

Thursday, 28th January, 1932

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THE
LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME I, 1932

(25th January to 17th February, 1932)

7-9-32
2

THIRD SESSION

OF THE

**FOURTH LEGISLATIVE ASSEMBLY,
1932**



CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1932

Legislative Assembly.

President :

THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E.

Deputy President :

MR. L. K. SHANMUKHAM CHETTY, M.L.A.

Panel of Chairmen :

SIR HARI SINGH GOUR, Kt., M.L.A.

MR. ARTHUR MOORE, M.B.E., M.L.A.

SIR ABDUR RAHIM, K.C.S.I., Kt., M.L.A.

SIR COWASJI JEHangIR (JUNIOR), K.C.I.E., O.B.E., M.L.A.

Secretary :

MR. S. C. GUPTA, C.I.E., BAR.-AT-LAW.

Assistants of the Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

Marshal :

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Public Petitions :

MR. R. K. SHANMUKHAM CHETTY, M.L.A., *Chairman.*

MR. ARTHUR MOORE, M.B.E., M.L.A.

SIR ABDULLAH SUHRAWARDY, Kt., M.L.A.

DIWAN BAHADUR HARBILAS SARDA, M.L.A.

MR. B. SITARAMARAJU, M.L.A.

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LEGISLATIVE ASSEMBLY.

Thursday, 28th January, 1932.

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

STATEMENTS LAID ON THE TABLE.

ELECTION EXPENSES OF CANDIDATES FOR ELECTION TO THE LEGISLATIVE ASSEMBLY.

Sir Lancelot Graham (Secretary, Legislative Department): Sir: I place on the table the statement promised in reply to part (b) of unstarred question No. 5 asked by Kunwar Hajee Ismail Ali Khan on the 26th January, 1931, regarding election expenses of candidates for election to the Legislative Assembly at the last general election.

Statement showing names, constituencies and amounts of election expenses of candidates for election to the Legislative Assembly at the last general election.

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Diwan Bahadur A. Ramaswami Mudaliar (Elected).	Madras City (Non-Muhammadian Urban).	799 14 0
Mr. M. Pampathi Nayudu . . .	Ditto	4,928 7 0
Mr. Bhupati Raju Sitarama Raju (Elected).	Ganjam cum Vizagapatam (Non-Muhammadian Rural).	1,490 0 0
Rao Bahadur Ati, Narayana Pantulu Garu.	Ditto	1,804 6 0
Mr. Mothay Narasimha Rao (Elected).	East Godavari and West Godavari cum Kistna (Non-Muhammadian Rural).	827 3 6
Mr. Gogineni Ranganayakulu	Ditto	25 0 0
Mr. Ponaka Govindu Reddi (Elected).	Guntur cum Nellore (Non-Muhammadian Rural).	1,669 7 6

Name of candidate.	Constitutency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Mr. Pamulapati Venkata Krishniah	Guntur <i>cum</i> Nellore (Non-Muhammadan Rural).	1,111 10 0
Mr. Nallapureddigari Ramakrishna Reddi (Elected).	Madras ceded districts and Chittoor (Non-Muhammadan Rural).	125 7 6
Mr. Ramasamy Chetty Kandasamy Shanmukhham Chetty (Elected).	Salem and Coimbatore <i>cum</i> North Arcot (Non-Muhammadan Rural).	32 8 0
Dewan Bahadur Thiruvenkata Rangachariar, C.I.E. (Elected).	South Arcot <i>cum</i> Chingleput (Non-Muhammadan Rural).	7,809 14 9
Mr. M. K. Acharya	Ditto	301 7 6
Mr. M. G. Parthasarathi Mudaliar .	Ditto	2,176 10 6
Raja Bahadur G. Krishnamachariar (Elected).	Tanjore <i>cum</i> Trichinopoly (Non-Muhammadan Rural).	1,377 4 0
Rao Sahib C. R. Lakshmiwaraha Ayyangar.	Ditto	50 4 0
Rao Bahadur Ramanathan Chettiar	Ditto	Nil.
Mr. M. Ramaswami Ayyar	Ditto	22 13 0
Mr. N. Natesa Ayyar	Ditto	10 0 0
Mr. Bhaskara Rajaram Pandy (Elected).	Madura and Ramnad <i>cum</i> Tinnevely (Non-Muhammadan Rural).	1,720 8 2
Mr. A. Rangaswami Ayyar	Ditto	9 12 0
Mr. N. Natesa Ayyar	Ditto	601 15 3
Mr. C. T. N. Narayana Chettiar .	Ditto	40 0 0
Mr. Kuthiravattath Prabhakaran Thampnan (Elected).	West Coast and Nilgiris (Non-Muhammadan Rural).	44 5 0
Mr. Upendra Pai	Ditto	606 4 0
Mr. Mahomed Muazzam Sahib Bahadur (Elected).	North Madras (Muhammadan) .	1,289 8 0
Abdul Latif Sahib Bahadur Farookhi.	Ditto	1,286 5 3
Maulvi Sayyid Murtuza Sahib Bahadur (Elected).	South Madras (Muhammadan) .	21 4 0
Mr. Uppi Saheb Bahadur (Elected).	West Coast and Nilgiris (Muhammadan).	524 10 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Mr. William Alexander (Elected) .	Madras (European) . . .	<i>Nil.</i>
Raja Sir Vasudeva Raja, Kt., C.I.E. (Elected).	Madras Landholders . .	2,991 5 10
Mr. T. V. N. Chakravarti Pantulu .	. Ditto . . .	2,643 14 3
Mr. M. Jamal Mahomed Saheb (Elected).	Madras Indian Commerce . .	7 9 6
Mr. Naoroji Manekji Dumasia (Elected).	Bombay City (Non-Muhammadan Urban).	891 7 0
Sir Cowasji Jehangir (Junior), K.C.I.E., O.B.E. (Elected).	. Ditto . . .	425 5 0
Mr. Sahibsing Chandasing Shahani (Elected).	Sind (Non-Muhammadan Rural) .	492 10 9
K. B. A. Hormusji Mama . . .	. Ditto . . .	<i>Nil.</i>
Mr. V. B. Patel . . .	. Ditto . . .	<i>Nil.</i>
Mr. M. Misquitta . . .	. Ditto . . .	671 4 0
Mr. Nassarwanji Navroji Anklesaria (Elected).	Bombay Northern Division (Non-Muhammadan Rural).	698 9 0
Diwan Bahadur T. Kapilram, C.I.E.	. Ditto . . .	1,102 9 3
Mr. Himatlal Maneklal . . .	. Ditto . . .	(Incurred dis-qualifications.)
Mr. M. Jorabhai . . .	. Ditto . . .	512 12 0
Sir Ibrahim Rahimtulla, K.C.S.I., C.I.E. (Elected).	Bombay Southern Division (Muhammadan Rural).	626 10 0
Mr. M. H. Kazi . . .	. Ditto . . .	<i>Nil.</i>
Mr. M. S. Mitha . . .	. Ditto . . .	405 5 0
Mr. J. S. Kadri . . .	. Ditto . . .	98 0 0
Mr. F. I. Rahimtoola . . .	. Ditto . . .	6,639 8 0
Mr. Bhaskarrao Vithojirao Jadhav (Elected).	Bombay Central Division (Non-Muhammadan Rural).	1,498 4 6
Mr. Narayan Ramji Gunjal (Elected).	. Ditto . . .	1,566 6 6
Rao Bahadur R. R. Kale . . .	. Ditto . . .	10 8 0
Mr. S. N. Haji . . .	. Ditto . . .	3,090 9 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Rao Bahadur B. L. Patil (Elected).	Bombay Southern Division (Non-Muhammadan Rural).	Nil.
Mr. Mahomed Ali Jinnah (Elected).	Bombay City (Muhammadan Urban).	3 6 0
Seth Haji Abdullah Haroon (Elected).	Sind (Muhammadan Rural)	1,355 13 0
Nawab Naharsingji Ishwarsingji (Elected).	Bombay Northern Division (Muhammadan Rural).	7,217 7 3
K. S. Mohd. Ibrahim Makan	Ditto	959 5 6
Mr. Edward Francis Sykes (Elected)	Bombay (European)	Nil.
Sir Hugh Golding Cocks, Kt. (Elected).	Ditto	Nil.
(Constituency failed to elect)	The Indian Merchants' Chamber and Bureau (Indian Commerce).	..
Sardar Gangadharrao Narayanrao Mujumdar.	Gujarat and Deccan Sardars and Inamdars (Landholders).	157 3 6
Sardar V. N. Mutalik	Ditto	49 10 0
Mr. Hormasji Phirozshah Mody (Elected).	The Bombay Millowners' Association (Indian Commerce).	Nil.
Mr. Charu Chandra Biswas (Elected).	Calcutta (Non-Muhammadan Urban).	505 3 0
Mr. Naba Kumar Sing Dudhoria	Ditto	579 7 0
Mr. Naba Kumar Sing Dudhoria (Elected).	Calcutta Suburbs (Non-Muhammadan Urban).	579 7 0
Mr. Amarnath Dutt (Elected)	Burdwan Division (Non-Muhammadan Rural).	525 14 6
Mr. Satyendra Nath Sen (Elected)	Presidency Division (Non-Muhammadan Rural).	5 11 0
Mr. B. Sing Dugar	Ditto	596 7 0
Mr. Naba Kumar Sing Dudhoria	Ditto	681 7 6
Mr. H. C. Dutt	Ditto	502 3 0
Mr. Kshitish Chandra Neogy (Elected).	Dacca Division (Non-Muhammadan Rural).	559 8 0
Mr. Satyendra Chandra Mitra (Elected).	Chittagong and Rajshahi Divisions (Non-Muhammadan Rural).	30 5 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Sir Abdur Fahim, K.C.S.I., Kt. (Elected).	Caloutta and Suburbs (Muhammadan Urban).	518 0 0
Mohd. Rafique	Ditto	27 0 0
Dr. Abdullah-al-Ma'mun Suhrawardy (Elected).	Burdwan and Presidency Divisions (Muhammadan Rural).	532 2 0
Sir Abdur Rahim, K.C.S.I., Kt.	Ditto	515 14 0
K. B. Ekramul Huq	Ditto	582 2 0
Mr. Abdul Halim Ghuznavi (Elected).	Dacca cum Mymensingh (Muhammadan Rural).	781 6 3
Haji Chaudhury Mohammad Ismail Khan (Elected).	Bakarganj cum Faridpur (Muhammadan Rural).	533 1 6
Mr. Muhammad Anwar-ul-Azim (Elected).	Chittagong Division (Muhammadan Rural).	1,280 0
Mr. Iradutullah	Ditto	2,300 0 0
Mr. Kabeer-ud-Din Ahmed (Elected)	Rajshahi Division (Muhammadan Rural).	69 7 6
Mr. William Arthur Moore (Elected)	Bengal (European)	Nil.
Mr. Eric Studd (Elected)	Ditto	Nil.
Mr. George Morgan, C.I.E. (Elected)	Ditto	Nil.
Mr. Dharendra Kanta Lahiri Chaudhury (Elected).	Bengal Landholders	319 2 9
Mr. Satish Chandra Sen (Elected)	Bengal National Chamber of Commerce (Indian Commerce).	71 1 6
Mr. Jadu Nath Roy	Ditto	263 0 0
Mr. K. C. Roy	Ditto	(Deceased).
Lala Rameshwar Prasad Bagla (Elected).	Cities of the United Provinces (Non-Muhammadan Urban).	214 7 0
Mr. C. S. Ranga Iyer	Ditto	120 0 0
Mr. Janki of Cawnpore	Ditto	(Incurred disqualifications).
Mr. Jagannath Prasad, Benares	Ditto	115 12 0 (Withdrew).
Chaudhri Isra (Elected)	Meerut Division (Non-Muhammadan Rural).	544 12 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Lala Janardhan Sarup . . .	Meerut Division (Non-Muhammadan Rural).	625 5 3
Mr. N. B. Bhaya . . .	Ditto . . .	17 5 0 (Withdrawn).
Mr. Udaya Bir Singh . . .	Ditto . . .	507 1 0 (Withdrawn).
Ch. Ram Singh . . .	Ditto . . .	Nil. (Withdrawn).
L. Budh Parkash . . .	Ditto . . .	Nil. (Withdrawn).
Kunwar Raghubir Singh (Elected).	Agra Division (Non-Muhammadan Rural).	566 13 0
Mr. Amba Prasad . . .	Ditto . . .	504 5 0
Th. Udebir Singh . . .	Ditto . . .	514 2 0
Mr. Chirangivi Subramania Ranga Iyer (Elected).	Rohilkund and Kumaon Divisions (Non-Muhammadan Rural).	41 3 0
Babu Gopeshwar . . .	Ditto . . .	1 8 0
B. Madan Gopal . . .	Ditto . . .	Nil.
Mr. A. Hoon (Elected) . . .	Allahabad and Jhansi Divisions (Non-Muhammadan Rural).	1,734 14 6
Mr. Balpirdhari Lal . . .	Ditto . . .	500 14 3
Mr. Ayodhya Das (Elected) . . .	Benares and Gorakhpur Divisions (Non-Muhammadan Rural).	754 12 3
Lala Brij Kishore (Elected) . . .	Lucknow Division (Non-Muhammadan Rural).	680 0 6
Babu Kismat Rai Jagdehri . . .	Ditto . . .	701 4 9
Rai Bahadur Pt. Triloki Nath Bhargava.	Ditto . . .	13 8 0
Rai Bahadur Pandit Triloki Nath Bhargava (Elected).	Fyzabad Division (Non-Muhammadan Rural).	6,353 1 9
Rai Sahib B. Motilal Manucha . . .	Ditto . . .	3,054 13 6
Babu Nand Lal Manucha . . .	Ditto . . .	500 0 0 (Withdrawn).
Thakur Sri Madho Prasad Singh . . .	Ditto . . .	516 0 0 (Withdrawn).
Rai Umanath Bali Sahib . . .	Ditto . . .	515 4 0 (Withdrawn).
Lal Narindra Pratab Sahi . . .	Ditto . . .	761 2 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Khan Bahadur Haji Wajihuddin (Elected).	Cities of the United Provinces (Muhammadan Urban).	61 3 0
Mr. Sabibuddin	' Ditto	43 0 0
Kunwar Hajee Ismail Ali Khan (Elected).	Meerut Division (Muhammadan Rural).	466 5 6
Syed Ghulam Allauddin Ahmed Khan.	Ditto	<i>Nil.</i> (Withdrawn).
Mr. Muhammad Yamin Khan (Elected).	Agra Division (Muhammadan Rural).	575 10 3
Saiyid Athar	Ditto	500 0 0
Maulvi Muhammad Yakub (Elected).	Rohilkund and Kumaon Divisions, (Muhammadan Rural).	18 9 0
Dr. Zia uddin Ahmad, C.I.E. (Elected).	United Provinces Southern Divisions (Muhammadan Rural).	108 0 0
Mr. Muhammad Azhar Ali (Elected)	Lucknow and Fyzabad Divisions, (Muhammadan Rural).	2,912 13 9
Khawaja Khalil Ahmad Shah	Ditto	4,876 11 9
Mr. John Ramsay Scott (Elected)	United Provinces (European)	42 14 0
Lala Hari Raj Swarup (Elected)	United Provinces Landholders	1,112 8 9
Lala Tirloki Nath	Ditto	833 12 3
Rai Sahib Pandit Hari Das (Elected).	Ambala Division (Non-Muhammadan).	210 7 0
Rai Bahadur Lala Panna Lal	Ditto	101 2 0
Lala Jai Deb	Ditto	29 13 0
Lala Jagan Nath Aggarwal (Elected)	Jullundur Division (Non-Muhammadan).	4,486 9 0
Rai Sahib Lala Labha Ram	Ditto	<i>Nil.</i>
Lala Kanshi Ram Khosla	Ditto	3,118 12 0
Rai Bahadur Bakhshi Sohan Lal	Ditto	29 2 0
Pandit Chuni Lal	Ditto	0 1 0
Mr. Bhagat Ram Puri (Elected)	West Punjab (Non-Muhammadan).	583 15 0
Dr. Nand Lal, Bar.-at-Law	Ditto	206 1 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Lt. Nawab Muhammad Ibrahim Ali Khan (Elected).	East Punjab (Muhammadan)	2,050 7 6
Mian Abdul Haye	Ditto	829 1 0
Shaikh Sadiq Hasan (Elected) . .	East Central Punjab (Muhammadan).	174 11 9
Sir Zulfiqar Ali Khan, K.C.S.I. . .	Ditto	4 8 0
Ch. Fateh Muhammad	Ditto	4 0 0
Mian Mohammad Shah Nawaz, C.I.E. (Elected).	West Central Punjab (Muhammadan).	1,948 8 0
Khan Muhd. Khan	Ditto	82 1 0
Major Nawab Malik Talib Mehdi Khan, O.B.E. (Elected).	North Punjab (Muhammadan)	430 15 0
Ch. Bahwal Baksh	Ditto	1,039 0 0
Raja Ghazanfar Ali Khan	Ditto	881 7 0
Shaikh Fazal Haq Piracha (Elected)	North-West Punjab (Muhammadan).	1,912 3 6
Mian Sultan Ali	Ditto	685 5 6
Ch. Faiz Ahmad	Ditto	675 10 0
Khan Bahadur Makhdum Syed Rajan Bakhsh Shah (Elected).	South-West Punjab (Muhammadan).	227 0 6
Sardar Harbans Singh Brar (Elected).	East Punjab (Sikh)	1,956 7 8
Sardar Kartar Singh	Ditto	1,820 5 9
Sardar Ishar Singh	Ditto	1 14 0
Sardar Sant Singh (Elected)	West Punjab (Sikh)	2,659 9 0
Sardar Gulab Singh	Ditto	5,066 4 0
Sardar Sohan Singh (Elected)	Punjab Landholders	1,401 5 6
Shahzada Mohd. Yusuf	Ditto	119 2 0
Pandit Ram Krishna Jha (Elected)	Darbhanga cum Saran. (Non-Muhammadan).	389 0 0
Babu Adit Prasad Singh	Ditto	44 4 0
Babu Maheshwar Prasad Singh . .	Ditto	2 12 0 (Withdrawn).

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Mr. Gaya Prasad Singh (Elected)	Muzaffarpur cum Champaran (Non-Muhammadan).	2 0 0
Mr. Bishvanath Misra (Elected)	Orissa Division (Non-Muhammadan).	3 0 0
Mr. Bhubanananda Das (Elected)	Ditto	527 8 0
Babu Radha Ranjan Das	Ditto	12 0 3 (Withdrawn).
Mr. Badri Lal Rastogi (Elected)	Patna cum Shahabad (Non-Muhammadan).	44 5 0
Babu Ram Nandan Prasad Narayan Sinha.	Ditto	30 8 0
Raja Radhika Raman Prashad Sinha.	Ditto	2 0 0
Babu Ram Gopal Singh Chowdhury.	Ditto	Nil.
Kumar Gupteshwar Prasad Singh (Elected).	Gaya cum Monghyr (Non-Muhammadan).	24 0 0
Babu Ram Nandan Prashad Narayan Sinha.	Ditto	5 8 0
Babu Suraj Kumar Prashad Singh	Ditto	40 0 0
Rai Bahadur Sukhraj Rai (Elected)	Bhagalpur, Purnea and the Santal Parganas (Non-Muhammadan).	Nil.
Babu Nehal Singh	Ditto	Nil.
Raja Deoki Nandan Prashad Singh.	Ditto	(Incurred disqualifications.)
Thakur Mahendra Nath Shah Deo (Elected).	Chota Nagpur Division (Non-Muhammadan).	Nil.
Mr. S. K. Sahay	Ditto	Nil.
Syed Shah Muhammad Maswood Ahmad (Elected).	Patna and Chota Nagpur cum Orissa (Muhammadan).	2,829 13 6
Mr. Ali Hasan Khan	Ditto	1,038 10 0
Maulvi Badiuzzaman (Elected)	Bhagalpur Division (Muhammadan).	599 11 0
Maulvi Muhammad Shafee Daoodi (Elected).	Tirhoot Division (Muhammadan).	1,177 6 2
Maulvi Abdul Hamid Khan	Ditto	727 0 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Mr. Bhuput Sing (Elected)	Bihar and Orissa Landholders	3,096 8 3
Rai Bahadur Sukhraj Rai	Ditto	133 6 0
Rao Bahadur Sadashiv Ramkrishna Pandit (Elected).	Nagpur Division (Non-Muhammadian).	500 8 0
Sir Hari Singh Gour, Kt. (Elected).	Central Provinces Hindi Divisions (Non-Muhammadian).	668 2 6
Seth Liladhar (Elected)	Ditto	Nil.
Khan Bahadur Hafiz Muhammad Wilayatullah, I.S.O. (Elected).	Central Provinces (Muhammadian)	1,234 0 0
Mr. A. H. Natique	Ditto	129 3 9
Mr. Goswami Maheshpuri Guru Ram Kishnapuri (Elected).	Central Provinces Landholders	Nil.
Srijut Tarun Ram Phookun (Elected).	Assam Valley (Non-Muhammadian)	1 5 0
Mr. Gopika Romon Roy (Elected)	Surma Valley cum Shillong (Non-Muhammadian).	126 9 6
Rai Bahadur S. C. Datta	Ditto	24 11 0 (Withdrawn).
Babu S. C. Das	Ditto	2 2 0 (Withdrawn).
Maulvi Abdul Matin Chaudhury (Elected).	Assam (Muhammadian)	42 9 6
Mr. Thomas Andrew Chalmers, C.S.I. (Elected).	Assam (European)	81 6 0
Mr. Jéhangir Kaiphoshru Munshi (Elected).	Burma (Non-European)	1,993 4 0
U Kyaw Myint (Elected)	Ditto	181 9 0
U Tun Aung (Elected)	Ditto	181 9 0
Mr. P. C. D. Chari	Ditto	577 0 0
U Kyaw	Ditto	252 6 0
Maung Dwe	Ditto	179 1 0
(Constituency failed to elect)	Burma (European)	..

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Bhagat Chandi Mal (Elected)	Delhi (General)	706 14 0
Rai Sahib Lala Nanak Chand	Ditto	472 4 9
Mr. Ismail	Ditto	Incurred dis-qualifications.
Rai Sahib M. Harbilas Sarda (Elected).	Ajmer-Merwara (General)	1,314 14 9
Sardar Bahadur Bhagwan Singh, Bar.-at-Law.	Ditto	2,010 1 0
Mr. Magan Lal, Bar.-at-Law.	Ditto	732 15 9
Mr. S. G. Jog (Elected)	Berar Representative (Non-Muhammadan).	500 0 0

HORSE-BREEDING GRANTEES REPORTED AGAINST.

Mr. G. M. Young (Army Secretary): I lay on the table the information promised in reply to the supplementary questions to starred question No. 1271 asked by Sardar Sant Singh on the 12th November, 1931, regarding the number of grantees who have been reported against for keeping a mare incapable of bearing foals fit for the Army.

No grantee is reported for keeping a mare incapable of bearing foals fit for the Army.

When a mare becomes old and worn out or barren from veterinary reasons, she is branded out and the grantee is given three months' notice to produce another suitable mare. Failure of the grantee to comply with this condition necessitates a report to the civil authorities.

When a mare is starved and thus ruined by a grantee, a report is made to the Deputy Commissioner.

ELECTION OF A MEMBER TO THE COUNCIL OF THE INDIAN INSTITUTE OF SCIENCE, BANGALORE.

Sir Frank Noyce (Secretary, Department of Education, Health and Lands): Sir, I move:

"That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, a member to represent this House on the Council of the Indian Institute of Science, Bangalore, for the period 1932-34 (both years inclusive) in pursuance of the provisions of clause 9, secondly, of the scheme for the administration and management of the properties and funds of the Institute, which was published in the Gazette of India, with the notification from the Department of Industries and Labour, No. 1-10 (T), dated the 12th February, 1926, vice Mr. R. K. Shanmukham-Chetty, whose term of office has expired".

Sir, I move.

The motion was adopted.

Mr. President: I may inform Honourable Members that for the purpose of election of a Member to the Council of the Indian Institute of Science, Bangalore, the Assembly Office will be open to receive nomination up to 12 noon on Monday, the 1st February and that the election, if necessary, will be held in this Chamber on Wednesday, the 3rd February, 1932. The election will be conducted in accordance with the principle of proportional representation by means of the single transferable vote.

STATEMENT OF BUSINESS.

The Honourable Sir George Rainy (Leader of the House): With your permission, Sir, I desire to make a statement as to the probable course of Government business in the week beginning Monday, the 1st February. Honourable Members are aware that Monday, has been allotted for the discussion of a Resolution dealing with the present political situation, copies of which will be duly circulated to Members. On Wednesday, the 3rd February, motions will be made to take into consideration and pass two small Bills, namely, the Bill to amend the Indian Companies Act and the Bill to repeal the Employers and Workmen Disputes Act, 1860, leave to introduce which will be asked to-day. Leave will also be asked to introduce the following Bills:

(1) A Bill to amend the Indian Finance (Supplementary and Extending) Act, 1931. In order to allay any anxiety that Honourable Members may feel, perhaps I may say that it is not a Bill for imposing additional taxation.

(2) A Bill to provide for the administration and discipline of the Indian Air Force.

Thereafter the Honourable the Home Member will move to refer to Select Committee the Bill to supplement the Bengal Criminal Law Amendment Act, 1930, which was circulated by the order of the House in January, 1931. Honourable Members are already aware that Tuesday, the 2nd and Thursday, the 4th February are allotted for non-official business.

THE INDIAN COMPANIES (SUPPLEMENTARY AMENDMENT) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): I move for leave to introduce a Bill to amend the Indian Companies (Amendment) Act, 1930, for a certain purpose.

The motion was adopted.

The Honourable Sir George Rainy: I introduce the Bill.

THE EMPLOYERS AND WORKMEN (DISPUTES) REPEALING BILL.

The Honourable Sir Joseph Bhore (Member for Industries and Labour): I move for leave to introduce a Bill to repeal the Employers and Workmen (Disputes) Act, 1860.

It is unnecessary for me, I think, to elaborate the Statement of Objects and Reasons. I need only say that our independent examination of this question has confirmed the view that the Act is obsolete and that it has not been used for many years. Sir, I move.

The motion was adopted.

The Honourable Sir Joseph Bhore: I introduce the Bill.

THE INDIAN INCOME-TAX (SECOND AMENDMENT) BILL.

Mr. President: The Assembly will now proceed with the further consideration of the following motion moved by the Honourable Sir George Schuster on the 9th September, 1931:

"That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Sir Hari Singh Gour, Sir Cowasji Jehangir, Mr. S. C. Mitra, Mr. Muhammad Anwar-ul-Azim, Mr. L. V. Heathcote, Mr. N. N. Anklesaria, Sir Abdullah Suhrawardy and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Honourable Members are aware that the motion was discussed at considerable length in the September Session at Simla. This is the further consideration of that motion.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): I would like to have an assurance from the Honourable the Finance Member that all the objections that we raised against this Bill at the Simla Session will be considered by the Committee and that none of them will be ruled out for the reason of its being against the principle of the Bill.

Mr. President: Does the Honourable Member wish to reply?

The Honourable Sir George Schuster (Finance Member): Sir, I had expected some further discussion on this motion.

Mr. President: I gave the Honourable House ample time, but nobody got up to speak. I have no objection to allow any Honourable Member who wishes to address the House to do so with the consent of the Honourable Member in charge whom I have already called upon to reply.

Mr. Arthur Moore (Bengal: European): May I say, Sir, that Honourable Members were under the impression that Dr. Ziauddin Ahmad was raising some point of order. (Laughter.)

Mr. President: Does any Honourable Member wish to address the House?

Dr. Ziauddin Ahmad: I spoke on this motion at considerable length in Simla, and therefore it is unnecessary for me to speak again.

Mr. Arthur Moore: You cannot speak again. You raised a point of order.

May I say, Sir, that as Dr. Ziauddin Ahmad had spoken in Simla, we therefore imagined that he would be debarred from speaking now. We assumed that he was raising a point of order.

Mr. President: The subject-matter of the Bill is so important that I wish to make any concession within reason to allow the debate to proceed in spite of the fact that I have called the Honourable Member to reply. I will allow further discussion if any Honourable Member really desires to address the House.

Mr. E. Studd (Bengal: European): Sir, I am sorry that I should have been so slow and misunderstood what was happening. I am very grateful to you for giving me an opportunity of addressing the House on this Bill, which I agree is one of very great importance—one which has raised a great deal of controversy. Personally I had very grave misgivings about

[Mr. E. Studd.]

the Bill when it was first introduced last January. Most Honourable Members probably will remember that there was some suggestion then that the Bill should, if I may use the expression, be rushed through straightaway. But that the House was not prepared to accept and eventually the motion was carried for circulation. I felt fairly confident in my own mind that I knew beforehand what the opinions to be expressed on that Bill would be from certain quarters, at any rate on that circulation. But I confess I had no idea, when the Bill was circulated, that the opinions which would come back would be so strong and so unanimous in opposing the Bill. When it was debated last Simla Session, I listened with considerable eagerness to the Honourable the Finance Member, hoping that he would deal with and possibly answer some of the strong objections which I felt to the Bill, but as a matter of fact not only was he unable to allay my misgivings, but, if anything, he rather increased them; and I think it is a rather remarkable fact that out of eleven Honourable Members of this House who spoke during that debate, ten of them were strongly opposed to the Bill and only one spoke in its favour; and personally, I am inclined to think that he spoke in its favour because he was largely labouring under a misapprehension (Laughter). Now, Sir, a considerable time has elapsed since that debate, and I thought that possibly the lapse of time and reflection might bring changed opinions, and so I read through the whole of that debate again two or three days ago with some care, only to find that my previous views were unaltered, except that possibly I hold them rather more strongly than I did in the first instance.

Now it seems to me that the arguments against the Bill were very clearly and very forcibly put by many speakers in Simla, notably amongst them my Honourable friends, Mr. Chetty, Mr. Mody and Mr. Heathcote. I therefore do not want to elaborate these arguments at any great length. But, it does seem to me that there is still a good deal of misunderstanding. Only a day or two ago I was talking to an Honourable Member in this House and he assured me that we had been promised that this Bill would not result in any double taxation. I do not know whether I have misheard or whether I am very dense, but certainly that is not the conclusion that I have arrived at either from the Bill itself or from the speeches I heard or from the opening speech of the Honourable the Finance Member, and it seems to me that there is definitely going to be double taxation. The other misapprehension that still seems to exist is that it is a Bill which is only going to affect the rich man, that it is only going to tax the bloated capitalist, and that therefore it is a rather good measure to pass. Well, I hope I shall be able to convince Honourable Members later on that that is very far from being the case,—that the man who is really going to be hit most and hurt most is not the capitalist but is the comparatively small trader who is bound to suffer double taxation without any possibility of redress.

Now the primary object of this Bill is to prevent the flight of capital from India, sent out it is thought with a view to avoiding having to pay income-tax. I think that in any case, Sir, that argument has lost a good deal of its force since the Simla Session, for, unless I am much mistaken, that flight of capital has now very largely ceased. But in any case no case to my mind was put up even then to show the amount of capital which was actually going out of the country, or to give us

any proof that it was actually going in order to avoid income-tax. In my opinion the question of avoiding income-tax was only a very minor one, and if it has had any effect on encouraging the flight of capital from India, it is only a very small one; in fact the Honourable the Finance Member himself was not able to put the case very strongly; the best he could say for it was that, in the absence of other causes, this would act most strongly. I do not think that that is a very strong argument in favour of the Bill. I do not think I need spend much time in stating what really were the major causes for the flight of capital. They must be very well known to most Members of this House; but obviously the first and the most important one was the question of capital security. Political and economic unrest in the country made people nervous, naturally nervous, about the security of their capital, and if there is any risk of losing your capital, the amount of return that you are going to get on it has to take a very second place. The second reason for the flight of capital was the question of the exchange ratio. In the first place, there were a number of speculators who thought that they could send their money out of the country at 1s. 6d.; that the ratio would then come down; and that they could bring it back at 1s. 4d. or 1s. 2d. or even at a shilling. In a case of that sort, the question of whether it had to pay income-tax or not was a very minor consideration if they were going to make as much as two pence or four pence or even six pence in the rupee as profit on the exchange. Then there was another class of people who were also nervous about the ratio, but with them it was not a case of speculation; it was a case of being generally afraid that the ratio would come down; they felt that they had better get their money out of the country before it did. I think there was also a third class, but necessarily a much smaller class, namely, those who had money invested in this country but who, owing to bad times and the general depression, wanted to get it out partly on account of the unrest and partly because they wanted a certain amount of it, at any rate, to meet their ordinary expenditure. Now, Sir, not in one of those cases will this Bill, if it is carried, have any effect whatever in stopping capital going out of the country. I can speak in a small way from a certain amount of personal experience, for I have actually seen case after case of money going out of the country for those very reasons. In many cases this was money which has been invested in this country for many years and the investors who in the ordinary way had no intention of doing anything but leaving it here decided, because the country was unsettled and because they were uncertain about the exchange ratio, that the safest thing to do was to get their money out while they could. Not in one of those cases, even if this Bill is passed, will any of that money have to pay income-tax, because it is money which belongs not to anyone domiciled or resident in the country but to people in most cases who themselves or whose ancestors were in this country years ago, whose money was left out here. They are now residents in England and consequently even if this Bill becomes law, they will not be liable to pay any income-tax whatever on that money.

Then, Sir, there has also been quite a large amount of money withdrawn from Provident Funds and sent home, and in many cases that money, I understand, has been invested in one premium policies. That money, again, even if this Bill becomes law, will not be liable to pay any income-tax and that shows just one method by which such a law could easily be evaded.

[Mr. E. Studd.]

So much for the objects of the Bill and the defects as far as that is concerned. But there is, to my mind, an even more cogent objection, and that is that this Bill raises a constitutional issue. It seems to me that it endeavours to change the whole basis of income-tax law in this country. It seeks to change it in a very controversial way and I submit that a controversy of that sort ought never to have been raised now that the Round Table Conference and its various Committees are considering the whole question of the new constitution for this country. In addition to that, it is a measure which must to a considerable extent involve the Indian States. And as far as my own community is concerned, there is certainly another objection to it, and that is the proposal which was raised to differentiate between residence and domicile. As my Honourable friend, Mr. Heathcote, pointed out in his speech in Simla, that question is not primarily a racial one. It is not only the British community which is affected but also the Japanese, the Greeks and many others and even the subjects of a number of the States would equally be affected. But I should like to repeat what my Honourable friend, Mr. Heathcote, said as far as the British commercial community are concerned that we have never asked for or sought this concession or discrimination. I personally feel that it puts us in a most embarrassing position at a time when the whole question of trading rights is being discussed. But, Sir, apart from those objections, I am confident in my own mind that this is a measure which could not be worked or, at any rate, which could not be worked fairly. The Honourable Sir George Schuster admitted that he had never been in a position to get returns of foreign income and that there was no basis of calculation. It does not seem to me that he is going to be any better off if he does get this Bill passed into law. Evasions are bound to be large. Even with the present law, evasions of declaring income accrued in this country are large. I should like, if I may, to commend to the special notice of the Honourable Members of this House the comments that are made on this subject in the Report of the Banking Inquiry Committee. There are some very enlightening figures there in which they attempt to estimate the total amount of rural indebtedness and the total amount of interest which is paid to money-lenders. As against these figures they show the actual number of assessees in various provinces in India. The figures are very startling and make it perfectly clear that there must be an enormous amount of evasion. When it is remembered that all these figures show the total number of assessees in any particular province, that is to say, urban as well as rural and against that they have put only the rural money-lenders who should be assessed, the difference becomes even more striking. For instance, in Coorg the number of money-lenders is estimated at 100,000 and yet the total assessees, urban and rural, are only 14,500. I do not want to go on quoting figures, but those paragraphs in the Banking Inquiry Committee's Report are well worthy of study. If evasions in the country are large, I think it stands to reason that evasions when it comes to income earned outside the country are bound to be larger, for it will be much easier to evade and much more difficult for the Income-tax authorities to have any check whatever on the figures submitted. I entirely agree with my Honourable friend Mr. Chetty when he said that the net result would be that the honest man will pay more and the dishonest man will escape altogether. But I think we can go further than that, for one of the opinions which was circulated to us

happens to be the opinion of an Income-tax officer who has practical experience of working the present law as it stands. His opinion on this new proposal was not only the same as Mr. Chetty's, namely, that the honest man would have to pay more and the dishonest man would escape, but he went further than that by saying that it would most probably antagonise the very honest men who at present are prepared to submit a correct statement to the Income-tax authorities.

No evidence as far as I can see has been produced to show that this Bill would achieve its object or to show that any substantial increase of revenue would be brought into the treasury. The Honourable the Finance Member described it as a possible source of revenue. It seems to me that that possible revenue is going to be obtained at too high a price. For it is undoubtedly going to entail very considerable hardship on certain sections of the community.

Now I must confess to considerable surprise that the Government should have thought fit to go on with this Bill in the face of the opinions which they have received as a result of circulation. As I said before, I anticipated before the Bill was circulated, that there would be strong opposition to it in certain quarters. I certainly did not anticipate that in addition to commercial and trading interests and other public bodies being opposed to it, there would be an immensely strong body of opinion from Provincial Governments which are also against it. What actually is the position if those opinions are analysed? Six of the major provinces are whole-heartedly and entirely opposed to the measure. Another one says that it will fall on honest men and be avoided by others. One other province approves of it provided the discrimination clause is left in, another approves of it only if the discrimination clause is left in and only if adequate arrangements are made for collection and the revenue resulting from it is considerable. As the Honourable the Finance Member has already stated that he is quite prepared to drop that discrimination clause in view of the strong feeling expressed in this House, we may take it that those last two provinces would now be opposed to the measure. Not only are Provincial Governments against it, but there are a number of expressions of opinion from income-tax officers themselves, men who have the practical experience of working the present law and who know the difficulty with which they have to contend and can therefore foresee the further difficulties which would be produced by this new proposal. There again the opinion is adverse. I feel a little inclined to ask what the point of circulating a measure for opinion is if when you get those opinions and they are not in favour of the measure, you still proceed to go on with it. There is another point. There are sitting on the Government Benches a number of officials, nominated Members who come from those very provinces which have expressed strong opinions against this Bill. Are those Members going to be allowed to vote in accordance with the views of their province, or are they going to be compelled to vote in accordance with the views of the Honourable the Finance Member? (Hear, hear.) I quite realise that I shall probably be told that they do not represent those provinces. It may be perfectly true, but it does seem to me a little bit unfair that a Member nominated to this Assembly from a province which disapproves of this Bill should not be allowed to express the views of that province. (Hear, hear.)

[Mr. E. Studd.]

I now come to this vexed question of double taxation. In the first place, let us take the question of investments. The Honourable the Finance Member was at pains to explain in his speech that at any rate as far as countries with which there was a reciprocal arrangement were concerned, there would be no double taxation, and he took as an instance the case of an investor who had £20,000 invested in Great Britain. He tried to show how such an investor would not actually have to pay double taxation because he was in a position to obtain a refund. But as my Honourable friend Mr. Heathcote pointed out, the position is not quite so easy as it appears. What actually would happen would be that that investor would have to pay double taxation, he would have to pay the tax in Great Britain and he would have to pay the tax in India and after that he would have to put in an application for refund and in due course, probably many months afterwards, he would get his refund. It would mean a great deal of trouble and a great deal of delay and in the meantime he will be out of pocket for the extra money. That is all very well for the large investor, but what about the small investor. It is going to be much more difficult for him to recover or even to make his application for a refund. For there is one great difference between what happens in Great Britain and what would happen in this country to which I do not think, so far, any one has called attention. That is if in Great Britain any one has had to pay double tax, that is to say if he is taxed in Great Britain on an income which has already paid tax abroad, he submits his claim for refund to his own local income-tax authorities which is a very different thing to an Indian investor having to submit his claim for refund to unknown income-tax people 7,000 miles away. Therefore while eventually the investor might be able to get a refund, he would certainly have to suffer a great deal of hardship and go through a great deal of trouble and delay before he got his refund. That is only dealing with one case. If you take a number of countries with whom reciprocal arrangements exist it is extremely small. The Honourable the Finance Member says that it is perfectly easy for any one who wants to invest money abroad to find somewhere either where he does not have to pay income-tax or where there is a reciprocal arrangement and he can get his money back. But why should we have to submit to regulations of that sort? Why should any one be dictated to as to where he should invest his money? It does seem to me that reciprocal arrangements ought to be made first and then after that it will be time enough to consider bringing in a measure of this sort.

When we come to the question of trading profits, we come to a much more serious matter. In that case there is no hope of any exemption from double taxation. There is no possibility of getting any refund, and I submit, in spite of what the Honourable the Finance Member had to say on that subject, that that is a very great unfairness to a large section of the community. I should like particularly to refer to one class to which my Honourable friend Mr. Mody referred, namely, that of Indian insurance companies. As everybody knows the whole basis of insurance business is dividing the risk which is done by reinsuring. A great deal of that has to be done abroad, and in most cases an insurance company doing business in another country is compelled by law to deposit in that country either hard cash or fixed recognised securities,—and the amount they have to deposit varies with the amount of business that they do,—is it fair that that insurance company should have to pay income-tax not only on the income

from those investments but also on the profits which it earns in that country, and should then have to pay the whole of that tax again in India? Let us not be under any misapprehension on this subject. It is not the rich capitalist who is going to suffer most. He can in some instances get a refund and avoid having to pay a double tax. But there are hundreds and thousands of small traders trading in various parts of the world not one of whom is going to have any chance whatever of avoiding double taxation. And I submit that in times like these with the tremendous depression that exists, when trading concerns are facing steadily reducing profits and steadily increasing rates of income-tax,—which I would remind Honourable Members are assessed for one year on the profits of the previous year which means that probably for this year the trader is assessed on a sum which he has no possible hope of earning,—to put an additional burden of this sort on a community who are already feeling the effects of the depression which now exists is, I submit, grossly unfair.

The Honourable Sir George Schuster (Finance Member): Sir, I should just like to ask my Honourable friend if he is aware of the existing law on the subject. He is speaking about putting an additional burden on people trading abroad. Is he aware of the fact that under the existing law business profits if they are remitted to this country are liable already to Indian income-tax?

Mr. E. Studd: I am quite aware of that. Personally I am inclined to think that even that is a hardship, but I submit that under the new provisions it would be a greater hardship still. Now the trader has at least an opportunity of avoiding having to pay the tax if he does not bring his trading profits in within three years, whereas under the new proposals it does not matter whether he brings it in or not. Even if he does not bring it in he has still got to pay.

Now, Sir, I should like to say one word on the only speech which was made in the Simla Session in favour of this measure and that was the speech of my Honourable friend Mr. Amar Nath Dutt. As far as I was able to follow him, his argument was that it is much better to make the rich capitalist pay than either to reduce the pay or dispense with the services of poorly paid clerks and menials. My answer to that is that as a matter of fact I believe this measure will not prevent the thing that he is afraid of but will hasten it. For however much in times like this a business concern may dislike the idea of making cuts in pay or of reducing its staff, it is perfectly impossible to continue employing the same staff and paying the same salaries when the firm is not earning any profits. That is the position that a very large number of trading concerns in this country are in at the present moment, and if this additional burden is put upon them, it will make that position still more acute and it will merely hasten the cuts in pay and the reduction of staff which my Honourable friend wished to avoid.

There is one other point that I should like to mention. The Honourable the Finance Member said that he had been advised by the income-tax authorities that this measure presented no administrative difficulties and that it simplified the question as to whether a remittance to this country was capital or income. That may be, but what about the administrative difficulties of trying to find out who has got income earned outside this country? It is hard enough to find out the correct income earned in this country; it must be ten times more difficult to find out who has got income

[Mr. E. Studd.]

which is earned in some distant part of the world; and I submit that this is an administrative difficulty and a very serious one.

Now, Sir, I do not think I have much more to say but I should like to summarise the points which I have tried to make. I maintain that this Bill will not achieve its avowed object of restraining the flight of capital from this country. We have nothing to show that it will produce any substantial amount of revenue. I think we have everything to make us fear that it will entail very grave and considerable hardships. It raises constitutional and controversial issues which many of us think should not have been raised at the present time. It has been strongly opposed by Local Governments, by public bodies and by income-tax officials with practical experience of the working of the present Act. It undoubtedly imposes heavy hardships on the trading section of the community which perhaps almost less than any other at the present moment is in a position to bear an additional burden. I do not think that it can possibly be claimed that it is workable with fairness; and therefore, Sir, I strongly oppose the reference to Select Committee.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I am surprised at the great influence which the capitalist exercises over the Legislature and over the Provincial Governments. Probably it is true to say that it was the capitalist who brought the great war over the world. This small measure which has been introduced in this House is clearly a measure which will bring some money to this poverty-stricken country. It is a measure which will bring into the fold of law those big capitalists who by means of sending their money out of the country are avoiding payment of income-tax. I really cannot understand what else this Bill means, and still it is being opposed from all corners of the House. Sir, the other day when the Finance Bill was being discussed in this House, we were told that the Indian taxpayer is heavily hit by the taxes, that the last straw to break the back of the camel had been placed on it, and that the Indian taxpayer cannot pay any more. We also know that the measures for providing revenue which were introduced in the last Assembly cannot bring as much money as we expected. Then what would be the result if we do not tap even the smallest source of income which is available? No doubt, everybody feels the pinch of paying taxes. I know that many big capitalists, and specially my friends the European traders, who have earned lakhs and lakhs of money in India, are taking it out of this country, and in that way they are avoiding the payment of income-tax. They want to take the cream of the country, but they do not want to shoulder the burden of the inhabitants of this country. All that this Bill aims at is to stop the flight of capital from this country and also to ensure that the income earned from the capital of this country is made liable to income-tax. My Honourable friend who preceded me has shown that there will be evasion in the collection of this tax. At the same time he has also pointed out that the present income-tax law is defective to such an extent that even under the law as it is now a very great deal of evasion is going on. Therefore, Sir, if we follow the argument of my Honourable friend, it would mean that if a law is such as to make evasion of it possible, then that law should be abolished; that would mean, according to my friend, that even the present income-tax law should be abolished and that there should be no income-tax at all. If there is evasion, then it is the duty of the Legislature to improve the law in such a way as to make such evasion impossible, and

not that there should be no law at all. I really cannot understand the logic of my Honourable friend. The present motion is not to pass the Bill as it has been placed before the House. The present motion is to refer the Bill to a Select Committee. This motion aims only at accepting the principle of the Bill

Mr. E. Studd: Which we don't.

Sir Muhammad Yakub: Of course, you won't; you will agree to the addition of any burden on the poor Indian, but you will not agree to shoulder the slightest burden when it affects the European community

Mr. E. Studd: May I point out to my friend that the main part of my argument was that this measure was going to affect the small Indian trader harder than anybody else?

Sir Muhammad Yakub: Could my Honourable friend say how many poor small Indian traders have invested their money in Europe or anywhere outside this country? Probably, he will not be able to give us the names of even half a dozen poor traders; these poor traders have not got enough money even to invest in India, how can you expect them to invest money abroad? This is simply bosh. (Laughter.) You speak in the name of the poor trader! You really want to avoid paying income-tax under the cover of protecting the poor Indian trader. I am sure he will not be affected by this measure. It is only the big capitalist who has got surplus money and wants to avoid paying income-tax, who wants to hoard it in banks outside India, who will be affected by the present Bill. Only the other day questions were put to the Honourable the Finance Member in which he was asked to say how much gold was exported from India. Has anybody ever asked the question as to how much during the last two years has been taken from India and invested in banks outside this country? Is it not taking capital out of the country, and does not such a process make the country poorer? Therefore, Sir, I submit that the present motion is not to pass the Bill as it is; there might be some defects in the Bill which can all be rectified in the Select Committee. For instance, I myself consider that the difference which has been made in the case of income which is accrued and the income which is spent is a thing which requires amendment. There might be certain other provisions in the Bill which also require amendment. We have at this stage merely to accept the principle of the Bill which, I submit, is quite sound, reasonable and justifiable, especially in the present conditions of the country, and, as I said, if there are any defects, they can be removed and the Bill can be amended in the Select Committee. Therefore, Sir, with these remarks I support the motion before the House.

Mr. Lalchand Navarai (Sind: Non-Muhammadan Rural): Sir, I must confess that I was also under the same misunderstanding as my friend Mr. Moore with regard to continuing the debate to-day on this Bill. Sir, no one should underrate the importance of this Bill, and I expected that there would be many speakers on this important subject, but apparently there has been a misconception that because the debate was carried on in September last there need not be a full dress debate on this question to-day. I do not agree with the view expressed in certain quarters that the debate should be confined only to the question whether this Bill should be sent to the Select Committee or not; nor do I agree with the view that the question of principle is not involved in this. It is not merely the details that we are going into, but as I shall presently show, committing

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this Bill to a Select Committee at this stage is not at all just and proper. The main question that we have to take into consideration is, what is the aim and object of this Bill, what does it seek to achieve, and whether the measure, if passed into law, will affect prejudicially the people of this country or not. Then it has also to be considered whether it affects the capitalists only or the other people of India also. In this connection I must point out that the Bill as it is presented to us requires that the levy of income-tax should be made on the investments made outside India, whether the profits of those investments are brought into India or not. The present Income-tax Act requires that when investments are made outside and some profits are brought into India, those profits alone are to be assessed; but now an attempt is made to make all the investments made outside liable to tax, whether any profits accrued on such investments are brought into India or not

The Honourable Sir George Schuster: My Honourable friend will pardon me for a moment, if I point out that he is perhaps misleading the House as to the present state of the law. The present state of the law is that, so far as the business profits are concerned, they become liable to tax if they are brought into the country within three years from the dates they are earned, but so far as dividends on investments are concerned, they do not become liable to income-tax whether they are brought into the country or not. That is one of the main points missing from the present law which this Bill seeks to amend.

Mr. Lalchand Navalrai: I accept what the Honourable the Finance Member says, but taxing business profits accruing outside India is also a serious question that should be considered. The point is whether business profits which have been made outside and have not been brought here should not be assessed at all. I think I am correct in this statement. Then I submit that the present attempt of the Government in this matter, in my humble opinion and in the opinion of those whom I represent, and in the opinion of the merchants of Sind, is not at all just and proper, and I may say that if we allow Government to carry out their object, the trade of India will be affected, the commerce of India will be affected, and the very enterprise of India will be affected. That will mean an attempt to stop Indian trade outside. It will give a death blow, as I call it, to the freedom of Indian trade abroad. Now, the British Government always advocates free trade. Why then has not everybody got

12 Noon. a right to invest his money anywhere he likes and why should that be made difficult? I ask, when money is invested in business outside, is it for the good of India or no? Is India profited thereby or not? I say those who go and invest their money outside in business bring back actually more money, and that money is used in India for the help of the rich and the poor alike. It may be that some Members do not know personally how this happens and how some merchants in Sind have become rich by this process. Sir, there is a class of merchants in Sind who are called "Sindwork merchants". They go all over the world. Wherever you go you find them. I will give my personal experience. When I went round the world, up to America, I found everywhere this Sindwork merchant. He goes out with a limited fund and returns heavily loaded. Sir, by this Bill Government are actually cutting away that enterprise of the Sindhis and deterring them to their prejudice from making their investments outside. If they are rich now, they are helping not only the

country, but I say that they are helping the Government also, for several Sindwork merchants have given loans and other kinds of help to the Government in times of need, and how hard it is to do anything which goes to impede their trade and adventures in foreign countries. I am not talking of this apprehended hardship from my own imagination or from my own fancy. The fact is that after this Bill was introduced in House, a number of telegrams and letters came to me from Karachi and from Sindwork merchants, as also from the pearl merchants of Tatta and they began complaining of this Bill. In their anxiety they even accused me of not having informed them of this Bill. Then I had to go up to them to Hyderabad and Karachi and explain to them the situation. They were deadly against this Bill being sent to a Select Committee. Therefore it should not be understood that I had no intention of speaking on this Bill. I was ready to speak on this Bill, but some misunderstanding arose; Dr. Ziauddin Ahmad got up and put certain questions and while he was getting an answer I thought that he had caught the eye of the Chair and therefore I did not get up.

Now, to pick up the thread of my argument, I say that the trade and enterprise of India will be jeopardised by this tax. It may be said that money should not fly out of India. If money flies outside for the purpose of being lost, or for the purpose of bringing back no profit then certainly it should not fly out of this country. Otherwise let it fly and bring in very much more. Therefore, my main point is that the people of India will be affected very much by this Bill. If money gets increased and is brought to India and is used here; it not only gives benefit to the rich but it in a way helps even the labourer. The Sindhi merchant will keep ten servants instead of one, and he will pay liberally in like manner to the labourers and the other working class. Even the shopkeepers are helped by these people in the shape of advancing to them small loans. Sir, furthermore this tax would be a double tax, or rather a treble tax. I call it treble because the Sindwork merchants—for instance, people like "Pohoomal Brothers", have got their businesses all over the world,—in Japan, in China, in England, and America. In all these places they make profits and pay income-tax there. The question of getting a refund of the income-tax which has been referred to by my Honourable friend from the European Group and has been fully explained. At some places they may not get any refund at all. But apart from that, realize the difficulties of getting that refund.

The Honourable Sir George Schuster: Will my Honourable friend inform the House what is the income-tax in Kenya?

Mr. Lalchand Navalrai: I am not an encyclopædia.

The Honourable Sir George Schuster: Will the Honourable Member take it from me that there is no income-tax in Kenya, and no income-tax in a great many of the other countries he has mentioned.

Mr. Lalchand Navalrai: Is there in Japan or not? I wait for a reply. Is there in China or not? I pause for a reply.

The Honourable Sir George Schuster: I am not also an encyclopædia. (Laughter.) I happen to know that there is no income-tax in Kenya.

Mr. Lalchand Navalrai: The point is not whether there is income-tax at certain places or not, but the difficulties I am pointing out go to show that double income-tax will have to be given at certain places if this Bill is successfully carried through.

Now, coming to the question as regards the trade being affected, I think the attack made by Sir Muhammad Yakub on the European side was unnecessary when he said that it is only the European community in India that wishes this Bill not to be passed.

Sir Muhammad Yakub: I am very glad that my Honourable friend has got some sympathy with the Europeans.

Mr. Lalchand Navalrai: There is no question of sympathy. Where it is well-merited it must be given.

Sir Muhammad Yakub: I hope he will continue this.

Mr. Lalchand Navalrai: Yes. If it is well-merited it will be given up to the day of my death; because I have no personal restrictions on me for giving or not giving sympathy and goodwill as is the case with some others. What I am submitting is also the opinion of the Indian merchants which I will presently refer to. If the opinion is unanimous among the Indian merchants as well as the Europeans, then I think the Government should pause, should hold their hands, and not proceed any further with this Bill, especially at a time when Government themselves say on the occasion of private Bills and motions that this is not an opportune time for bringing them up. Is this the time, then—when the country is in great distress, when the country is just now under the rule of ordinances, when the country is now under *lathi* charges, and there is no peace in the land—is this the time to create trouble again and impose such taxation? Income-tax is one of the items upon which people get discontented, and it will be wise on the part of the Government not to bring forward motions like this. They should have profited by the defeat they got when their whole Finance Bill was thrown out by the Assembly. To again bring up such Bills is to create more and more discontent, and the responsibility thereof must lie upon the Government and Government alone.

Mr. B. Das (Orissa Division: Non-Muhammadian): Do you think that the Europeans will practise civil disobedience?

Mr. Lalchand Navalrai: If it comes to that, if they are dragged down to the extent to which we are dragged down:

Sir Muhammad Yakub: You ought to be glad for that.

Mr. President: Order, order.

Mr. Lalchand Navalrai: Sir, I was referring to the opinion of the Indian merchants. I think I can do no better than read portions of it and I shall not take up much of the time of the House in doing so. Sir, I refer to the Karachi Indian Merchants' Association—no one can slight the merchants of a port like Karachi. It is a rising port. It competes with

several other ports, and the body of Indian merchants there is an influential body. It has the support of all the people and I am reading a portion from the resolutions that have been passed by them. They say:

"Indian Capital invested abroad may be liable to income-tax or to the taxes payable in the countries in which it is at present invested. The additional burden of Indian income-tax and super-tax may cut the indirect flow of profits to India. This double taxation may make profitable business impossible and may be therefore harmful to Indian enterprise in other lands."

This is what I have myself said and I endorse what they say. Then they say further on:

"Employment of Indian capital is often accompanied by employment of Indians. If the employment of capital outside India is prevented it would also prevent the employment of several Indians outside. The earnings of Indians and the profits of capital invested add to the wealth of the country. The Bill would militate against this.

One of the harmful effects of the Bill may be to affect residence of some of the Income-tax payees. Some of those affected may change their residence and take residence out of British India for more than six months. For instance, several of the inhabitants of Indian States now residing in British India may easily change their residence and even domicile. That would work against the interests of the country.

My Committee regret to note that a racial distinction has been drawn in the Bill and they support the remarks of Mr. C. C. Biswas made in the Legislative Assembly on the 28th March, 1931."

This is one opinion. Then there is a further opinion from an influential body in Karachi, the Buyers and Shippers Chamber. Their opinion is still more weighty. They say:

"The objects and reasons as stated in proposing the Bill are mainly two:

To follow the lines of the law in force in the United Kingdom and to curtail the investment of capital abroad.

My Committee is cognizant of the fact that certain British securities are free of British income-tax to residents abroad. This exemption was given by the British Exchequer, with the full knowledge of the United Kingdom when the British Government wanted finances and these were given by the investing public specially the Indians in good faith knowing then fully well that the income if outside and if not brought into British India, will be free of Indian income tax as well. A change now is a breach of a moral code of honour."

Further on they say:

"The second reason given out is to check the flow of money to foreign countries for investment. It is too late in the day to think about this checking.

The Government of India is solely responsible for this transportation of capital by their actions in floating Indian loans in England at a higher rate of interest and on better terms than paid in India and given to investors in India, notwithstanding the fact that rupee and sterling loans were floated about the same time and the British Government permitting income, i.e., interest on these loans to be free of British income-tax to residents abroad.

The sterling Indian loans were floated and higher rate of interest paid and the laws of the United Kingdom freed the interest from British income-tax to residents abroad, merely that the Government of India could maintain by artificial respiration the death dealing policy of the Government of India, namely, the ratio exchange question.

The Government of India simply with a view to maintain their mistaken legislation have tried all sorts of artificial supports and introduced this Bill."

Sir, stronger arguments than these cannot be made. It is made quite plain now that it is no question of only capitalists or the rich men being affected. There is no question that by this taxation trade is going to

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flourish instead of going down. This is not a detail. This goes to the very root of the principle of the Bill. Therefore this is the fittest time for this House to oppose this Bill which appears to be quite unjust.

Then the second question is that this Bill also makes an invidious distinction between certain persons who are charged and certain persons who are not charged with this income-tax. With regard to that the Bill in clause 4 (b) says, "Income which accrues or arises to such person without British India during that year, if he is resident and domiciled in British India in that year". You know the words that I want to emphasize. Only those persons who are resident and domiciled will be charged. This in my opinion exempts the European community altogether. What I submit is that "resident" would mean any person who resides here, but domicile according to the dictionary meaning would be permanent residence. Europeans would always say, "We are not permanent residents of this place" and very rightly too. There is a discrimination here and that should be removed. I am glad that the Honourable the Finance Member has seen through this. He has made certain statements indicating that this objection is a valid one but some definite statement should be made about it here rather than in the Select Committee if this Bill goes at all to the Select Committee. We should know definitely whether the word domicile will be deleted from the Bill.

Mr. B. Das: I thought the Finance Member explained last time that there will be no discrimination between domicile and residence.

Mr. Lalchand Navalrai: I do not doubt the *bona fides* of the Honourable the Finance Member but the words used are always liable to many interpretations. Then why not say here definitely whether this word "domicile" will be taken away from the Bill. I say, Sir, with all deference that the assurance given is very indefinite and vague.

Sir, it has been urged that this Bill has been brought in order to bring the Indian income-tax law into consonance with the English law. There again I do not agree. If I give my own opinion that the English law is different, then it may not be accepted but I shall give the considered opinion of a high judicial authority which supports me in the view that I hold. On that point, Sir, I would refer to Paper No. 1, pages 28 and 29. Sir, we have an eminent judge in Sind on the Bench of the Judicial Commissioner's Court—Mr. A. H. S. Aston, Barrister-at-Law, Additional Judicial Commissioner of Sind—and what he says in this paper is this:

"The proposed Bill is described in the Statement of Objects and Reasons as an amendment of the law, following the lines of the law in force in the United Kingdom, while still retaining origin and remittance into British India as bases of liability in certain circumstances. The proposed amendment of section 4, however, introduces a distinction between liability to tax based on residence and liability to tax based on residence and domicile, which is a departure from the English Law. It is true that where a tax-payer is an individual partner in a business exclusively carried on abroad, in which he takes no active part, he is liable to pay income-tax only on so much of the profits as is received by him in the United Kingdom, but no distinction is made, in this regard, in the English law between a partner who is resident and a partner who is domiciled and resident in the United Kingdom, and the only reason for the exemption from liability to tax upon that portion of the profits, not brought into the United Kingdom, is the absence of the machinery in the Act, by which the duty in such a case could be assessed; see Halsbury, Vol. 16, paragraph 1300 and note 1. With this solitary exception liability to tax in the English law is based on residence only; see Halsbury, Vol. 16, para. 1300."

So there are other opinions also in this very paper which go to support my view on that point. Then, Sir, there is also another difficulty which has been pointed out at least by one of the gentlemen who has reported, and that is with regard to the difficulties in recovering or finding out the income which is earned outside. It is said that the main objection to this enactment is that it will be very difficult to get a return of the income accrued from foreign investments and that the collecting charges on that will be very heavy. That of course is for the Honourable Member to say, but we know even here that so much is being spent on the Income-tax Department for the recovery of the income-tax, and it was pointed out, when income-tax was being placed on those people, whom certainly we will call poor people, having incomes under Rs. 2,000, that the charges that would be incurred in effecting recovery from these people would be higher than the income-tax derived from them. On the same principle there would be much greater difficulty here. I may also point out that not only will the Government have such difficulties but even the people of India who invest money in businesses outside would have a peculiar difficulty, since the latter are used to post their accounts in a particular manner as is required of them in those countries. It would lead to a very complicated question of going into accounts satisfactorily.

Sir, I think I should not weary the House with any more remarks. I expect there will be other Members who will oppose this Bill, which appears to me to cut, I must repeat, at the very root of Indian trade, Indian commerce and Indian enterprise. With these words, Sir, I recommend that the Bill should not be committed to a Select Committee.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): Sir, so much has been said about the Bill from the point of view of the commercial community that I think it is only fair that I should submit one or two observations to this House from the agriculturists' standpoint. So far as I understand the scheme of the Bill, it not only ropes in income outside India, but also income inside India, for instance, income which accrues in an Indian State. Now as I have had something to do with an Indian State, I shall put before this House a concrete example. Suppose I own some lands in the Hyderabad State. That land has got to pay land revenue in that State as well as to meet the expenses of cultivation. And there is probably some margin—5 or 10 or even 30 per cent. Now will it or will it not be included in income taxable in British India? If that income, say Rs. 2,000, accrued in British India, it would not be taxable, but if it accrued in Hyderabad State, it would be liable to be taxed. Is it fair, I ask, that income derived from a place where, as one gentleman has pointed out, the amenities of life, which are alleged to have been provided by the British Government, do not obtain and which amenities of course have to be paid for, should be roped in? Sir, the difficulty in assessing a foreign income of this nature is increased tenfold when you find that the agriculturists proverbially do not keep any accounts. I have had some experience of these income-tax officers, more especially since the new system came into existence under which you have got a large number of income-tax officers who are supposed to administer this law with great efficiency and to check the attempts of people to escape from taxation. Now, Sir, even as it is, though the income-tax officer knows that money accrued in a foreign place, for instance, in an Indian State, and which does not come into British India, is not liable to tax, yet you will be surprised to know that year after year I receive notices threatening all sorts of pains and penalties

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if I do not submit a return of salary which does not affect my professional income from a profession which I do not now practise, and that I should submit a return of everything that possibly some very distant relation of mine gets by carrying on business somewhere else, *i.e.*, outside British India. The books are then sent for. If by some chance some money is found to have been received from an Indian State, the officer does not care to find out why it came and whose money it was and whether it was borrowed in order to meet the Government demand in British India. I object personally to the bringing of the account for the simple reason that I never keep any account. I go and borrow the money whenever I want it in order to meet the demand here, but the Income-tax Officer is inexorable. He must have the accounts or we have got to pay the tax. Though you cannot assess an income which has accrued in a Native State, yet you have got all this bother to get through. If you make it possible for him to tax the money which has accrued outside British India, then, Sir, the calamity would simply become unhearable.

But it is not merely the administrative inconvenience of satisfying the demand of the Income-tax Officer that I am concerned with. The Taxation Inquiry Committee went into this matter somewhat carefully and came to the conclusion that a return from this source is not sufficiently large to justify the trouble that would be taken by introducing this change in the law. Now, that statement has not been challenged either by the Honourable the Finance Member or by any other Member in the House. Is it or is it not a fact that the return would be so negligible that the trouble taken to realise it would be out of all proportion to it? That is what some of the Local Governments, to whom the matter was referred, have said. That is what the Taxation Inquiry Committee have said. Yet you want to submit the country to this unnecessary taxation. Sir, the question of the foreign income is a very delicate matter. If you happen to go to a Native State you will find lots of small traders go there from British India who do business for a short time and after making some money return back to British India. Now, if you make their income liable to taxation in British India they will have to submit the accounts and they keep no accounts. What will be the result? I think there is a section—it is section 23 clause 4 if I remember aright—which gives to the Income-tax Officer power to tax a person who does not produce his accounts to the best of his ability and judgment. Now the best of the ability and judgment depends upon the whim of the officer that morning; probably he may be suffering from a fit of indigestion. I am not talking without chapter and verse when I say this. I myself have been a victim of this. Because I failed to produce my accounts for half an hour, the Income-tax Officer assessed me to Rs. 4,000. I wish I had that income, leave alone the assessment. That would be the way the small traders are treated. They will be harassed to an extent which is unimaginable. It is all very well for you, sitting here in Delhi and in Simla, to say that these things do not happen, but the House will remember the graphic description of the ways of the Income-tax Officer that my Honourable friend Mr. Misra gave at the time when the Finance Bill was being discussed. If I had the time and inclination and desire, I could expatiate upon a matter like that for three days, but it is absolutely unnecessary to do that. I want that our statements should be accepted if we are the representatives of the public, unless they are palpably absurd. I submit therefore that this Bill is entirely unnecessary and uncalled for. For

the next 18 months you have secured yourself. There was a rumour that there will be another Finance Bill and we have been told now that this will not be the case. So, up to the end of March 1933 you have secured ourselves against any inroads upon the income, and you have got plenty of money from taxation, which comes to something like 19 crores or 24 crores, I do not remember which. That being the case, why should you amend the Income-tax law? Let the new Government do it if it comes into being at all. Throw it upon their heads and let them adjust their position. At present you are in a very good financial position and things augur well for the future, subject, of course, to the internal conditions of the country about which nobody can say at present. I had thought when the special Finance Bill was passed that our troubles regarding income-tax were over, but I reckoned without my host. This thing is still with us and I find that the Honourable the Finance Member is still in need of more money for his expenses in spite of the Retrenchment Committees. But I am not concerned with that, nor am I well enough versed in high politics to be able to understand why the expenses have gone up. The only point that I am concerned with is that this Bill, if it becomes law, would not only affect the richer class of people who probably can afford to pay even if they labour under a grievance, but it would also affect the agriculturists and the poor traders whose incomes are very small indeed. They will be asked to pay a tax which they cannot afford to pay.

Now, Sir, so far as South India is concerned, I am exactly in the same position as my friend Mr. Lalehand Navalrai is in Sind. I have been flooded with numerous telegrams opposing this Bill. They have all asked me to place their views before this Honourable House. It would weary the House if I were to read out telegram after telegram and Resolution after Resolution that I have received. The whole case is clearly put in the opinion submitted by the Nathukkottai Nagarathar Association of Southern India. This Association consists mostly of the enterprising element of South India, and it has had business relations practically throughout the whole of Asia for a long time. They point out in a cogent and well reasoned document that not only will this not bring in the return expected by the Government, but that it would seriously affect their interests. The same opinion is expressed by the South Indian Chamber of Commerce. Therefore I submit that even if you can get some money out of this Bill, it is neither the time nor the occasion to introduce it especially after the Finance Bill has been passed.

Mr. Bhuput Singh (Bihar and Orissa: Landholders): Sir, I propose that the name of Raja Bahadur G. Krishnamachariar be added to the Select Committee.

Mr. President: The name of Raja Bahadur G. Krishnamachariar is suggested as an addition to the Select Committee.

The Honourable Sir George Schuster: I have no objection to Raja Bahadur G. Krishnamachariar being added to the Select Committee.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Sir, I find myself in some difficulty in addressing the House at this stage. In the first instance the debate on the motion took place 4½ months ago and some most interesting and important speeches were made which, I am afraid, are lost on the House due to the length of time that has elapsed.

The Honourable Sir George Schuster: Why?

Sir Cowasji Jehangir: Because memories are short. At any rate, Mr. President, you will pardon me and the House will pardon me if I repeat some of the arguments placed before the House 4½ months ago. My Honourable friend Mr. Studd in his very able speech enumerated some of those arguments but it appears to me that the strength of those arguments is not yet realised by the Honourable the Finance Member. Let me remind him of the number of speakers who spoke on the last occasion and of what they said; and if, after having read all their speeches, he has not yet changed his mind, all I can say is, that arguments are of no use in this House. (Laughter.)

The Honourable Sir George Schuster: I have read them all.

Sir Cowasji Jehangir: I am glad he has read them all but I am sure all Honourable Members have not taken the trouble to read all those speeches again. Honourable Members cannot be expected to read speeches made 4½ months ago; at any rate let me give the names of the speakers on the last occasion. Mr. Chetty, the Deputy President, who made an extraordinarily able speech, Mr. Heathcote, Mr. Mody, Kunwar Hajee Ismail Ali Khan, Dr. Ziauddin Ahmad, Mr. Anklesaria, Mr. Jagan Nath Aggarwal, and Sir Hari Singh Gour, opposed the Bill being sent to Select Committee. The motion was supported by Mr. B. Das, and was conditionally supported by Mr. Harbilas Sarda, the condition he imposed being that all pensions payable outside India should be subject to income-tax. He stated that if the Honourable the Finance Member would agree to that, he would vote for the motion. Mr. Amar Nath Dutt also supported it.

Mr. B. Das: Mine was conditional too.

Sir Cowasji Jehangir: I am glad to hear that. The debate today has thrown up Sir Muhammad Yakub. I have to congratulate my Honourable friend the Finance Member on having given an opportunity even to Sir Muhammad Yakub to have a fling at the European community. He has no lack of opportunities of supporting Government and this is only one more. I think and I trust this will be the last opportunity he will have of having a fling at my friends who are opposing this Bill. I do not desire to go into any details as to his speech. He said that there were very few Indians who traded abroad, five or six.

Sir Muhammad Yakub: I said small Indian traders.

Sir Cowasji Jehangir: Just now two Honourable Members have alluded to protests from associations that are only made up of small traders. All I can tell my friend Sir Muhammad Yakub is that when ignorance is bliss it is folly to be wise; and if he would only confine his remarks to matters on which he knew something, we might be able to listen to him with some patience. The other reason which really causes me some difficulty is that during the discussion 4½ months ago my Honourable friend, the Finance Member, gave some assurances which have completely changed the principle of the Bill. The principles of the Bill are twofold; firstly, it makes residence a liability for income-tax and secondly it provides that anybody not domiciled in this country should be exempt from taxation on all incomes derived outside this country except for such part as they desire to bring into this country. That is the principle of the Bill.

The Honourable Sir George Schuster: On a point of order. Is my Honourable friend entitled to give rulings on what constitutes the principle of the Bill or not? I should like to inform the House that I have had the advantage of discussing that particular question of procedure very fully with you, Sir, and discussing what should be the attitude of Government on it. The attitude that Government took up was that they would not regard an amendment to that particular feature of clause 4 as affecting the principle of the Bill in such a way as to force them to take the view that they would not proceed with the Bill. In fact Government said they would accept the recommendations of the Select Committee on the matter and you, Sir, advised me that that would be a correct attitude to take up. I suggest my Honourable friend is not right in saying that we have in the course of the debate agreed to alter the principle of the Bill.

Sir Cowasji Jehangir: In reply to my Honourable friend I may point out that I have every right to express an opinion as to what I think is the principle of the Bill I have every right to express an opinion as to what effect that change of principle will have.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): There appears to be considerable misapprehension on the issue raised. As far as I have understood the Honourable Member who is addressing the House, his object merely is to express his own opinion as to what principles are underlying the Bill. As regards the procedure, that is a different matter altogether. The procedure as stated by the Honourable the Finance Member is correct. If the Select Committee makes alterations in the Bill affecting the principle, the Honourable the Finance Member has agreed that he will not raise any question against any amendments of principle which may be moved at the consideration stage. But that is a different issue altogether. The Honourable Member is giving expression to his own view as to what principles are underlying the Bill as it stands before the House at present and he is perfectly entitled to do so.

Sir Cowasji Jehangir: I thank you, Sir. I said just now I was merely expressing my own opinion which I have every right to do. I have stated what are the two principles underlying this Bill. I have already told the House that the Honourable the Finance Member has agreed to waive one of them. That assurance given by the Honourable the Finance Member has a very far-reaching effect. I propose to deal with that effect straightaway. The Bill as it stands today would exclude from its operations Englishmen resident in India but who are not domiciled in India if they choose not to bring in any of their income derived outside India into this country. If this assurance is carried out and this Bill goes to Select Committee and is so amended, all Englishmen resident in this country have to pay income-tax on all their incomes outside India whether they bring it here or not. But they are not the only people in India who are adversely affected by this assurance given by the Honourable the Finance Member. There are thousands upon thousands of subjects of Indian States living in British India who, due to the provisions of the Bill, did not think it worth while protesting but who now will fall within the provisions of the Bill if the assurance of the Finance Member is carried out. They are a larger number than Englishmen can ever hope to be in India. What about them? Has not this assurance that the Finance Member has given changed the whole aspect of the Bill for these thousands and thousands of people? Just now my Honourable friend the Raja Bahadur has given one instance. He has said that if the subject of an Indian State residing in India owns:

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land in an Indian State, the income derived from that land will not only be subject to land revenue in the Indian State but will be subject to income-tax in India. I ask, Sir, in all seriousness if in order to meet the objection of a small section of the inhabitants of this country the Honourable Member has any right to give an assurance at the last minute which affects the lives and the very existence of thousands of other people who are not represented in this House. I only point this matter out to show that I am under considerable difficulties in discussing a Bill introduced 4½ months ago, if during the debate the Honourable Member of Government chooses to say that he will completely change the principle of the Bill provided the House will only send it to Select Committee. How are we to discuss legislative measures that come up before the House, if during the debate the whole substance of the Bill is changed and the whole aspect of the case is changed by the Honourable Member for Government practically saying that he will accept another Bill instead. He will allow the Select Committee to amend it as they choose, and if by that amendment thousands of others are affected it does not matter,—let them do so even without notice. This Bill went for opinion with these clauses inserted. That was the basis on which these opinions were received. We have not had a chance of having the opinions of the thousands of residents in India who will now come under the Bill. The Europeans are lucky; they have got a strong group in this House, I do not say to look after their own interests, but to voice their opinions. They can state before this House their case and their point of view; but if in order to meet their point of view you change the Bill, you affect thousands of others who are not here to put their point of view before the House. Sir, all I can say is that it is most unfortunate that the Bill should come up 4½ months after it was last discussed, and that during that discussion the main principle of the Bill should be changed, and that it should be brought up when there is a very thin House present. The Honourable the Finance Member may carry the day and may get this Bill sent to Select Committee, but let me warn him of one thing, that when the Select Committee's Report is submitted to this House and if there is a fuller House, he may find that all our labours in the Select Committee are thrown away as a majority may then be here who are against the principle of the Bill. I trust that if the House does send the Bill to Select Committee and if there are more Members who turn up later on, and decide that the principle of the Bill should not be accepted they will not hesitate to throw out the Select Committee's Report.

Now, Sir, the Honourable the Finance Member in his opening remarks 4½ months ago admitted that this Bill completely changes the basis on which income-tax is charged at present in India. It is not an amendment of the Act; it is a revolution in the Act that is proposed. It is wrong to call it an amending Bill; it is a new Act that is proposed and brought before the House, a new basis of taxation. He has admitted it. He has admitted that it has far-reaching effects; he has also admitted that it may be open to many objections. Sir, at present the Act only makes income at the source liable to taxation. Any income derived in India only, the source being in India, is liable to income-tax. At one stroke of the pen my Honourable friend desires to add residence also as a basis of liability. Now this amendment, I make bold to say, will make the income-tax in India more rigorous, more sweeping and more hard in its effects than any other Income-tax Act in any other part of the world including England; and I am prepared to substantiate that statement. My Honourable friend

has informed this House that this Bill is based on the British Act. Mr. President, I by no means profess to be an expert on the Income-tax Acts either in India or in England, but there is one thing I do know and that is that the highest authorities in England, the High Court of England, have said that there is nobody who can claim to know all about the British Income-tax Act. And then to say that this Bill is based on the British principle is a bold assertion to make. As soon as you try to study it, you find very big differences immediately. In England the Act provides that "even an Englishman non-resident in England shall not pay income-tax on the interest or dividend on any securities of a foreign State or a British Possession which are payable in the United Kingdom". In this amending Bill this principle will not apply to Indians with interest or dividends on any securities of a foreign State which are payable in India. Then again "any income arising from securities in any place out of the United Kingdom" is exempted. This Bill makes no exception for Indians in India. Then again, "income arising from stocks, shares or rents in any place out of the United Kingdom" is exempted. The Bill makes no such exception for Indians in India.

The Honourable Sir George Schuster: Would my friend tell us what he is reading from and in what cases those exceptions apply. I think he started his remarks by saying that these exceptions apply to persons who are not resident in the United Kingdom. We are now discussing what taxation is to be imposed on persons who are resident in India, and I suggest that my Honourable friend's quotation has no parallel at all to the subject we are discussing.

Sir Cowasji Jehangir: I do not think my Honourable friend the Finance Member has quite understood me. What I am trying to point out is that the exceptions which are provided for in the British Income-tax Act are not provided for in the Indian Income-tax Act

The Honourable Sir George Schuster: In favour of persons who are not resident in the United Kingdom.

Sir Cowasji Jehangir: Yes, and people who are not resident in India. The analogy is exactly the same. I shall explain it presently.

The Honourable Sir George Schuster: I am asking my friend what relevance that has to the present discussion about the imposition of a tax on persons who are resident in India.

Sir Cowasji Jehangir: If my Honourable friend will have a little patience, I will try and explain myself. Any income from a foreign security, although payable in England, is not liable to income-tax in the case of an Englishman non-resident in England. Under this Bill any interest accruing on a foreign security and payable in India is liable to taxation even if the man is not resident in India. Has my friend followed me?

The Honourable Sir George Schuster: Yes, but does my Honourable friend mean to suggest that the defect in the present Income-tax law is that the interest on rupee loans held by persons non-resident in India is not to be exempted from the payment of Income-tax? Is that the defect in the present law? Is that what he is arguing?

Sir Cowasji Jehangir: I am afraid I have not yet made myself quite clear. The point is that in England every encouragement is given to raise loans the interest on which is payable in England, and if an Englishman is not resident in England, he is not made to pay the income-tax on the interest of such loans. The basis of source is therefore cut out. In India at present, as the Act stands and as it will remain when amended, wherever the man may be resident, either in England or America or Africa or anywhere else, as long as he is an Indian and his domicile is in India, and if such a loan is raised in India, the source being India, he will have to pay income-tax.

The Honourable Sir George Schuster: I would suggest to my friend that he is not only misleading but wasting the time of the House. The point which he makes is this that if the Argentine Republic, for example, raises a sterling loan in England, and if an Indian invests money in an Argentine Republic sterling loan, the interest on which is payable in London, then the Indian holder of that Argentine Sterling loan will not have to pay English income-tax. That is perfectly correct, and there will be no parallel to it in the Indian income-tax law; but I suggest to my friend that the prospect of the Argentine Republic or Japan or any foreign country coming to India to raise rupee loans to finance themselves is an extremely remote one and that we need not at the moment concern ourselves with the interests of people who might hold those potential loans because the possibility is so very remote.

Sir Cowasji Jehangir: I contend, Sir, that we have every right to concern ourselves with the case of such people, and I want to point out the great difference that the Honourable Member is making between the British income-tax law and the Indian income-tax law by this amendment. My Honourable friend contends that this Bill is based upon the British law, but I say it is not so. There are very big differences; we are going to be taxed in India, while the Englishman in England is not taxed. Am I not, therefore, entitled to point out

The Honourable Sir George Schuster: What I am pointing out to the Honourable Member is that he is pleading the case of people who are non-resident in India. What we are discussing in this Bill is the question of taxation to be imposed on people who are resident in India. The fact that under the English law certain persons may draw interest from loans payable in London, and if they are non-resident in London they may not be subjected to English income-tax, is not relevant to the present discussion, and I suggest to my friend that by reading those extracts from this book as he has, he is creating an impression, however unintentionally it may be, that differences exist which do not exist in practice.

Sir Hari Singh Gour: May I ask a question of the Honourable the Finance Member? Is it not a fact that under the English Income-tax Act a person is deemed to have been in residence if he resides for six months? Have you got a similar clause in the Income-tax Act?

The Honourable Sir George Schuster: The question as to what precisely should constitute residence in India is a question which could be discussed in the Select Committee in connection with this particular Bill. The law at present is quite clear on the subject. That is just one of those points which could be discussed in the Select Committee.

Sir Hari Singh Gour: The point, therefore, is that the English law as it stands at present contains words limiting the meaning of the word 'residence' which the Indian law does not contain.

The Honourable Sir George Schuster: That is not the position. There is a certain practice which is applied by the Income-tax authorities at Home, and there is no reason why that practice should not be applied here.

Sir Cowasji Jehangir: Mr. President, I have no intention whatever to mislead the House. At the same time I do not want the House to believe that this Bill is based on the British Act. It is not. If my Honourable friend will agree to that, I will agree to say

The Honourable Sir George Schuster: No, Sir, I certainly will not agree. My Honourable friend's point is that after having passed this Bill, if the House passes this Bill, the Indian income-tax law will not be on all points identical with the British Income-tax law. I accept that. The point that I put before the House is that by passing this Bill the House will bring the Indian Income-tax law much nearer to the present British Income-tax law than at present it is.

Sir Cowasji Jehangir: I contest that point. My point is that if this Bill is passed, it will make the Indian Income-tax law much more rigorous, much more sweeping and much more hard in its effects, and in order to substantiate that point I am pointing out that there are certain exceptions in England which you do not give to Indians in the present measure. I will leave it at that.

I am coming now to a much more important point. Mr. President, one of the principles of the British Income-tax Act is to encourage foreign trade and industry, and that principle has made the United Kingdom wealthy. Englishmen are encouraged to leave England and to go to distant parts of the world to start trade and industries and commerce, and they have done so most successfully. This Bill, Mr. President, far from encouraging Indians to start industries outside India or to trade with other countries, puts a definite handicap on their doing so. In England an Englishman resident in England, who is interested in industry, trade or commerce outside England, is not liable to income-tax on the profits of that industry, trade or commerce that he does not choose to bring into England. Under this Bill every Indian trading in any part of the world outside India will have to pay income-tax in India on the profits of that trade or industry

Sir Hari Singh Gour: Whether he brings the income into British India or not.

Sir Cowasji Jehangir: Yes.

The Honourable Sir George Schuster: I do not accept my Honourable friend's statement of the English law.

Sir Cowasji Jehangir: I am prepared to show that to my Honourable friend. As I have said

Mr. President: Order, order. I should like to ask the Honourable Member how long he is likely to take.

Sir Cowasji Jehangir: I am likely to take another hour most probably.

Mr. President: The House will now adjourn till 2-20 P.M.

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

The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock, Mr. President in the Chair.

Sir Cowasji Jehangir: Mr. President, I was speaking on one of the most important points in connection with the Bill when we adjourned and you will excuse me if I just repeat the last few sentences of what I said. I was contending that there is a big difference between the British Act and what is contemplated under the Bill with regard to residents in England trading outside the country. I contended that they were exempted from income tax on their profits as long as they did not bring those profits into England. I further contended that under the Bill all profits on income made through trade and industry outside India will be liable to income tax, whether the whole of the income is brought into India or not and I was just then interrupted by the Honourable the Finance Member who said that I was not correct in this contention. I maintain that I am correct. I am always open to correction but I would like to see it a little more definite than a mere assertion that on a very important point of this sort I am incorrect. I may state that this is not the first time that this point has been alluded to in this Honourable House and my Honourable friend did not contradict any other speaker. I think Mr. Studd made that point in another way when he talked of a double income-tax. Mr. President, I respectfully contend that this is one of the greatest injustices that can be done to Indians in India. Now take the case of all those small petty traders who have shops in all parts of the world. My Honourable friend from Sind alluded to the great enterprise of the Sindhi shopkeeper, whom you find in the remotest corners of the world. Now, he will have to pay income-tax on all his profits if he happens to be resident in India. Take the Englishman in England, who has organized trade of this sort all over the world: he is exempt from that taxation. He keeps his money in his business in all parts of the world, and he pays no tax. If he brings it into England, a portion of it even, he is taxed. That I contend is a very serious matter for consideration, and I am not at all surprised when my Honourable friends say that they have received hundreds of telegrams protesting against this injustice. Government ought to encourage Indians in their enterprise outside the country. Every country, I presume, desires to see its nationals go outside its own borders for trade and industry. They encourage it. England has done so consistently. Here is an amendment to our Act which ropes in all these poor men. Sir, we have heard a great deal about paying double income-tax. That is perfectly correct. We might argue till we are blue in the face that it is not so, but in certain cases it will be so unless this Bill is amended. A man having business connections in England, and resident in India, will have to pay income-tax in England on his profits, and he will also have to pay income-tax on his profits in India.

The Honourable the Finance Member has explained in his opening speech how he can get out of it. He has tried to make out that the Government of India will benefit. But I think my Honourable friend, Mr. Studd, gave a rather conclusive answer to that argument. He has pointed out that it is not always easy to get that return. It is very well for Government to say, "You shall pay double income-tax but then you can get back at least a portion of what you have paid in England." Sir, it gives some trouble to do so. And why should the Indian be put to that unnecessary trouble when the Englishman is not, in England? I will emphasize that point when I come to the objects that Government have in view in proposing this legislation. Sir, I contend that the English Income-tax Act is, principally and generally, based on residence, and when you go into the exceptions made in the English Income-tax Act, my statement will not need further emphasis. In India, by this proposed legislation you not only make "source" a liability for income-tax but also residence, and I understand from certain authorities whom I have consulted that there are no income-tax Acts in the world, they are aware of, that have a dual source of liability. Now, why should the principles of income-tax be changed at this stage?

That brings us to the objects my Honourable friend in particular has in view. He says he desires to stop the flight of capital from this country. When he moved that the Bill be sent to a Select Committee 4½ months ago there may have been some justification for this contention, but now I can see none. I think on the last occasion my Honourable friend, Mr. Heathcote, very pertinently pointed out that he did not believe in the contention that the income-tax relief that exists under the present Act is one of the reasons for Indians and Englishmen sending their money out of the country. If my Honourable friend was correct then, he is doubly correct today. There are other reasons, and my Honourable friend, the Finance Member, will have to exercise his mind a little further if he desires to really ascertain why money is being sent out of the country. It is sent out not only to save income tax; that may be a reason, a very small reason, but does he not realize that there are many business concerns in India on whom it is incumbent to invest money in foreign parts? I will give you the instance of Insurance Companies. These Companies, on account of the methods of their business, have to invest in foreign securities, in order to do business in foreign countries. All that income in foreign countries will now be liable to Indian income-tax. But the English Companies which do business in India are not liable to the English income-tax on their profits in India as long as they do not take those profits to England. You are thus, I won't say deliberately but I believe unconsciously, doing a considerable damage to the growth of indigenous insurance companies in India by this legislation. When I interrupted my Honourable friends 4½ months ago on this point, he said that I should use my ingenuity in Select Committee to remedy this defect. I think my Honourable friend ought not to rely on the ingenuity of Honourable Members on this side of the House to cure defects in the Bill, for, he may find that they have not the ingenuity to do so. I would suggest that that ingenuity ought to have been exercised when the Bill was being drafted; and to urge, on the mere plea that ingenuity will have to be exercised both on the side of Government and the Opposition to cure this Bill of its many defects, that this Bill should be sent to a Select Committee is the poorest argument I have ever heard put forward before a Legislative Assembly in order to send a Bill to a Select Committee.

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The next object my Honourable friend has in view is to earn a little more revenue. In his opening remarks he has been perfectly candid and told the House that he has no figures on which to base any estimate as to the increased revenue. He says there will be some revenue. Therefore, one would be legitimately allowed to argue that the main basis on which he has introduced this Bill is to stop the flow of capital and that revenue is merely incidental. Then, if it can be shown that this Bill is not going to stop the flow of capital, if ever there was a flow of capital out of this country, I think it is time the Honourable Member and Government considered whether it is not due to this Honourable House that this Bill should be withdrawn. ("Hear, hear" from Non-Official Benches.) He has talked of the flow of capital, regardless of the moneys that have to be sent out of the country for trade purposes. Who are these people who are sending money out of the country? I am not in the secrets, as my Honourable friend most probably is, of some very distinguished gentlemen who live in India, the Indian Princes. How is he going to stop the flow of wealth from this country by Indian States? And if it does go, is he going to derive any benefits to the revenues of British India, as they are not subject to Indian income-tax? I contend, Sir, that this argument of the flow of capital is not a sound one; and if further examined, it will be found that if there has been a flow of capital it has been not from British India but from other parts of India which my Honourable friend cannot touch and cannot stop. If there has been a flow of capital for business purposes which brings more business to those who live in India, then to tax it is illegitimate; it is something exceptional, it is something that England does not do herself. So far as the flow of capital is concerned, it is merely a bogey. As far as the revenue is concerned, there are no figures which will convince us that any substantial income is going to be brought into the Treasury.

Then, my Honourable friend made very light of administrative difficulties. I presume that evasion of the income-tax can be called an administrative difficulty. He did not in his speech tell us what machinery he is going to set up to prevent the evasion of income-tax on incomes outside India. I would like very much to be instructed as to what machinery my Honourable friend has in view; and, if it is not possible to invent the machinery does he believe that he is going to get income-tax on all incomes outside India? As it is, with the present tax as it stands, it is the honest man who pays and the dishonest man who laughs at the income-tax authorities. Every time you put up the income-tax, we feel it is a question of diminishing returns. I admit that there is a great deal on this point of evasion with regard to the income-tax as it stands. Every time you put it up, you do not affect the man that evades it, you only increase the burden on the honest man who pays it and you are going to make this evasion much more possible with the question of incomes outside India. It will be the honest man who will pay. Whether there are many such persons, I am not prepared to state. But few or many as they may be, you are simply making them pay, and those who are prepared to evade this tax will do so with impunity and you will have no method of checking it. I am open to correction if my Honourable friend will explain the method that he is going to adopt to prevent evasion. Although this was pointedly brought to the attention of Government in the many reports that they have received from Government officials, my Honourable friend's answer was that it was best to waive aside all these administrative difficulties with a wave of the hand.

When this Bill was introduced, Honourable Members, I feel certain, have not forgotten that Government was desirous of putting it on the Statute-book practically immediately. I candidly and willingly admit it did not require very much persuasion to convince my Honourable friend that it should be circulated for opinion and we thanked him for having done so. The result is comic. Most Provincial Governments have condemned the Bill. Some officers of Government have written reports which are criticisms worth reading. It has been said—and I repeat it—that few measures of Government have been so strongly and cogently criticised by their own officers, and by Provincial Governments, as this one. I will not lay stress on this point as some of my friends did 4½ months ago as to why Government should on this particular occasion neglect the views of their own officers and of Provincial Governments. I am prepared to admit that these views were expressed on a Bill that is for all practical purposes not before the House today due to the assurance given by my Honourable friend. You would have to cut out pages out of these criticisms and most probably replace them by other criticisms because the whole aspect of the Bill has been changed. I have heard it said that on account of the assurance given by the Honourable Member this Bill ought to be recirculated for opinion. I contend that there is a good deal in that argument but I am not going to bring it forward at this stage.

I do respectfully draw the attention of the whole of the Government Benches to the opinions given by their own officers before they try to force this measure down the throats of this Honourable House. I have shown, as many of my Honourable friends have also done, that there is very little left of the objects which Government had in bringing this measure before the House.* We shall anxiously await the reply when my Honourable friend comes to show that the objects are still in existence, that there is something in them still; also how he hopes to stop the supposed flow of wealth from this country, how he expects to get all the revenue that ought to come in. Above all we expect to have clear figures from him as to how much revenue we are to expect. He can only justify the revolutionary change in the present Income-tax Act, if he can conclusively show us that the revenue that we will get will be worth having. If he cannot show that, then I contend he has no arguments for bringing before this House a Bill that changes the whole principle of our Act.

I had occasion to refer to the question of litigation that may follow if this Bill is passed into an Act. Income-tax litigation, I understand, is not infrequent and I am assured by some leading lawyers that this inclusion of residence along with source as liability for taxation will add considerably to litigation in this country. Difficulties again for everybody, both Government and the people, and for what? For an amount of revenue that we do not know, for a tax that can be easily evaded, for a purpose that does not exist, we are to be saddled with legislation which is sure to lead to litigation, and which is to upset the present standards of taxation with regard to income-tax, and, I again repeat, make the income-tax more sweeping, more rigorous than in any part of the world.

I have already occupied a considerable amount of time and considering that we have a very thin House, I do respectfully urge upon Government to consider whether it is the right thing to place this motion before the House when so many are away. It is not the fault of Government, I admit. They have to bring in Government business when they can. It may be our

[Sir Cowasji Jehangir.]

own fault that we are not all here to vote. I candidly admit that, but the consequences are the same. Although you send the Bill to Select Committee, it is very likely that a majority of this House will be against the principle. The effect will be that when it comes back it may be thrown out.

I would sincerely appeal to Government, if they can see their way to do so, to postpone consideration of this matter for just a week. Then you will know the real sense of the House by the vote. Of course, if it does not suit the convenience of Government to do so, we are here to do our duty. We shall go into the lobby against Government. But I should respectfully warn Government that they must not blame us if we practically vote against the principle of the Bill when it comes before us for the third time, with the report of the Select Committee.

Mr. Nabakumar Sing Dudhoria (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I rise to support the motion of the Honourable the Finance Member for a reference of the Income-tax Amendment Bill to a Select Committee. Sir, the two objects for which the Bill has been introduced are (1) to augment our revenues, (2) to arrest the flight of capital out of the country. If we feel that these two objects are likely to be achieved in any way by the Bill, we should accept its principle outright, and lend our support to its passage to a Select Committee. Honourable Members who spoke against its reference to the Select Committee waxed themselves eloquent, either on the imperfections of the Bill or on why it did not follow the English ideals *in toto*. But there was no one who laid stress upon the fact that the objects as set forth in the Bill would not be fulfilled no matter to what extent or quantity.

The Government, as we all know, are in a most difficult financial situation. They need money for carrying on the normal administration. The Bill aims at opening up a new source from which something must be obtained, and although the amount expected, may not come up to their expectations, it will be unwise on our part to treat such a measure with light-heartedness. We must now set our heart upon anything that will bring grist to our mill. If we do not tap that possible source proposed by the Government, mind you, Sir, we shall have to fill up the deficiency by fresh taxation upon ourselves.

I was feeling rather amused when some speakers quoted the opinions of Local Governments and European Chambers of Commerce in support of their opposition to the motion under discussion. There was no wonder that Local Governments, whose policy is controlled sometimes by Europeans, would oppose the Bill, because the Bill aims at touching their purse. The Chambers of Commerce, it is also no matter for surprise to us, should send up opinions in a similar strain, because they are organisations of European merchants, whose purpose it is to escape the proposed tax.

Mr. Arthur Moore: I wish to point out to the Honourable Member that the Bill, when it was referred to the Chambers of Commerce, was in its present form and is not aimed at Europeans as I understand it. It is only in the revised suggestion that Europeans will be affected by the Bill. As the Bill stands, Europeans are exempt.

Mr. Nabakumar Sing Dudhoria: There is undoubtedly so much opposition from these quarters because a large class of Europeans who have

hitherto avoided the income-tax in British India will be subject to that taxation from now if the Bill is passed.

I would again ask the House to consider carefully whether the objects, likely to be obtained by the Bill, will be really obtained or not. If they feel they are quite likely, they ought to accord them their whole-hearted support to the motion.

Sir, I own there are some obvious defects in the drafting of the Bill, but they can be, and I am sure they will be, smoothed down in the Select Committee. The Select Committee should see that discriminations, which have formed the subject-matter of criticism, are entirely removed and that people who are paid their pay or pension, from Indian revenues, are to be taxed for their income at the source.

The question of double taxation is haunting the brains of many of the Honourable Members, evidently interested in investment of capital abroad, but they should not bother themselves with that question. I should think their grievance is more or less imaginary, because people who are likely to be affected by double taxation know well how to get their remedy themselves. With these words I support the motion.

Mr. E. F. Sykes (Bombay: European): Sir, I hope the House will have patience with me while I am speaking on a subject of which I have no expert knowledge. If no one were to speak without expert knowledge, the proceedings of this House would be contained in a few very thin volumes; and a natural extension of this principle would prevent Members from voting as well as speaking. It is obviously the duty of Members to vote. I do not know what the experience of other Members is, but early in my career in this House I once abstained from taking part in a division. On that occasion my feelings were such that I determined never more to abstain from voting, and I have consistently voted on any subject that came up before the House whatever the extent of my knowledge might be. In any case I consider it the duty of a Member of this House to form an opinion based on the balance of advantage on one side or the other on any question that may be debated in this House, and equally it is the duty of a Member to speak when he considers that to do so may enable the House to consider more fully the matter under consideration. I should like to say at once that I am opposed to this motion for the reference of the Bill to a Select Committee. To agree to this motion would be to agree to the principle of this Bill. Now, Sir, there appears to be some difficulty as to what the principle of the Bill is, and you yourself have ruled that Members are entitled to their own opinion as to the principle of the Bill. Apparently the Finance Member is willing to allow for the purposes of the Select Committee that the Bill has no principles and may be altered in Select Committee. Now, Sir, I wish to express no opinion as to the advantage of this procedure as a regular arrangement. The fact remains that under the present procedure of this House the result of the debate at this stage is to give or withhold the assent of the House to the principle of the Bill. In exercise of the privilege you have been good enough to admit I wish to form my own opinion as to the principle of the Bill, and I do not find it very difficult. In the first paragraph of the Statement of Objects and Reasons we find this:

“Under the Indian Income-tax Act of 1922 (Act XI of 1922), liability to tax depends mainly on the ‘origin’ of the income and the place where it is received.”

[Mr. E. F. Sykes.]

Paragraph 4 says :

"It is therefore considered desirable to amend the law . . . so as to make residence the main basis of liability. . . ."

That is to say, the principle of the Bill is to reverse the principle of Act XI of 1922. I submit, Sir, that it is not reasonable to ask the House to have anything to do with a Bill so unfortunately named. It may be that the substantive Act is based on a wrong principle; it may be that its amendment is an urgent matter. Obviously in that case it is the business of the Government to introduce a fresh Bill covering the whole field of income-tax law. And surely here is an opportunity for the Honourable the Finance Member to add to the other services he has rendered to this country. If he were to introduce a new Income-tax Bill which could be understood by the ordinary man and not merely by the income-tax specialists, his name would outlive that of all other Finance Members. Whether the House would accept the reversal of the main principle of the Bill as an integral part of the new Bill is a question the House will then have to decide; but at least it will be a legitimate occasion for debate.

But I find even more important objections to the Bill. It has not been possible for the Finance Member to estimate the net revenue likely to result from this Bill. The prospects of any large increase are not very bright. There is however no doubt that there will be considerable costs. It is not therefore at the moment possible to say whether the net income will be an increase or a decrease by the action of the Bill if passed. If there is a decrease the Bill will stand condemned; if there is an increase the Bill is not the less objectionable. It is just over two months since we had before us an amended Finance Bill. With the rest of the group I belong to, I supported this Bill which added largely to all existing taxation, income-tax included. One of the main reasons for which I supported the Finance Bill,—and I think the same motive affected the other Members of this group,—was that it was not possible within any reasonable period for the retrenchments that were then under consideration to enable the expenditure to be reduced to a parity with revenue; and therefore as a temporary measure up to the end of the financial year 1932-33 we accepted those proposals. But I do not think any one who was present in the debates of the last session would deny that the concensus of opinion was that this was the limit to which we were able to go. In fact considerable sections of the House decided that it was beyond the limit to which they were prepared to go. However, speaking for myself and obviously, having voted for the Bill in all its stages, it was not beyond the limit to which I and the rest of the group were prepared to go. But this Bill is a Bill either to reduce revenue or to introduce additional taxation, and on that point alone I think the House will be justified in rejecting this motion. Government have now had ample leisure to consider the possibilities of retrenchment; and my view which I think will be held by a greater part of the House is that any further differences between revenue and expenditure must now be met by further retrenchment. You, Sir, would probably hold me irrelevant if at this stage I entered into any details of the possibilities of further retrenchment in addition to what has already been made. There are of course a number of proposals made by the committees that have not yet been acted upon. But my own opinion is that even beyond the proposals made by

the committees it is possible for Government to find further sources of retrenchment. We have also heard from a very high authority that there is to be no further taxation and yet, Sir, at the very beginning of the session, this Bill, in spite of the strong opposition that was made to it, is again brought before us and we are asked to accept the principle of it. I think, Sir, I need say no more. I oppose this motion.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, when this Bill came before the Assembly last time at Simla I did not take any part in the discussion as I wanted to balance the benefits and the advantages as well as the disadvantages of this new taxation. I find that last time the reasons given by the Opposition were quite sufficient to convince the Government Benches of the futility of this taxation. This time the Bill has again been introduced, and I have heard such cogent arguments today that I am convinced that this Bill also stands condemned in itself not only outside this House, but as my friend Sir Muhammad Yakub pointed out in his very lucid speech this morning, it is being opposed in all corners of this House as well. Still I find that measures like this are placed by the Government before the House supported by those who are always for the Government on such motions. I do not understand what is the occasion for bringing forward such a measure as this; where is the justification, where is the need, for introducing an amendment in the Bill which has been so sharply criticised throughout the whole length and breadth of India. We know the volume of opposition that we had not only in this House but also from the country in general, from the Local Governments, from members of Government itself, from Government officials as well as from non-officials, from trades people, from members of the different Chambers of Commerce, but we find that still the Government is persistent in going forward with this Bill which is not only technically and legally defective but absolutely detrimental to the trading and other interests of the country. My friend Sir Cowasji Jehangir has laid threadbare the different defects of the Bill. He has pointed out that the Honourable the Finance Member himself is not sure what will be the outcome or profit of this Bill; still I feel that the Government Benches are bent upon dividing the House on this motion.

Sir, it has been proved conclusively today that the flow of capital is not the reason for bringing forward this Bill. There is some policy underlying the whole thing which perhaps the Government Benches think it is better not to state before the House and that it should remain concealed in the archives of the Government. I know, Sir, that it has also been proved that it will not be a paying proposition, but it will mean an additional burden on the whole of the Indian public, whether rich or poor, whether capitalist or non-capitalist, and I feel that India is sure to be crushed under the burden of such a heavy taxation. Government ought to be alive by now to the fact that this is not an opportune moment for flinging such Bills as this at the heads of the people when the country itself is in every way depressed and the people are struck financially and otherwise.

Mr. Arthur Moore: Sir, listening to some of the speeches today, it seemed to me that in certain quarters of the House there is evidence of a complete misconception as to the effect of the Bill as it stands upon

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the European community. Mr. Dudhoria appeared to think that this Bill, when it was circulated, was disapproved of by European Chambers, and that the Provincial Governments being, as he supposed, under the influence of European Chambers, also disapproved of this Bill because in some way it penalised Europeans. Well, Sir, nothing could be more fantastic or opposed to the truth. This Bill creates a privilege for Europeans . . .

Mr. Gaya Prasad Singh: Then why do you oppose it?

Mr. Arthur Moore: If the Honourable Member will listen to me I will give him the reasons why we oppose it. If Honourable Members will turn to clause 4, sub-clause (b), they will find that "as regards taxing foreign investments the clause runs as follows:—"which accrue or arise to such person without British India during that year if he is resident and domiciled in British India in that year". That is to say, you have to be both resident and domiciled to come within the mischief of this Bill. Now, Sir, my friend Sir Cowasji Jehangir in a very admirable speech, the substance of which I entirely agreed with, did, I think, add to this confusion, because at one period of this speech he suggested that the Bill in its original form,—and it is still in its original form—was opposed to European interests, but that we having representation in this House had been able to look after our interests and procure some desirable change which was promised when the Bill went to the Select Committee, whereas residents in Indian States had not succeeded in securing such benefit. Well, again that is not in accordance with facts. The facts are that the change which we are promised in the Select Committee will make this Bill applicable to the European community and also to residents from the Indian States. I think my friend will agree with me.

Sir Cowasji Jehangir: Quite right.

Mr. Arthur Moore: And therefore this is a complete misconception. If my friend Mr. Dudhoria were to take the trouble to read the opinions expressed when the Bill was circulated he would find that there is no basis whatever for his suggestion. As a matter of fact, the bulk of the opposition to this Bill comes from Indian quarters, but there is indeed every variety of opposition. There is the expert opposition of Income-tax Commissioners. We had in the Simla session very striking passages read out to us upon that subject. And again, if my friend Sir Muhammad Yakub were to read those opinions, he, also, would find that there are associations of Indian traders and associations of Chetties from the South of India and so on which must include a great many men who are in a small way of business. My friend Mr. Lalchand Navalrai showed us that there are a great many small Sindhi traders in every part of the world, who are all opposed to this Bill. Therefore the opposition to this Bill as reflected in that volume of opinions which was circulated to us is not only not of the character that Mr. Dudhoria supposed, but the very basis that he ascribes to it is non-existent, because the Bill which was sent out for consideration and which was before these associations and Chambers and Provincial Governments and other bodies did not in any way penalise the European community, but on the contrary for the first time, as far as I know, created for them a privileged position. It is quite true—and that is the argument used by the Honourable the

Finance Member for the Bill—that under the English Income-tax Act an Indian in England would have this privileged position, that is to say, that a person who is resident but not domiciled in England is not taxed in England on his investments abroad. In England under the law that privilege exists. Hitherto in India no such privilege has existed. The European community has had no privilege. Now, Sir, when the Bill was first produced in the melancholy month of March a year ago and we saw this astonishing provision, we were naturally deeply concerned regarding it, and our opposition to the Bill began from the day we saw it and therefore could certainly not then have been based upon the fact that it damages our interests in any financial sense, because so far from damaging our financial interests it confers upon us a privilege. What did concern us very much was that at the present time when we are asking through the Round Table Conference for complete equality with our Indian fellow-subjects in all commercial matters we should have a privilege unloaded on us. Obviously that is going to damage our case. (Laughter from the Nationalist Benches.) My friend I think sees the point. Obviously it is going to damage us very much in our Round Table Conference discussions if we have foisted on us by Government a privilege for which we had never asked. Therefore, as I say, we opposed this Bill from the beginning and when it contained a privilege in our favour.

Now, Sir, when the Honourable the Finance Member found that there was strong opposition to the Bill and that in particular there was objection to this clause—that a great many Indians naturally objected to it because they said it conferred a privilege on the Europeans, and the Europeans themselves also were not at all grateful and said that they did not want this privilege—he attempted to meet the wishes of the House and so he has—here I agree with Sir Cowasji Jehangir—he has considerably altered the principle of the Bill and given an undertaking that in the Select Committee Government are willing to agree that this privilege to those who are resident but not domiciled shall be done away with. That is the situation. Therefore really we are discussing a Bill which is not before us. We are discussing a Bill in which clause 4, sub-clause (b) will be worded differently. But our opposition to the Bill is not mitigated now that we find that instead of conferring a privilege upon us it inflicts a loss; nor has the opposition of Indians in the business community been—as I understand from Sir Cowasji Jehangir and others—in any way diminished whatsoever.

When the Bill first came before us and was published, I personally did consider very much where one's duty lay in regard to it, because I do not think that in any way it is likely to affect me except on the point raised—and it is a good point—by my Honourable friend Mr. Studd and others, that inevitably there will be delays in recovering income-tax in the case of people who have investments in England, and are not to be subjected to double taxation. But in regard to foreign investments the Bill does not concern me in the least, and I have tried to look at it in an impartial way.

While there is a whole battery of arguments against the Bill, I should like to put briefly three of the principal arguments that have weighed strongly in my own case. They are not, I am bound to say, new arguments; we have heard them before. But they make such a strong appeal to me that I would like with your permission briefly to recapitulate them. The first point is the very very strong one, that you have no means

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whatever of operating this Bill when you are face to face with the desire to evade. You are entirely dependent upon honesty. It is an absolute shot in the dark and it is really a catch penny Bill, for the Honourable the Finance Member has told us himself that he has not the slightest idea of what it will bring in; and for what it does bring in he will be entirely dependent upon those people who make an absolutely correct return. People who are sufficiently unscrupulous not to do so cannot in any way, as far as I understand, be dealt with. That seems to me a very damaging aspect of any Bill—that you are penalising the honest and have no means of dealing with the dishonest. That is an objection of universal application. My second one appeals more, I think, to my community, but I put it to the House on grounds of general fairness. There are in this country an enormous number of men—**young men and middle-aged men—who have nothing whatever to do with business, who are brought out here to serve India in the Army or it may be in the civil service, but I am thinking at the moment particularly of the Army, and particularly of the officers in the British regiments.** We all know that it is practically necessary for an officer in a British regiment to have some private means, and by and large there are a great many people who are serving in India, who could not do so actually as married men on their pay—again I refer to the officers of the British Army in India, not the Indian Army. Those people have no idea that at present this sword is hanging over their necks, nor have they any conception of the fact that a Bill is before this House the result of which would be that money which has been in their family and has come to them, money which has never been earned in India and has had no connection with India but which very often enables them to provide in England for the education of their children while they themselves are in India, and is therefore money that is never brought into India—that such money is as I understand it, by this Bill to be made liable to income-tax. I think it is a monstrous suggestion.

The last point is the point which was made so effectively by Sir Cowasji Jehangir, and that is that we are attempting to rush through something which the inhabitants of the Indian States, of the whole of India outside British India, know nothing about. They have no conception of what we are doing. I do not myself for a moment believe that the Marwari community has thoroughly understood what this Bill is going to do to them. As we all know nearly all the members of the Marwari community, who play such an important part in the commercial life of India, have actually got real estate in an Indian State and under this Bill all that real estate in Indian States will be subjected to income-tax in British India. This is a time when we are proposing to bring the Indian States right in to the political life of India; that on the eve of that we should rush through this legislation which damages very severely the financial interests of the subjects of the Indian States is a most unhappy and unreasonable proposal, and therefore, I would appeal to you that at this time of the afternoon in the month of Ramzan, when Members are fasting and it is difficult to get a full House we should not close this debate, but be allowed to carry it on to another day, and not take our division this afternoon. Thus it would be possible to get the real sense of the House upon this matter, because I may say that we are absolutely convinced that we have got

a majority of this House against this Bill, even without counting the hearts of Members upon the back Benches who we know are with us, although their legs may carry them into the lobby against us. We are prepared to face their opposition if we conduct the battle under normal conditions.

Mr. B. Das: Remember this on Monday also.

Sir Muhammad Yakub: What about the adjournment after 4, when you wanted the debate in spite of the protest of the Mussalman Members. (*Mr. Arthur Moore:* "No, no".) The Mussalman Members are all present here. It is only half past three.

Mr. Arthur Moore: When in September the whole matter was, very much to our temporary relief, postponed till January, it did not occur to any of us that it would come along right at the beginning of the session when we would have a thin House, and in this month of Ramzan when in spite of what Sir Muhammad Yakub said, our Muhammadan friends are not with us.

Sir Muhammad Yakub: They are in the lobby.

Mr. Arthur Moore: Therefore I would ask whether it would not be possible to carry this debate over to another day before we approach our final decision on this question of a Select Committee, which does raise this very difficult issue of the principle of the Bill. We do not wish in any way to commit ourselves to-day to accepting the principle of the Bill.

Bhai Parma Nand (Ambala Division : Non-Muhammadan): When discussing any proposal for taxation, we should clearly understand that the Government can tax only those who enjoy the privileges and protection afforded by the Government. When we know that there is a class of Indians who have gone out of India and who do not enjoy any of the privileges under the British Government, I do not think Government are justified in imposing a tax on the incomes of those people. I have been to some of the British colonies, to East Africa, South Africa, and even to some of the British colonies in South America. I have met hundreds of Indians everywhere, who when they left India, were quite penniless. Most of them went as indentured emigrants. They went as labourers or worse, as semi-slaves, and after working there for some years, they made money and were then living in affluent circumstances. Suppose they come back to this country. I do not think the British Government have any right to tax the income which they were able to save there, on account of their simple and good habits and hard work.

Then there is another class of people who had gone out. They were specially noted for their spirit of enterprise. I happened to know some of this class of people. They did not possess anything, when they left India. They took no capital out of India along with them. They were driven out of the country for the purpose of getting their bread. They too made a little money after undergoing many troubles and hardships. If you are going to tax the small sums which they send to their relations or friends, you are simply going to check the spirit of enterprise with which some people are gifted by nature. Having experience of these two classes of people, I really do not know how you can make out a plea that there

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is a large export of capital from India, outside. I admit there may be some few rich men who might be inclined to invest their capital abroad. But it is the slack commercial morality of our people here and the industrial backwardness of our country which make these people invest their capital in other countries. They send their capital out where it is better utilized. Even in that case, when the Government have not provided for and encouraged industries and when there is a lack of commercial prosperity in the country, the Government have no right to tax the income accruing from that capital for the use of which they have afforded no facilities. Let me turn to another side of the question. This Bill has been circulated, and high Government officials, whose views should be considered as authoritative on this subject, have expressed their opinions about it. I will first read from the letter addressed by the Commissioner of the Rawalpindi Division to the Punjab Government. He is opposed to this Bill, and says:

"My second objection to the Bill is that it is extremely difficult to ascertain income accruing or arising outside British India if, as is often the case, there is any attempt to conceal it. At present only the profits and gains of business are taxable, and that only when they are actually received or brought into British India. Even so, evasion is ridiculously easy and most difficult to detect. Owing to the number of Punjabis doing business abroad and the proximity of many Indian States, such cases are common in the Punjab, and as Commissioner of Income-tax I had to deal with many of them. In hardly any there was any security that the profits and gains were correctly assessed, and in most there was good reason to suspect evasion, though it was rarely possible to prove."

"It is now proposed," he goes on "to make assessable every kind of income accruing or arising outside British India. The difficulties of correct assessment will therefore be greatly increased, and the result will probably be wholesale evasion and much penalising of the honest at the expense of the dishonest. I consider this objection outweighs the two advantages claimed for the Bill (an increase of revenue and a check on the out-flow of capital), for the Bill will either increase dishonesty or generate a sense of injustice."

Again, Sir, the Honourable Judges of the Lahore High Court, the Financial Commissioners, the Legal Remembrancer, the Commissioner of Lahore, the Punjab Trades Association and the Punjab Chamber of Commerce were all consulted and the opinion of all these different bodies is summed up in this one paragraph which with your permission I will read to the Honourable House:

"The declared objects of the Bill are to discourage the export of capital from British India and to encourage the investment of capital in India. The Governor in Council considers that though the Bill may have some effect in the direction desired there are more potent reasons than the desire to avoid income-tax which are tending to send Indian capital abroad for investment."

The Governor in Council outweighs this argument regarding the export of capital to foreign countries. He says:

"As long as the economic and political prospects in India are as uncertain as they are to-day, capital will tend to take refuge abroad, and the fact that the capital invested abroad will become under the Bill liable to Indian income-tax, will have little effect in arresting this tendency. It would be impossible to arrest that tendency of the export of Indian capital outside by this proposed tax. Moreover, the supply of capital for investment in India is limited not so much by the export of capital from India as by the fact that capital in this country is hoarded. This habit of hoarding is partly traditional and partly due to a not unfounded distrust of Indian commercial morality and of the conduct of joint stock companies and Indian banks. An improvement in these directions is the real check both to foreign investments and to hoarding."

Sir, I have so far been quoting opinions from the Punjab. I will now refer to the opinion that comes from the South. The Secretary of the South Indian Chamber of Commerce says:

"In the first place the Government have not indicated in any manner that the flight of capital from India has taken place in order to take advantage of the loose provisions of the present Act for assessment of outside incomes. As far as South India is concerned, the outward movement of Indian capital has been in the shape of business chiefties of Nattukottai Chettiyars and Tamil Mahomedans in such places as the Federated Malay States, the Straits Settlements, French Cochinchina and so on. That is due to the traditional enterprising spirit of these people rather than to any desire to escape the payment of tax in British India. Their business has been carried on in those places for not less than a century now, and there is no evidence of money leaving this country in recent years. Rather there is some evidence the other way to indicate that business activities in other countries have been restricted altogether stopped, and the capital brought over to India." Further it is added: "It will be found that the Indian Taxation Enquiry Committee did examine this aspect of the question, and considering the administrative difficulties and the comparatively small loss of revenue on this head, decided to reject the proposal to tax outside income."

Sir, I have given these quotations from opinions as expressed in the Punjab and in the South simply to show that the plea, that capital is exported from India on any appreciable scale, is unfounded. There is no substance in the argument, and on that ground I beg to submit that we have no right to tax the incomes that are earned abroad.

Besides this, there is one other aspect of the Bill to which I would like to draw the attention of the Honourable Members, and that refers particularly to the case of the Hindus. The Bill goes to disrupt and even to destroy the Hindu joint family system. Sub-clause (b) of clause 5 runs thus:

"(b) a Hindu undivided family, company, firm or other association of individuals is deemed to be resident in British India unless the central control and management of its affairs is situated wholly without British India."

Now, Sir, take the case of an old father or mother who have got two or three sons. The sons have gone abroad, say, to East Africa or to any other British colony. They happen to make a little money out there. Their father or mother is at home, and is not doing any work and is dependent upon his sons. The income of these four or five members of the family will be considered as the income of the old manager of the House and naturally the whole amount will be liable to be assessed. It comes to this, then, that if the sons desire to become free from this tax, they should break up their little happy family and be treated as separate individuals. This would be a very severe hit at the system of the Hindu joint family. We do not want that in order that a little money may come into the coffers of the Indian Government, our family system should be brought into disruption. Again, Sir, in clause 43(a) "a Hindu undivided family is deemed to have the domicile of its manager". To continue the example I have just now given, the sons are working outside this country and making money for themselves for the maintenance of their family and because the old father has become the master manager, the whole property is supposed to be his and is consequently taxed. Thus, Sir, my last argument against this Bill is that it effects very badly the Hindu joint family system and we as Hindus should oppose it at every step.

In conclusion I have to make this submission that this is a very important measure and I would request the Honourable House not to decide it in a hurry. The Honourable Member who spoke before me has made

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an appeal to the Honourable the Finance Member that as this was a very serious matter, it should not be decided in a hurry and it should be postponed for further consideration. I join that appeal and I hope that the Honourable the Finance Member will listen to it and have the consideration of this Bill postponed to some future day.

Dr. F. X. DeSouza (Nominated Non-Official): I move, Sir, that the question be now put.

Several Honourable Members: "No, no."

Mr. President: I think there has been a fair debate and I accept the closure.

The question is:

"That the question be now put".

The Assembly divided:

AYES—39.

Abdul Qaiyum, Nawab Sir Sahibzada.
Acott, Mr. A. S. V.
Allah Baksh Khan Tiwana, Khan Bahadur Malik.
Allison, Mr. F. W.
Anklesaria, Mr. N. N.
Azizuddin Ahmad Bilgrami. Qazi.
Bajpai, Mr. R. S.
Banerji, Mr. Rajnarayan.
Bhore, The Honourable Sir Joseph.
Clow, Mr. A. G.
Cosgrave, Mr. W. A.
Crerar, The Honourable Sir James.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Frénc, Mr. J. C.
Graham, Sir Lancelot.
Gwynne, Mr. C. W.
Jawahar Singh, Sardar Bahadur Sardar.
Lal Chand, Hony. Captain Rao Bahadur Chaudhri.

Macqueen, Mr. P.
Mukherjee, Rai Bahadur S. C.
Noyce, Sir Frank.
Parsons, Sir Alan.
Ragnubir Singh, Kunwar.
Rainy, The Honourable Sir George.
Rajah, Rao Bahadur M. C.
Rajan Baksh Shah, Khan Bahadur Makhdum Syed.
Rama Rao, Diwan Bahadur U.
Roy, Mr. S. N.
Ryan, Mr. T.
Sahi, Mr. Ram Prashad Narayan.
Santos, Mr. J.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Seaman, Mr. C. K.
Sher Muhammad Khan Gakhar, Captain.
Yakub, Sir Muhammad.
Young, Mr. G. M.
Zulfiqar Ali Khan, Sir.

NOES—40.

Abdul Matin Chaudhury, Mr.
Aggarwal, Mr. Jagan Nath.
Azhar Ali, Mr. Muhammad.
Bhargava, Rai Bahadur Pandit T. M.
Bhuput Sing, Mr.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Ghuznavi, Mr. A. H.
Gour, Sir Hari Singh.
Heathcote, Mr. L. V.
Iara, Chaudhri.
Jehangir, Sir Cowasji.
Jog, Mr. S. G.
Krishnamachariar, Raja Bahadur G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Miaara, Mr. B. N.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mudaliar, Diwan Bahadur A. Ramaswami.

Majumdar, Sardar G. N.
Murtoza Saheb Bahadur, Maulvi Sayyid.
Pandit, Rao Bahadur S. R.
Parma Nand, Bhai.
Puri, Mr. B. R.
Puri, Mr. Goswami M. R.
Ranga Iyer, Mr. C. S.
Rastogi, Mr. Badri Lal.
Reddi, Mr. T. N. Ramakrishna.
Sarda, Diwan Bahadur Harbilas.
Scott, Mr. J. Ramsay.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Studd, Mr. E.
Suhrawardy, Sir Abdullah.
Sykes, Mr. E. F.
Uppi Saheb Bahadur, Mr.
Wilayatullah, Khan Bahadur H. M.
Ziauddin Ahmad, Dr.

The motion was negatived.

Mr. President: The House will now proceed with the further discussion of the Bill.

Khan Bahadur H. M. Wilayatullah (Central Provinces: Muhammadan): I rise to oppose this Bill. Last March when the Finance Bill was presented to this House, we did not know what the financial situation would be, and as Honourable Members will remember a great deal of it was rejected, and the income-tax portion subsequently certified. At that time we did not have any idea that we should be confronted with another piece of legislation in the shape of the Supplementary Finance Bill. I mean to say that at that time we did not know what our requirements would be, and when the Bill came before us here in the month of November, that was totally rejected and it was also certified by the Viceroy. You may remember that in discussing the various provisions of the income-tax portion of that Bill, I said that frequent changes in the Income-tax Act were undesirable particularly because income-tax was a sort of direct taxation and was very unpopular with the people. We were told that so far as incomes between Rs. 1,000 and 2,000 were concerned, it had not been subject to any tax for many years. The surcharge also came on and the entire taxation was eventually imposed upon the people. In addition to the impositions of last March and the subsequent taxation under the Supplementary Finance Bill, there has been a great deal of retrenchment of expenditure. I think, now it ought not to be necessary to revise again the provisions of the Income-tax Act, in order to levy fresh taxation. In the address of His Excellency the Viceroy we were told that there is a revival of trade. We have been reading in the newspapers that England has been able to pay her instalment of war debt without borrowing. That goes to show that there has been a revival there also, and perhaps financially India is not so poor to-day as it was some time ago.

This Bill has had a very unfortunate history. In its original shape as it came before us and as it is now I feel there has been no change. There was an invidious distinction made in it based upon residence and domicile. On that account it was much opposed, but though the objectionable parts have been amended and the Bill softened down considerably yet, there is a great deal of objection to this Bill, the main reason being that direct taxation, especially in the shape of income-tax, has always been very unpopular and people resent it. Last year the rates of income-tax were revised and the limit of taxable income was lowered from Rs. 2,000 to Rs. 1,000. Then there was a surcharge and the rates were further revised. Now, we are again confronted with this new Bill, in which foreign investments also will come under taxation. A considerable amount of opposition to this Bill was due to the fact that it attempted to make an undesirable distinction between the Indians and the Europeans. Even now it is being pointed out that pensions drawn in England are not liable to income-tax while pensions drawn in Indian States are. If you will enquire from the Income-tax Department, you will be told that there is nothing in law to sanction it. Perhaps this is due to the practice which has been followed hitherto. I do not see any reason why people who draw their pensions in Indian states, and those who draw them in England, ought to be treated differently. They should be treated alike. Unless and until we put them on the same footing and treat them all alike, I am sure that it is undesirable that these changes should be made in the income-tax rates, or in the operation of the Income-tax Act so frequently within the course of one year. For these reasons, I oppose the Bill.

Mr. S. G. Jog (Berar Representative): The consideration of this Bill has certainly got a long lease of life by the manœuvring tactics which were supposed to have been secretly carried on in the House and which were done quite openly, as every body knows. The object of the House apparently was that there should be a further discussion of the Bill and the House should not come to any hasty conclusions on the Bill. So far as the Statement of Objects and Reasons to this Bill goes, I am proud to say that it is one of the patriotic measures introduced into this House by the Honourable the Finance Member. I do not know what is underlying the Statement of Objects and Reasons, but the ostensible reasons given are to prevent the flight of capital out of India and to add to the Indian revenues. These two objects apparently are patriotic, and whenever this side comes into power, I have no doubt such legislation will be introduced and will be carried. But this year we have had enough of taxation. Income-tax has been increased, surcharge has been introduced and many other taxes have been introduced. So I consider that this measure, which introduces a sort of innovation, should not be introduced at this time, particularly when the constitutional changes are taking effect very soon. The Bill, as I understand it, would materially affect the Indian Native States and they are bordering almost every district in British India. In actual working it will be very difficult to make accurate calculations for the purposes of taxation. This Bill was submitted to the various Local Governments and their opinions have been given. I will not bother to read the opinions of other Governments, but I should like to read the opinion that has been expressed by the Government of the Central Provinces. This is what they say:

"In reply to Mr. Gupta's letter No. F. 122-II/31-A., dated the 23rd April 1931, asking for the opinion of this Government on the Indian Income-tax (Second Amendment) Bill, 1931, I am directed to say that the Governor in Council agrees with the provision in the Bill that no attempt should be made to tax persons resident in British India but domiciled in other countries on the whole of their income, whether received in British India or not, because any such attempt would almost certainly lead to international complications and possibly to reprisals.

2. The majority of the persons whom this Government has consulted have protested at the discrimination which the Bill seeks to make between persons resident and domiciled in British India and persons resident but not domiciled. The Governor in Council is unaware how far the computation of income not received in British India is likely to be accurate and what increase of revenue may be expected by taxing such income, but, in view of the general opposition that the Bill is likely to arouse, he is of opinion that the decision on this point might be deferred until the nature of the reforms likely to result from the approaching Round Table Conference is more accurately known.

3. On the other provisions of the Bill the Governor in Council has no suggestions to make."

This is the opinion submitted by the Central Provinces Government. I should like also to read one more small extract from the opinion of the Commissioner of Berar. He says:

"With reference to the Legal Department letter No. 279-540, dated the 5th May, 1931, on the above subject, I have the honour to forward in original the opinions of the Deputy Commissioners, Yeotmal, Akola and Buldana, together with their enclosures and to say as follows. No reply has as yet been received from the Deputy Commissioner, Amraoti.

2. No exception can be taken to the object of the Bill which is to prevent capital leaving the country. Some of the sections, however, as worded at present, are likely to lead to invidious distinction between Indians and Europeans and are therefore open to objections. For instance, a European servant of Government or of a private company, if he invests money abroad or spends his leave in the United Kingdom less than 6 months in any financial year, will not be liable to Indian income-tax.

while an Indian in the same position would be. Again, if any Indian spends more than 6 months of a financial year in England he will apparently be liable to double taxation both under the Indian and English Income-tax Acts. I presume it is not intended to create this invidious distinction between Indians and Europeans. If these objectionable features were removed the Bill would receive cordial support."

It will be seen from this that even the Local Governments and the most important officials have got doubts about the efficacy of the Bill and, as I have said already, it may encroach upon income in the Native States. It will really complicate matters, and the result that is contemplated is very doubtful. When the federal constitution comes into existence, probably the whole of income-tax will be a subject between the Native States and British India and in that case probably the Native States will have to be consulted as regards the general policy of income derived in the Native States as well as derived in India or people resident in British India. So the whole thing is a very complicated one and in its actual working it will be still more complicated.

I had no mind to tire out the patience of the House by reading another extract from the Commissioner of Income-tax in the Central Provinces and Berar as it is a very lengthy one, but he also expresses great difficulty as regards the actual working of the proposals and the realisation of the effects that are contemplated by the Finance Department. So I will take the liberty of giving it to the House. He says:

"(i) As regards objections levelled against the Bill the main objections against the Bill are—

- (1) That as stated in the Indian Taxation Enquiry Committee Report, much revenue is to be obtained from the change in the system of assessment.
- (2) That it would prevent the capital from going out.
- (3) That in certain cases there will be double, treble and even multiple-taxation without necessary relief.
- (4) That on the eve of Indian Reforms, the question would be whether this should be a local tax or a State tax or a Federal tax.
- (5) That large number of persons doing business in the Indian Native States will pay double taxation without consequential relief.
- (6) That the Bill introduces the principle of differentiation or discrimination which is not called for.

To all these points I would reply seriatim as follows:

(1) Without any complete enquiries having been made it is difficult to say whether the additional revenue to be obtained on account of the proposed amendment would be small or big. I think the Indian Taxation Enquiry Committee did not make any complete enquiries into the persons doing business outside British India or having investments which carry lot of interest and which are accumulated there only. In any case in these days of financial stringency any little revenue that is added to the budget will be welcomed. But I think that the addition to the income on account of the amendment will be a substantial one. It would not be wise to cite particular instances, but it is a matter of fact that people have been taking advantage of the shortcomings of the present income-tax law and investing their capital outside British India. Not being content with that, they make themselves bold enough to state that because of the Indian Income-tax Act they had to carry their capital to Ceylon or other places where no income-tax was levied. But to their disappointment income-tax is now levied in Ceylon also. It is wrong to contend that for paying tax on incomes earned outside British India there is no return for it to the resident. It may be that the Government of India may not go to war with a foreign power if the investments of a resident of British India are not returned by that power; but still the same, the resident in British India enjoys full amenities of life in British India and it stands to reason that he should take the full burden of Government along with other residents in India. The burden of taxation should be borne by all residents of India and in proportion to their capabilities. If, therefore, a person making income out of India escapes taxation, it means that his brethren have to pay for him; and this in the eye of law, should be treated as unfair.

[Mr. S. G. Jog.]

(2) This argument seems to have no weight. If a man has capital and if he is an honest payer of tax, or if he honestly discharges his responsibilities to the State, it is immaterial for him as to whether his investments are made within British India or outside British India, for, like an honest subject, he would always make the return of his income correctly. People who want to find out ways of evading taxation only can object to their incomes from outside British India being taxed.

(3) It is true that in certain cases incomes made outside British India would be liable to double taxation; but the law has made provision for it and necessary relief is granted where the foreign State has agreed to such an arrangement. So far as the United Kingdom is concerned, there is a specific provision in the law for relief from double taxation, i.e., section 49 of the Income-tax Act. The Government could make such a provision in the law only as regards the United Kingdom, because practically it forms part of the same Government, but such a provision is not possible in the case of other powers unless the consent of those powers is obtained. In Seligman, who has been quoted by no less than two Hon'ble Members of the Assembly in opposing the principle underlying the Bill, it is stated: 'The other method of avoiding the embarrassment (double taxation) would be by inter State agreements based on consideration of Inter-State Comity whereby each State would bind itself to refrain from levying more than its equitable and proper share of the tax.' Such an agreement has been arrived at between India and England. This is clear from the provisions of section 49. Same arrangement has also been made with certain Indian Native States as will be apparent from Notification No. 25, dated the 1st July, 1926, issued by the Government of India under section 60 of the Indian Income-tax Act. Thus in States which have entered into agreement with the Government of India and of which the list can be found in the Income-tax Manual (page 96), relief from double taxation is granted even now. It is, therefore, apparent from what has been said above, that the law makes provision for relief from double taxation in case of incomes derived from States which have agreed to such an arrangement. If a particular State refuses to grant such a relief, it is for the assessee to take his chance of investing money there.

(4) In the first place the present law will not stand till after the Federal system of Government in India is introduced, and if it does stand, it would be for the Federal Government to amend the law to suit their requirements. It would not then be difficult for the Federal Government to find out as to how the income tax will be administered. As a matter of fact in the Author quoted by the Hon'ble Members, there is a chapter already devoted to the solution of this problem and it will be found that, as stated above, it will not be difficult to solve the question and say whether the tax will be Federal tax, State tax or Local tax.

(5) I have already answered this point above. As it at present stands, the Indian States who have entered into an agreement in the matter, do grant relief, and in the case of assessee making incomes in such States there is no double taxation.

(6) The chief objection against the Bill is what is called the introduction of the principle of discrimination and this seems based on the definition of 'residents' in clause 4 (a). It seems contended that many of the Englishmen (an Hon'ble Member said it was cent. per cent.) though reside in India for a long time, do not declare India to be their domicile. But perhaps the principle involved in the law on the subject is not fully understood by the Hon'ble Members who object to it on the ground of discrimination. The principle involved is not so much of domicile as of double taxation. The income made by Englishmen or foreigners outside British India is not exempt from taxation. He pays local tax and if that were to be taken into account for assessments in British India on the principle of granting relief in cases of double taxation, this income will practically come to be excluded. If, on the other hand, it were to be included in British India also for assessment, the enquiries will not only be prolonged but would be embarrassing to the assessee. Such people will have to produce their accounts or other evidence in India in support of their return and this would cause unnecessary trouble to them, whereas the same accounts or evidence could easily be produced in the countries where the incomes are made. Moreover, I see no justification in taxing the income of a foreigner not at all made in British India. I am, therefore, not of opinion that the income of a foreigner, whether he is an Englishman or not, made outside British India be taxed in British India.

(ii) Now as regards the provisions of the Bill.—It is no use giving reasons for the clauses in the Bill. The statement of objects and reasons published along with the Bill explains the necessity of them. As is well said in this statement, these changes

have become necessary merely to slightly modify the principle of assessment from that of origin to that of residence, and this was with the object of taxing incomes of the residents of India who, to avoid Indian income-tax make investments outside it. On the wordings of the clauses there is nothing to be said, as, to effect the change, it is necessary to make some verbal alterations in certain sections of the law."

Sir, I am sorry, I had to read out the whole portion not to tire out the patience of the House at this late hour, but I thought that the view of the head of my province, which has been very elaborately discussed, should be placed before this Honourable House, because he has made certain suggestions and remarks which I thought were worth quoting here. In view of the doubtful nature of the benefits expected from this measure, in view of the complications arising between the Indian States and British Indian subjects, and in view also of the fact that the Federation will in a very short space of time come into existence when the whole law of income-tax will have to be gone into, reviewed, discussed and changes introduced, I am really doubtful whether it is worth while to take all this bother at the present moment to revise the existing income-tax for a short time. In these circumstances, I earnestly beg of the Honourable the Finance Member to withdraw this Bill and take his chances when the new constitution comes into existence in the not distant future.

Dr. Ziauddin Ahmad: May I suggest the adjournment of the House now in view of Ramzan?

Mr. President: As there are several more speakers, I think the House would prefer adjourning instead of going on. I therefore adjourn the House till Eleven of the Clock on Monday.

The Assembly then adjourned till Eleven of the Clock on Monday, the 1st February, 1932.