions which have taken place in the field of industry, and lastly the Honourable the Finance Member has pleaded that certain people have benefited by the war and therefore they should come in. Therefore as an emergency legislation the attitude taken by Government is, and must be, regarded as correct, and it has the full support of all of us. Yet I would like to advert to the very important point of principle which my Honourable friend Sir Cowasjee Jehangir has raised. I do not see any significance in my supporting or not supporting his amendment. We know the fate of his amendment. But I do wish to mention that, as he said, when you take a piece of law from another country in which capital gains and capital turnover is very much quicker than in this rather ancient country of ours, you must not altogether ignore the experience which those people had in their country; since they instituted the capital gains as one of the heads of income-tax in the U. S. A. what are the different kinds of difficulties which they ran up against and what are the different amendments to their own law which they made, what was their objective and to what extent have they succeeded in realising that objective. These are points which we must study. The House will remember that in the Bill, as it was brought by Government in the first instance, there was this very important feature with regard to gains which arise in a short period and gains which arise in a long period. This distinction, on

[Mr. Manu Subedar.]

account of the substantial modifications which the Honourable the Finance Minister made, he has abolished, mainly in the interest of simplicity and quicker administration. As I was saying while we are all reconciled to this law in the form in which it is now, and while the House will undoubtedly pass it in due course, I feel that the basic principle which must be kept in mind and which Government should specifically put by way of reference to the Commission which is going to look into this matter, is with regard to a distinction to be made between those who own and continue to own capital assets merely for holding it as a store of value, merely for use, and those others who acquire something today, see a profitable market, dispose it of tomorrow, then get something else. There is a distinction between the two. In the latter case it is a kind of income which a man makes spread over, let us say, a period of three years. But in the first case the thing is held by the family, by an individual, as a permanent asset and is only sold, as I said on a previous occasion, when there is distress, when there is need in the family. That distinction is very real and the Honourable the Finance Minister has already, in conceding the second proviso to clause 6, conceded the gravamen and the utility of this principle. He has confined it only to one class of property, namely residential property which is the subject matter of section 9 of the Income-tax Act.

On this I want to detain the House for two minutes. Section 9 of the Income-tax Act deals with property from which rent arises and it gives to the owner of such property certain expenses by way of repairs which are very fixed, which have no reference to the actual cost, which may exceed it. In that particular section they have been very strict to those who merely own land as such. They regard income from land as ground rent. Is it necessary to penalise the holders of land with regard to a new head under the Income-tax law which you are now creating? Is it necessary to deprive them of the benefit which you are giving to the residential properties for a period of 7 years, and to say 'because you have merely held land therefore you will be deprived'? Take the other case where it is not merely land. Suppose there is a very small house on a very large plot. The first part of the property comes under section 9. Yet on that extensive plot a man might build another ten houses or make up further plots and cut it up and sell the land as such. Yet he does not come within the levy here. Therefore, Sir, I say that this is a hastily conceived measure to meet the immediate needs of our country in a heavy deficit and we have to consider the effect of a war period. But it is not the war period which will be for ever. If this measure remains permanently, I plead that it is extremely necessary to say that all these minutia which I was mentioning have to be considered and every class of holder of permanent and capital asset has to be provided for. The Honourable the Finance Member said this morning with regard to houses which may come into existence hereafter. He said—if a man had a new house and sold it, why should not the State tax it. Quite right. Put in those words, I have not the slightest objection and everybody will agree that the man has made a profit. Now the question whether this affects the flow of capital into house building or not. You have to consider whether the motive for more house building will be affected or not. If you destroy the motive, there will be fewer houses and the fact that there will be fewer houses is a fact of very great social significance. Society as a whole requires more accommodation today and it is a policy which Government have already declared that they will help. If they are going to help this, then this particular provision which does not make any exemption for that class of asset is a very defective one. It is in this light that I feel that what one hand of the Government does the other hand should not undo and *vice versa*. This is a new Government and the Treasury Bench occupants are ministers having full support from us and they are also new and they have been overwhelmed in this first year of their office with an enormous number of problems which are the aftermath of the war and due to readjustment of war to peace and yet this measure which will be a continuous feature of the tax system of this

country, in whatever form it goes through in this House, will need improvements. I am sure the Honourable the Finance Member also recognises this on his side and in order that the Act can remain on the Statute Book without injustice and without social harm I trust that this inquiry will be made and that the features which I am mentioning will receive the attention they deserve.

Shri Sri Prakasa: Sir, I think it is high time that some one took his courage in both his hands and gave a few elementary lessons in Political Science to the Honourable occupants of the Treasury Benches. From the speeches—and they have been many—that the Honourable the Finance Member has delivered in the course of the debates on this Bill, I have come to the conclusion that he has three cardinal principles. One is that the only purpose of Government is to collect taxes and to get them by whatever means, fair or foul; and that as regards everything else it is the duty of the people to look after themselves; and thirdly that if any one has the temerity to differ from him he must be an interested person.

Now, I want to tell him that the first principle of democracy is that all interested peoples must be gathered together in order that they may be able to pool their interests and to tell every one how a particular measure hurts. It is no good telling me: you are interested and therefore your opinions have no value. I strongly protest against this attitude of the Honourable the Finance Member. I am an interested party. That is why I am here and I have been sent to this House because I represent people who are interested. The election law itself says that persons who give so much in tax, so much in revenue and so much in this and that ought to be voters and can be candidates. They are all interested. So I am interested and here I am in order to ventilate the interests of those who have sent me here. It is no good my Honourable friend telling me, 'you are interested, therefore I am not going to listen to you'. He has got to listen. Then, Sir, he also said that law and order was no concern of the Government.

The Honourable Mr. Liaquat Ali Khan: When did I say that?

Shri Sri Prakasa: It was the concern of the people themselves. Everything that we need or want must be looked after by ourselves. Our only business is to pay taxes and to keep quiet. If anything goes wrong, we are to blame and Government has no hand in that. It is no duty of the Government to correct the wrongs that are being done. That means to say that persons who are not in Government employ have to look after their own professions and have also to fulfil all the functions of Government. Then I do not know why we need a Government at all. Government, I took it, was there in order to fulfil definite functions, and in order to enable it to fulfil those definite functions, we are expected to pay certain taxes; and when we have paid those taxes we have every reason to expect it to fulfil its duty. It is not for me to wake all day in order to fulfil my professional duties and then wake all night in order to prevent my property from being looted. I do my professional duty all day. I earn something. Out of that earning I pay a certain proportion to the Government in order that Government shall wake all night and see that I am not looted. Now, the Honourable Member turns round and says: "That is not my business. My business is only this: 'You have earned so much in the day time. You pay so much out of it; and then wake all the night and see that your property is not looted. If it is looted you yourself are to blame'." If that is the attitude of the Honourable Member and if he represents the views of his colleagues, then I do not think we have made much progress during recent years.

Mr. Deputy President: Will the Honourable Member speak on the amendment?

Shri Sri Prakasa: I am supporting my Honourable friend Sir Cowasjee Jehangir, because Sir Cowasjee Jehangir seeks definitely to reduce the amount:

[Shri Sri Prakasa.]

of money that the Honourable Member seeks to grab; and because the Honourable Member had the temerity to attack Sir Cowasjee Jehangir on the plea that he was interested, I am going to give it back to him.

The Honourable Mr. Liaquat Ali Khan: I am also going to speak on this.

Shri Sri Prakasa: Then I will have another chance to speak. The Honourable Member should not forget that there are other amendments on the Order Paper and there is the third reading of the Bill.

The Honourable Mr. Liaquat Ali Khan: I know that. I have been too much of a gentleman.

Shri Sri Prakasa: If the Honourable Member means that he is the only gentleman, he is mistaken.

The Honourable Mr. Liaquat Ali Khan: Far from it.

Mr. Siddiq Ali Khan (Central Provinces and Berar: Muhammadan): Don't be so serious, Sri Prakashji!

Shri Sri Prakasa: I will not dilate any further. I will congratulate the Honourable Member on having the powerful support of many persons here who should be in the opposition; but I should beg him to continue to be the gentleman that he has always been and not to attack those who happen to differ from him on the ground that the other people are interested because then that argument may cut both ways. There may be many occasions when they may be inclined to throw back the argument and say to him: 'you are interested and therefore you say this. You are interested in taxes and therefore you are doing this', and so on without end. I think we can all take a detached view of things and work for the common good. I think it is time that we took a reasonable view of things and forebore from saying what hurts. Sir, I strongly support my Honourable friend Sir Cowasjee Jehangir.

The Honourable Mr. Liaquat Ali Khan: Mr. Deputy President, first of all, let me say a few words about the remarks of my Honourable friend Mr. Sri Prakasa. He said that I called Sir Cowasjee Jehangir as an interested person. Either he was not paying any attention or he misunderstood my remarks. I have been in Legislatures too long not to know what is parliamentary decorum. When Sir Cowasjee Jehangir was saying that there is a great howl in the country and so on, I said: "Yes, by the interested people". I did not say that my Honourable friend Sir Cowasjee Jehangir was interested and even if he is or he had been, I would not say that on the floor of the House. Now, Sir, my Honourable friend Mr. Sri Prakasa has said that he is representing the views of the people who have sent him here. I challenge that statement of his because not even a fraction of those people who have sent him here are going to be affected by this tax. Has he taken the trouble

Shri Sri Prakasa: May I interrupt my Honourable friend on a personal explanation? I did not say that I was expressing the views of those people. What I said was that these people were also interested in something. Everybody who is a voter is interested in this, in something or other, and therefore his views are expressed here. It is no use throwing out a challenge of that sort and say that because they are interested, therefore they should not be heard here. I was not referring to this particular matter.

The Honourable Mr. Liaquat Ali Khan: Now, let me point out to my Honourable friend and the other Honourable Members of the House. Have they really calculated as to what would be the number of the population in this country that will be affected by this tax? I have been hearing this argument day in, day out that there is a large section of the population against this tax and the whole

economic life of the country is going to be ruined because of this tax. I would like to point out to the Honourable Members of this House that not even 100 per cent. of the population of this country will be affected by this.

Sir Cowasjee Jehangir: Indirectly, large number of people will be affected by this.

The Honourable Mr. Liaquat Ali Khan: My Honourable friend says that indirectly large number of people will be affected by this. I know this cry that the production will stop; millions of labourers will be thrown out of employment, because a few these blood suckers, who have been living on the earnings of the poor and the labourers, are going to pay a little of this unearned income, which they have massed through no effort of their own, but through the sacrifices which the poor people of this country have suffered and through the loss of millions and millions of lives in this country because of the inflationary conditions. I am tired of listening to this argument. Every time it is stated that this tax is going to ruin the industry and this tax is going to throw out millions of people out of employment. This is a howl that has been raised by a certain section of the people. I know that a vast majority of my countrymen are with me with regard to these proposals. I know that 99.9 per cent. of the population of this country is behind me with regard to these proposals which I have placed before this Honourable House.

Sir Cowasjee Jehangir: Question.

The Honourable Mr. Liaquat Ali Khan: My Honourable friend Sir Cowasjee Jehangir says, 'Question'. I cannot show light to those who are born blind; I cannot convert those who refuse to be converted; and I cannot convince those who have no mind of their own. (*An Honourable Member:* You have not given any arguments in support of your proposals.) My Honourable friend says I did not give arguments. What arguments does he want? For one month there has been nothing but argument and argument about this. I have said it from the very beginning that the object of my tax is that all those people who have made money, not because of any effort on their part but because of this unearned increment, I feel and I justifiably feel that the State is entitled to take a little share out of that. Is that proposition challenged by any Honourable Member of this House? Is that proposition challenged by any one in this country? Apart from that, let me tell you that the Bill, as it is today before the House, does not affect really a very large section of even moneyed people. What is the tax when you come to examine it? If anybody makes a gain of Rs. 50,000, he will pay one anna in the rupee.

Sir Cowasjee Jehangir: The amendment is that a class of persons who have got assets 7 years ago should not be taxed. Nobody has contended that his blood-suckers

The Honourable Mr. Liaquat Ali Khan: I cannot allow my Honourable friend to continue his speech. He has already had his chance and he can speak on the next amendment. I know what my Honourable friend's amendment is. It is not a new proposition and it has not been placed before the House for the first time. We have considered this proposition and we have excluded certain kind of capital assets, and if there is anybody who has held assets, he has got the right to claim the value that it was in 1939. What I want to know is this. Why should he pocket all the gain that has come about not because of any effort on his part but because of certain conditions that have been created in the country, conditions that have caused great misery to millions of people in this country. I want a straight answer to that question. He is always entitled to have the value which it was in 1939. (*An Honourable Member:* What about deflation?) There has been no deflation since 1939.

Shri Sri Prakasa: Why did the Government permit those conditions?

The Honourable Mr. Liaquat Ali Khan: I cannot answer for the Governments that were there before we came in. How can my Honourable friend expect me to answer a question about the conditions for which I am not responsible. (*An Honourable Member:* Tax them.) I am trying to tax, but you won't allow me to do that.

Mr. P. B. Gole: What are the data before the Government determining the values in January 1939?

The Honourable Mr. Liaquat Ali Khan: As far as that goes, it will be the assessee who will produce evidence as to what the value was in 1939. What are the data that my Honourable friend wants? What was the value of a share in 1939?

Mr. P. B. Gole: I am referring to the value of house property.

The Honourable Mr. Liaquat Ali Khan: As far as the house property is concerned, it is excluded. What other property is there? Let me tell you that my Honourable friend Mr. Manu Subedar talked about land and I think some other Members also did so. I know of certain conditions in this country and now I really put it fairly and squarely to the Honourable Members of this House. I know of certain plots of land which were bought by people at Rs. 20 a yard in 1938, 1939 or 1940 in this very city of Delhi. These plots of land are being sold and have been sold for as much as Rs. 150 to Rs. 200 a yard. Now, is it contended that the Government is not entitled to take any share out of this unearned income. Apart from that, this Bill has been confined only to one year, and that is 1946-47. I am not quite sure whether we will be able to get anything out of these people. But I feel that all the profits that were made during the war should have really been taxable. But anyhow that is not the proposition which is before Honourable Members of this House. Now, Sir, there is another thing. This is really a strange world, because I have said that it is my intention to appoint a Committee of experts to examine it, that argument is being used against me that this measure was hastily conceived and hastily executed. It is really most extraordinary, I feel very sorry that if I tried to meet something it does not mean that the measure as it is before the Assembly today is very defective or is most defective. I am not one of those who believe that a person is infallible, only fools can believe that. I believe there is room for improvement in every measure, and especially a measure which is being introduced in this country for the first time. So, therefore, it is no argument that because I have agreed to appoint a committee of experts to examine and see what improvements can be made in our legislation, what improvements can be made to see that we are able to realise the taxes to the fullest extent, that there is some defect in this proposal which is before the House.

Then, Sir, I am sorry my Honourable friend Shri Sri Prakasa should have misrepresented what I said. He said that I said that it was not the duty of the Government to maintain law and order. I do not know from where he heard it. All that I said was that it was the duty of every citizen to assist the Government in maintaining law and order which is quite different from saying that it was not the duty of the Government to maintain law and order. Then after that I amplified my remarks by saying that it is impossible for any Government in the world to provide a policeman for every citizen. Therefore, every one has got to assist to the best of his ability in maintaining law and order. My Honourable friend Shri Sri Prakasa said that I said that it was not the duty of the Government to maintain law and order. I do not know whether he heard me correctly or whether in his excitement, he just wanted to have a point scored against me, when he made that statement.

Now, Sir, there is nothing more that I have to say except this that I am sorry I cannot accept the amendment which has been moved by my Honourable friend Sir Cowasjee Jehangir. I wish to assure Sir Cowasjee Jehangir that he misunderstood me, that I did not say that he was interested, as a matter of fact when he said there were large sections of people in the country, I said they are interested persons. I still say that all this howl that is being raised outside this legislature in the name of the masses and the millions of people in this country is a howl that is being raised by interested persons.

Lala Deshbandhu Gupta: The Honourable Member has pointed out some cases in which the value of some plots of land appreciated from Rs. 20 per sq. yard to Rs. 120 or more, but may I know if it is within his knowledge that in the province of Delhi agricultural land was purchased by many well placed persons and it has also appreciated two to three hundred per cent. during the last few years but they will all escape the tax that he is proposing now.

Sir Cowasjee Jehangir: Hear, hear.

The Honourable Mr. Liaquat Ali Khan: That is another point. I hear that my Honourable friend Sir Cowasjee Jehangir is 'hear, hearing' it. All that I can say is that as far as I am concerned, because I find that in all this reference to agricultural income and about the income of landlords, there is an insinuation, I will offer Sir Cowasjee Jehangir all my landed property at the 1939 value.

Sjt. N. V. Gadgil: Because of the Tenancy Act in U. P.

The Honourable Mr. Liaquat Ali Khan: Not only to my Honourable friend Sir Cowasjee Jehangir but to anybody here. Here is an offer. My Honourable friend referred to agricultural land, but agricultural land as Honourable Members know is a provincial subject, and this is central legislation and the Centre cannot legislate for that.

Lala Deshbandhu Gupta: I am talking of the centrally administered areas.

The Honourable Mr. Liaquat Ali Khan: If it is with regard to income-tax Act, you have got only one principle that applies to every person. I wish to assure Honourable Members of this House that it is not a question that I want to exclude agricultural land, but I could not include it and if I could, I would have been the first to have included it.

Mr. Deputy President: The question is:

"That in clause 6 of the Bill, in the second proviso to sub-section (1) of the proposed section 12B of the Indian Income-tax, Act, 1922, the words and figure 'being property the income of which is chargeable under section 9 and' be omitted."

The motion was negatived.

Sardar Sampuran Singh (West Punjab: Sikh): Sir, I move:

"That in clause 6 of the Bill, in the second proviso to sub-section (1) of the proposed section 12B of the Indian Income-tax Act, 1922, the following new proviso be inserted, namely:

'Provided further that the tax shall not be payable by an assessee in respect of any profits or gains arising from the sale, exchange or transfer of a capital asset when such capital asset is sold or transferred under distress and its sale money goes to the payment—

(a) of old debts,

(b) to the creditor with whom such assets were already mortgaged or pledged.'"

Sir, I do not hold any brief for the rich, nor do I want to support Government contractors and speculators who amassed large fortunes during this period. But I certainly feel for the small people with small capital which in some cases they may have supplemented by raising loan from other people and bought small houses for their own residence and on account of necessity and hard times through which we all are passing and they were obliged to part with that property. It may be a small house, or it may be a small piece of land within the

[Sardar Sampuran Singh].

precincts of the town or it may be some other property which they acquired. If we tax such people, they will be hit hard because they have not derived any benefit out of that property. It has all gone in the way of payment of interest on capital which they raised or for expenses which they incurred during that period. I think such property which was bought by raising loan and on which people have really made no profit ought to be exempt from taxation.

Mr. Deputy President: Amendment moved:

"That in clause 6 of the Bill, after the second proviso to sub-section (1) of the proposed section 12B of the Indian Income-tax Act, 1922, the following new proviso be inserted, namely :

'Provided further that the tax shall not be payable by an assessee in respect of any profits or gains arising from the sale, exchange or transfer of a capital asset when such capital asset is sold or transferred under distress and its sale money goes to the payment—

(a) of old debts,

(b) to the creditor with whom such assets were already mortgaged or pledged.'

The Honourable Mr. Liaquat Ali Khan: Sir, I am sorry I am unable to accept this amendment. As the Bill stands before the house, I do not think any people with small means are going to be affected by it. Therefore I am
5 P.M. sorry I cannot accept this amendment.

Mr. Deputy President: The question is:

"That in clause 6 of the Bill, after the second proviso to sub-section (1) of the proposed section 12B of the Indian Income-tax Act, 1922, the following new proviso be inserted, namely :

'Provided further that the tax shall not be payable by an assessee in respect of any profits or gains arising from the sale, exchange or transfer of a capital asset when such capital asset is sold or transferred under distress and its sale money goes to the payment—

(a) of old debts,

(b) to the creditor with whom such assets were already mortgaged or pledged.'

The motion was negatived.

Mr. Shavax A. Lal: Sir, I move:

"That in clause 6, in sub-section (3) of the proposed section 12B, for the words 'second proviso' the words 'third proviso' be substituted."

Mr. Deputy President: The question is:

"That in clause 6, in sub-section (3) of the proposed section 12B, the words 'second proviso' the words 'third proviso' be substituted"

The motion was adopted.

Mr. Deputy President: The question is:

"That clause 6, as amended, stands part of the Bill."

The motion was adopted.

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

Clauses 7 to 18 were added to the Bill.

Mr. Shavax A. Lal: Sir, I move:

"That for sub-clause (2) of clause 1 of the Bill, the following be substituted, namely :

'(2) It shall be deemed to have come into force on the 31st day of March, 1947.'

This is purely formal. We hoped that this Bill would become law by the 31st March. But unfortunately that did not happen and so I am moving this amendment.

Mr. Deputy President: The question is:

"That for sub-clause (2) of clause 1 of the Bill, the following be substituted, namely :

'(2) It shall be deemed to have come into force on the 31st day of March, 1947.'

The motion was adopted.

Mr. Deputy President: The question is:

"That clause 1, as amended, stands part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Mr. Liaquat Ali Khan: Sir, I move:

"That the Bill as amended be passed."

I shall take this opportunity of thanking Honourable Members of the House for the assistance that they have given me in getting these taxation measures through. I know we have had strong and heated arguments but I am convinced that the effect of these measures will not be what some Honourable Members apprehend, and I have no doubt that industry will not suffer in the way it is said it would suffer. I feel that the principles of taxation that this House has approved and which it will approve by passing this Bill are the principles according to which the future finances of the country should be managed.

Sir I move.

Mr. Deputy President: Motion moved:

"That the Bill as amended be passed."

Mr. Manu Subedar: Sir, I think it must be acknowledged that this measure has considerably improved from the moment it came and it has been improved by one or two small points that the Finance Member has conceded. Whatever heated arguments there might have been there is no question that this was a Bill which was in principle sound. It is very necessary to meet deficits and to rope in great transactions which have taken place. As it is forming part of the permanent system of this country's taxation it does seem to me that there are many aspects of it which need careful examination. This House has noticed with joy and satisfaction that the Finance Member has conceded some points. But I should like to illustrate one or two matters in which difficulty will arise. Take for instance the well known practice when a man instructs his bankers to buy some shares or when he buys some shares from a well-known firm of share brokers. In these cases the purchaser does not know the name of the seller. It is the universal practice in this country and elsewhere that the name of the seller is not known to the buyer of the shares. The shares come along for transfer from the previous holder but that previous holder is hardly the party from whom these shares have been purchased as they have been carried on through bank transfers and various other devices. This intermediation of the bank and the stock-broker is very genuine and in vogue throughout. If you make a bank responsible for these taxes on gains the bank must cease to do this service because the amount of commission that the bank may earn on these purchases or sales is not adequate. If you make the stock-broker responsible for the gains of the seller, whoever he may be, that again will in practice not at all be applicable. That is only one case which long before the committee sits the department will have to think out with the Reserve Bank or with the Stock Exchange authorities and others and find out how to fit in this new levy with the existing financial organisation of the country.

Then, Sir, there is the question of stopping or slowing down the transfer of properties, the transfer of capital assets of factories, of shares, of bullion. What will be the effect on this? I admit that having devoted many years to economic problems, I still feel a little diffident in at once predicting what will be the effect, but I do fear that in some directions we may turn up against some consequences which it may be in the interest of the society as a whole and which it would behove Government to take into consideration and take action either by administrative direction or by change of law as and when the issue arises. There is a stamp duty of six per cent. on capital asset's transfers which goes to the Provincial Governments, but the fact that it goes to the Provincial Governments or to the Central is not the point. As between the buyer and the seller there is so much going out and that amount is prone to increase. This

[Mr. Manu Subedar.]

particular levy may involve taking of a share which may be considerable. Here again I feel the effects of it will have to be studied.

Lastly, let me say that though it is called an amendment to the Income-tax Act, this Act is in fact a capital levy. It is in fact a capital levy in this manner that there is hardly any class of asset held by hardly any class of men in this country which in a given period will not come in for transfer. It may come for transfer because of the need of the family—distress of the family, need of capital for some purposes, may be there is a debt, may be there are some other family contingencies—and in some cases, as the Honourable the Finance Member has said, because the particular asset has gone up in value and the holders think that this is a good time to sell off shares. But in any case there is hardly any class of capital in this country which does not come in for sale. In the matter of capital asset it has been calculated that the periodicity is something to the order of 18 years on the average in the course of a generation. Therefore during 18 years the capital asset of the country would pass on to the next generation. If there is statistical calculation of a more accurate nature with the Government, Government ought to tell us about this, but as I said there is no class of asset which is held by a generation for more than this period. There are two classes in this country, one is very solid and conservative and Sir Cowasjee Jehangir was discussing about that, but the other class is of self-made men who make a fortune and acquire factories, houses, and if they fall ill and die or make a bad deal and lose, then in those cases their assets come in for sale and whenever it comes for sale its value is to be compared with something else which has gone before and a portion of it is to be handed over to Government. It is in essence a capital levy though of a deferred character. Therefore, Sir, all these implications have to be studied. I hope and trust that this study will take place and that some of the suggestions and points which may arise, Government will try to remedy them and thus improve the enactment. In some cases of course it will be done after that particular enquiry. So that I trust, Sir, that in future people may not say that we introduced this measure without sufficient forethought and sufficient care.

Mr. Deputy President: The question is:

“That the Bill, as amended, be passed.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 8th April, 1947.