

Saturday, 28th January, 1939

53 (1)
21.2.62.

THE
COUNCIL OF STATE DEBATES

VOLUME I, 1939

(23rd January to 18th April, 1939)

FIFTH SESSION

OF THE

FOURTH COUNCIL OF STATE, 1939

~~Unfaded~~ Fumigated 18-12-73



PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI
PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI

1939.

CONTENTS.

	PAGE.
Monday, 23rd January, 1939—	
Members Sworn	1
Questions and Answers	1—9
Motion for Adjournment <i>re</i> Railway disaster near Hazaribagh, E. I. R.	9—10
Amendments to Ottawa Trade Agreement Rules, 1932, laid on the table	10—11
Message from His Excellency the Governor General	11
Committee on Petitions	11—12
Congratulations to recipients of Honours	12—13
Governor General's Assent to Bills	13
Bills passed by the Legislative Assembly laid on the table	13
Messages from the Legislative Assembly	13—14
Death of Nawab Sir Muhammad Muzammil-Ullah Khan and Khan Bahadur Hafiz Muhammad Halim	14
Motor Vehicles Bill—Motion to consider, adopted	15—37
Statement of Business	37—38
Thursday, 26th January, 1939—	
Questions and Answers	39—46
Motion for Adjournment <i>re</i> Constitution of the Indian Sandhurst Committee—Disallowed	46—48
Statement laid on the table <i>re</i> Draft Conventions and Recommendations adopted by the 21st (Maritime) Session of the International Labour Conference	48—50
Governing Body of the Indian Research Fund Association	50
Indian Tariff (Amendment) Bill—Considered and passed	50—55
Indian Income-tax (Amendment) Bill—Motion to consider— <i>not concluded</i>	55—90
Friday, 27th January, 1939—	
Indian Income-tax (Amendment) Bill—Motion to consider, adopted; consideration of clauses— <i>not concluded</i>	91—129
Motion for Adjournment <i>re</i> Railway disaster near Hazaribagh, E. I. R.—Withdrawn	129—139
Saturday, 28th January, 1939—	
Member Sworn	141
Indian Income-tax (Amendment) Bill—Considered and passed, as amended	141—189
Statement of Business	189—190
Monday, 30th January, 1939—	
Member Sworn	191
Questions and Answers	191—194
Messages from His Excellency the Governor General	194
Governing Body of the Indian Research Fund Association	195
Ajmer-Merwara Municipalities Regulation (Amendment) Bill—Considered and passed	195—196
Indian Cotton Cess (Amendment) Bill—Considered and passed, as amended	196—197

	PAGES.
Monday, 30th January, 1939—contd.	
Destructive Insects and Pests (Amendment) Bill—Considered and passed	197—198
Motor Vehicles Bill—Considered and passed, as amended	198—236
Statement of Business	236
Monday, 13th February, 1939—	
Members Sworn	237
Questions and Answers	237—246
Message from His Excellency the Governor General	246
Bill passed by the Legislative Assembly laid on the table	247
Messages from the Legislative Assembly	247
Presentation of the Railway Budget for 1939-40	247—253
Statement of Business	253
Wednesday, 15th February, 1939—	
Information promised in reply to questions laid on the table	255
Messages from His Excellency the Governor General	256
Indian Naval Reserve Forces (Discipline) Bill laid on the table	256—257
Bills passed by the Legislative Assembly laid on the table	257
Message from the Legislative Assembly	257
Indian Income-tax (Amendment) Bill—Consideration and adoption of amendments made by the Legislative Assembly	257—258
Indian Merchant Shipping (Amendment) Bill—Considered and passed	259—260
Saturday, 18th February, 1939—	
Member Sworn	261
Questions and Answers	261—268
General Discussion of the Railway Budget for 1939-40	268—320
Monday, 20th February, 1939—	
Questions and Answers	321—328
Ruling—That the question whether a Bill is <i>ultra vires</i> of the Constitution should be decided by the House	328—333
Resolution <i>re</i> Excluded and partially excluded areas—Negatived	333—360
Hindu Polygamous Marriage Restraint Bill—Withdrawn	360—364
Indian Succession (Amendment) Bill—Introduced	364—365
Resolution <i>re</i> Inland water communication, irrigation and prevention of floods—Negatived	365—367
Statement of Business	367
Thursday, 23rd February, 1939—	
Death of His Excellency Lord Brabourne, Governor of Bengal	369
Monday, 27th February, 1939—	
Questions and Answers	371—376
Resolution <i>re</i> Purchase of stationery, etc., of Indian make—Adopted	376—388
Resolution <i>re</i> Appointment of a Committee for undertaking legislation in regard to Hindu marriages—Negatived	388—409
Civil Procedure Amendment Bill—Motion to circulate, negatived	409—411
Parsi Marriage and Divorce (Amendment) Bill—Introduced	411
Shebaity Bill—Withdrawn	411—413
Indian Succession (Amendment) Bill—Motion to refer to Select Committee, adopted	413
Statement of Business	413

Tuesday, 28th February, 1939—

Bills passed by the Legislative Assembly laid on the table	415
Presentation of the General Budget for 1939-40	415—421

Tuesday, 7th March, 1939—

Questions and Answers	423—435
Information promised in reply to questions laid on the table	435—475
Standing Committee for the Labour Department	475
Standing Committee for the Department of Commerce	475
Standing Committee on Emigration	475
Indian Naval Reserve Forces (Discipline) Bill—Considered and passed	475—510
Employment of Children (Amendment) Bill—Considered and passed, as amended	510—514

Thursday, 9th March, 1939—

Bills passed by the Legislative Assembly laid on the table	515
General Discussion of the General Budget for 1939-40	515—566

Monday, 13th March, 1939—

Questions and Answers	567—576
Indian Succession (Amendment) Bill—Presentation of the Report of the Select Committee	576
Resolution <i>re</i> Prohibition of the sale of alcoholic liquors in railway refreshment rooms—Negatived	576—590
Resolution <i>re</i> Submission by employers of protected industries of annual wage bills—Withdrawn	590—594
Dissolution of Muslim Marriages Bill—Considered and passed	594—613
Delhi Masjid Bill—Introduced	613—614
Parsi Marriage and Divorce (Amendment) Bill—Motion to circulate, adopted	614—615
Dividends and Interest Returns Bill—Motion to circulate, negatived	615—619

Thursday, 16th March, 1939—

Members Sworn	621
Questions and Answers	621—627
Standing Committee for Roads, 1939-40	627
Standing Committee for the Labour Department	627—628
Standing Committee for the Department of Commerce	628
Standing Committee on Emigration	628
Resolution <i>re</i> Kenya (Highlands) Order-in-Council—Adopted	628—644
Resolution <i>re</i> Revision of pay of Indian commissioned officers—With- drawn	644—655
Delhi Masjid Bill—Motion to circulate, adopted	655—656
Resolution <i>re</i> Constitution of the Legislatures in India on a uni-cameral and entirely elected basis—Withdrawn	656—662
Statement of Business	662

Monday, 20th March, 1939—

Questions and Answers	663—668
Standing Committee for the Labour Department	669
Resolution <i>re</i> Contribution of railways to general revenues—Negatived	669—684
Resolution <i>re</i> Replacement of the Royal Air Force by an Indian Air Force—Negatived	684—707
Standing Committee on Emigration	693

	PAGES.
Wednesday, 22nd March, 1939—	
Central Advisory Council for Railways	709
Standing Committee for Roads, 1939-40	709
Standards of Weight Bill—Considered and passed	709—710
Indian Merchant Shipping (Second Amendment) Bill—Considered and passed	710—711
Insurance (Amendment) Bill—Considered and passed	712
Indian Patents and Designs (Amendment) Bill—Considered and passed	712—713
Workmen's Compensation (Amendment) Bill—Considered and passed	714
Cotton Ginning and Pressing Factories (Amendment) Bill—Considered and passed	714—715
Thursday, 23rd March, 1939—	
Question and Answer	717—718
Resolution <i>re</i> Increase in recruitment of Indians of pure descent to senior subordinate services on railways—Negatived	719—735
Central Advisory Council for Railways	735—736
Resolution <i>re</i> Expansion and protection of the Indian Mercantile Marine—Adopted	736—754
Resolution <i>re</i> Censoring or stopping of telegrams—Withdrawn	754—100
Indian Succession (Amendment) Bill—Considered and passed, as amended	758—762
Statement of Business	762—763
Saturday, 25th March, 1939—	
Messages from His Excellency the Governor General	765
Indian Finance Bill, 1939, laid on the table	765—766
Tuesday, 28th March, 1939—	
Member Sworn	767
Questions and Answers	767—770
Death of Khan Bahadur Syed Abdul Hafeez and Sir Ernest Miller	770—771
Standing Committee for the Department of Communications	771—772
Indian Finance Bill, 1939—Considered and passed	772—797
Standing Committee for Roads, 1939-40	797
Thursday, 30th March, 1939—	
Member Sworn	799
Questions and Answers	799—800
Central Advisory Council for Railways	800
Resolution <i>re</i> Indo-British Trade Agreement—Adopted	800—86 2
Statement of Business	832
Saturday, 1st April, 1939—	
Central Advisory Council for Railways	863
Standing Committee for the Department of Communications	863
Bill passed by the Legislative Assembly laid on the table	863
Message from the Legislative Assembly	864
Statement of Business	864
Monday, 3rd April, 1939—	
Presentation of a Mace to the Council of State by the Honourable Maharajadhiraja Sir Kameshwar Singh of Darbhanga	865—871

	PAGE.
Tuesday, 4th April, 1939—	
Questions and Answers	873—888
Registration of Foreigners Bill—Considered and passed	889—893
Statement of Business	894
Thursday, 6th April, 1939—	
Information promised in reply to questions laid on the table	895
Bills passed by the Legislative Assembly laid on the table	895
Tuesday, 11th April, 1939—	
Members Sworn	897
Questions and Answers	897—910
Indian Tariff (Second Amendment) Bill—Considered and passed, as amended	910—934
Statement of Business	934
Friday, 14th April, 1939—	
Member Sworn	935
Message from the Legislative Assembly	935
Questions and Answers	935—942
Information promised in reply to questions laid on the table	942—948
Statement laid on the table <i>re</i> Draft Convention concerning statistics of wages and hours of work, etc., etc., adopted by the Twenty-fourth Session of the International Labour Conference	943—949
Coal Mines Safety (Stowing) Bill—Considered and passed	949—969
Statement of Business	969
Saturday, 15th April, 1939—	
Messages from His Excellency the Governor General	971
Indian Tariff (Third Amendment) Bill laid on the table	971
Bills passed by the Legislative Assembly laid on the table	971—972
Message from the Legislative Assembly	972
Statement of Business	972
Monday, 17th April, 1939—	
Questions and Answers	973—977
Statements laid on the table	977—990
Sugar Industry (Protection) Bill—Considered and passed	990—1015
Chittagong Port (Amendment) Bill—Considered and passed	1015
Criminal Law Amendment Bill—Considered and passed	1015—1016
Indian Soft Coke Cess Committee (Reconstitution and Incorporation) Bill—Considered and passed	1016—1017
Tuesday, 18th April, 1939—	
Indian Tariff (Third Amendment) Bill—Considered and passed	1018—1048

COUNCIL OF STATE.

Saturday, 28th January, 1939.

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

MEMBER SWORN :

The Honourable Mr. Hugh Dow (Commerce Secretary).

INDIAN INCOME-TAX (AMENDMENT) BILL—*contd.*

Clause 5.

THE HONOURABLE THE PRESIDENT : I should like to know from the Honourable the Finance Member whether the amendment to clause 5 does require the sanction of the Governor General ?

THE HONOURABLE SIR JAMES GRIGG (Finance Member) : I think it is a debatable matter. On the whole I am inclined to think that it does not. In any case I think it is rather academic, because I shall give reasons later on as to why the House should not accept the amendment. I suggest that the benefit of the doubt may be given to the Honourable Member.

THE HONOURABLE THE PRESIDENT : Has the Honourable Member got the sanction of the Governor General ?

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce) : I am not quite clear whether I have got the sanction or not.

THE HONOURABLE SIR JAMES GRIGG : As the point is a debatable one, I suggest that we might proceed on the assumption that sanction is not required.

THE HONOURABLE THE PRESIDENT : We might proceed with the other amendments and in the meantime you can get the sanction, if necessary.

THE HONOURABLE SIR JAMES GRIGG : My own personal view is that sanction is not required.

THE HONOURABLE THE PRESIDENT : That is my view also.

THE HONOURABLE SIR JAMES GRIGG : I suggest that the Honourable Member might be allowed to move his amendment without getting formal sanction.

THE HONOURABLE THE PRESIDENT : If any objection is taken in the other House, the Bill will have to come back here.

THE HONOURABLE SIR JAMES GRIGG : I propose to give reasons for not accepting the amendment on its merits, and not on this ground.

THE HONOURABLE MR. R. H. PARKER : Sir, I beg to move :

“ That in clause 5 of the Bill, in sub-section (c) of the proposed new section 4A, after the word ‘ if ’ where it occurs for the second time the words ‘ it maintains in that year an established place of business in British India and ’ be inserted.”

The purpose of this amendment is to exclude from the definition of a resident company certain non-resident companies which may become resident by the operation of part (b) of the definition but which, I submit, were never intended to be so included.

The type of company that I have in mind particularly is the non-resident investment company. As an example let us consider an investment company in the United Kingdom which specialises in Indian and Colonial investments and which by reason of holding a large number of Indian securities in one particular year receives more than 50 per cent. of its income from dividends on these. The company would be deemed to be resident in British India in that year although it would have no connection with British India except perhaps through the medium of the London Stock Exchange.

I think I am right in saying that when this definition was arrived at it was realised that certain absurdities might arise, *e.g.*, it is quite likely that a company might be resident in British India in one year and not be resident again for say five years ; it is also possible that a company might make a profit of say Rs. 5 lakhs in India, but a loss of Rs. 20 lakhs in respect of its business outside India. In that case it would be treated as resident and thus be able to set off the loss against the profit made in India and no tax would be payable in India, while it would be able to carry forward the sum of Rs. 15 lakhs against future assessments on profits made in India during the succeeding six years.

In order that it may be perfectly clear, however, in this House and elsewhere, that I am not unjustifiably trying to reopen the definition which was agreed to by Party leaders in the other House, I must state that the Leader of the European Group in the Assembly discussed this point at the meeting of Party leaders with the Finance Member and made the suggestion that investment companies should be excluded from the operations of the definition. This difficulty was appreciated not only by the Government, but by the leaders of other Parties ; however, owing to the necessity for dealing rapidly with the main problem before the conference, it was suggested that this particular difficulty should be fully considered and that any amendment might be put forward in this House. There is no doubt, I submit, that it was intended in framing this definition that the companies which it was intended to affect were those carrying on a business in British India, and I would remind the House that the whole definition is based upon the recommendations of the MacMillan Commission on Income-tax in the United Kingdom. That Commission, among its recommendations, endeavoured to define “ residence ”. The definition of a “ resident company ” as laid down in these recommendations is :

“ a company shall be treated as resident in the United Kingdom in a year of charge if it is controlled in the United Kingdom or if it maintains in that year an established place of business in the United Kingdom and any substantial part of the activities of the company whether administrative or other is conducted in the United Kingdom ”, etc., etc.

Now, I think I am correctly advised when I say that this is the definition which Party leaders had in mind when they discussed the definition of a resident company for the purposes of this Bill and that one of the difficulties which

they had to solve was the question as to what constituted "any substantial part of a company's activities". The solution arrived at was that if more than 50 per cent. of the income arose in British India there would be a real reason for treating a company as resident, but in discussing this point the question as to whether or not a company maintained an established place of business in British India was unfortunately overlooked.

My amendment, Sir, therefore, really proposes to put in order what was an oversight in settling the original definition, and I feel sure that unless we have a condition of this nature which provides to a certain extent for some continuity of the company's connection with British India, quite a number of incongruities arise! There is one point that I would like to make in this connection which can best be demonstrated by an example: Many non-resident companies transact business in India and on the profits of that business income-tax is payable. Under the Bill as it stands at present if a company trading in India can show that it has made a loss on the rest of its world business, it becomes resident and it follows that it can set off against its profit arising in India the loss it makes elsewhere. Moreover if such loss exceeds the profit made in India not only will no tax be payable to the Government of India but the surplus loss can be carried forward. If, however, we add this condition of maintaining a place of business in British India to the definition, and the non-resident company fails to do so, all profits arising in India will be taxed no matter what losses are incurred elsewhere. I would summarise it in this way, that unless the new condition now suggested, which is called, as I said, from the MacMillan Report is inserted, there will apparently be grave difficulties in assessing companies which do not have an established place of business in India. In years when they make profits in India and losses elsewhere, they will be able to set off the losses against the Indian profits, while in years when they make a profit on the whole, there will be no practical means whereby that profit can be ascertained for income-tax purposes, in India. The suggested addition would ensure that in each year they bear income-tax in India on their Indian income; they would not have the right to set off losses made without British India and their right to carry forward losses would be confined to losses made in India.

Sir, I move.

THE HONOURABLE SIR JAMES GRIGG: Sir, the Honourable Mr. Parker is quite right in saying that this question was raised during the un-official discussions which led to the production of the compromise which is now in the Bill in regard to clauses 4 and 5. It is quite true also, as he says, that the definition in the Bill would probably be improved by the insertion of these words, but I am in a difficulty from the start and that is that I regard myself as in honour bound to maintain in its integrity the compromise arrived at in the other House and therefore I am compelled to say that unless I can be assured by those who can speak for the other parties to that compromise that this will not be regarded as a breach of faith, I must ask the House not to accept the amendment.

THE HONOURABLE MR. HOSSAIN IMAM: Hear, hear.

THE HONOURABLE SIR JAMES GRIGG: I did not hear the Honourable Member?

THE HONOURABLE MR. HOSSAIN IMAM: I only said, "Hear, hear".

THE HONOURABLE SIR JAMES GRIGG : Sir, I would therefore rather like to know whether either the Honourable Member himself or the Leader of the Congress Party is in a position to throw any light on that matter. If I cannot be absolutely assured that this will not be regarded as a breach of faith, I am in honour bound to ask the House to reject the amendment.

THE HONOURABLE THE PRESIDENT : I understand, Mr. Parker, that you have not consulted the leaders of Parties ?

THE HONOURABLE MR. R. H. PARKER : I have had a communication from Mr. Bhulabhai Desai, the Leader of the Congress Party in the other place, and he tells me that he is unable to consent, but he does not put it on the ground of a breach of faith, I am glad to say. You may wish to hear my Honourable friend Mr. Pantulu.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, the Honourable Mr. Parker and Mr. Aikman had a discussion with me in regard to this amendment and I placed the matter before a meeting of my Party. We decided that if we could get an assurance from the Leader of the Congress Party in the other House, that the Legislative Assembly would accept this amendment if it is passed in the Council of State, we might support it. I may also say that on the merits I was inclined to agree with Mr. Parker's contention and therefore I put myself in communication with Mr. Bhulabhai Desai. With your permission I shall read the reply that he has sent me.

" Telegram from you and Mr. Parker. Regret unable disturb this clause as agreed to by our Party as also by Muslim Group: Reopening matter might lead to some other changes. Regret cannot support amendment "

THE HONOURABLE THE PRESIDENT : What do you wish to say about it ?

THE HONOURABLE MR. RAMADAS PANTULU : Sir, after the statement made by the Honourable the Finance Member that he will stick to the undertaking that he has given to abide by the agreement arrived at by Parties in the other House and Mr. Desai's reply, I find it impossible for the Congress Party in this House to support this amendment, though on the merits they may be inclined to think that it is a reasonable amendment. Sir, there are many clauses in the Bill to which the Congress Party would have tabled amendments if it were open to us. But we wanted to respect the undertakings that were given and therefore we refrain from doing so. That being our attitude, we must accept the position taken up by the Honourable the Finance Member here and support him in that.

THE HONOURABLE THE PRESIDENT : The Question is :

" That in clause 5 of the Bill, in sub-section (c) of the proposed new section 4A, after the word ' if ' where it occurs for the second time the words ' it maintains in that year an established place of business in British India and ' be inserted."

The Motion was negatived.

THE HONOURABLE MR. S. P. CHAMBERS (Nominated Official) : Sir, I move :

" That in clause 5 of the Bill, in the marginal heading to proposed section 4B of the Act, for the word ' Domicile ' the words ' Ordinary Residence ' be substituted."

That is a change in the margin in connection with the change in the words in the main section.

The Motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 33.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

"That for clause 33 of the Bill the following be substituted, namely :—

'33. For section 29 of the said Act the following section shall be substituted, substitution of new section for section 29, Act XI of 1922. namely :—

"29. When any tax or penalty is due in consequence of any order passed under Notice of demand, or in pursuance of this Act, the Income-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable". "

Sir, this change is purely a formal change. The original section had reference to a number of sections under which the Income-tax Officer should serve a notice. We substitute the general covering words, "any order passed under or in pursuance of this Act".

The Motion was adopted.

Clause 33, as amended, was added to the Bill.

Clause 34.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

"That in paragraph (ia) of sub-clause (a) of clause 34 of the Bill, for the words and figure 'words "under section 27, or"', where they occur for the second time 'the words and figures 'words and figure "assessment under section 27, or"' be substituted."

It is a purely drafting change.

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

"That for paragraph (ib) of sub-clause (a) of clause 34 of the Bill, the following be substituted, namely :—

'(ib) after the word, letter and figure "section 25A" the words, figures and brackets "or sub-section (2) of section 26" shall be inserted, and after the words "made by an Income-tax Officer" the words, letters, figures and brackets "or objecting to any penalty imposed by an Income-tax Officer under sub-section (6) of section 44E or sub-section (5) of section 44F or sub-section (1) of section 46" shall be inserted'."

This again, is consequential on other amendments.

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

"That in paragraph (ii) of sub-clause (a) of clause 34 of the Bill, for the figure and letter '49E' the figure and letter '49F' be substituted."

This is also consequential on other amendments.

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That paragraph (iii) of sub-clause (a) of clause 34 of the Bill be omitted and that in paragraph (iv) of the said sub-clause after the words ‘ Provided that ’ the following be inserted, namely :—

‘ no appeal shall lie against an order under sub-section (1) of section 46 unless the tax has been paid :—

Provided further that ‘ . ’ ”

The object of this amendment is just to clarify the two amendments which were moved together in the other House and left the wording somewhat obscure.

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That for sub-clause (b) of clause 34 the following be substituted, namely :—

‘ (b) in sub-section (2), after the word and figure “ section 27 ” the words, letters and figures “ or of the intimation of an order under sub-section (1) of section 23A or under section 48, 49 or 49F ” shall be inserted, and for the words “ Assistant Commissioner ” the words “ Appellate Assistant Commissioner ” shall be substituted ‘ . ’ ”

This, again, is purely clarification.

The Motion was adopted.

Clause 34, as amended, was added to the Bill.

Clause 35.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in sub-clause (c) of clause 35 of the Bill,—

(i) in paragraph (iii), for the words, letters, figures and brackets ‘ section 48, 49 or 49E or sub-section (1) of section 23A ’ the words, letters, figures and brackets ‘ sub-section (1) of section 23A or sub-section (2) of section 26 or section 48, 49 or 49F ’ be substituted ;

(ii) in paragraph (iv), after the words and figure ‘ an order under section 28 ’ the words, letters, figures and brackets ‘ or sub-section (6) of section 44E or sub-section (5) of section 44F ’ be inserted and for the words ‘ against computation ’ the words ‘ against a computation ’ be substituted.”

This again, is purely clarification or consequential amendment.

The Motion was adopted.

Clause 35, as amended, was added to the Bill.

Clause 36.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 36 of the Bill, after the word and figure ‘ section 28 ’ and within the inverted commas, the words, letters, figures and brackets ‘ or sub-section (6) of section 44E or sub-section (5) of section 44F ’ be inserted.”

This, again, Sir, is consequential.

The Motion was adopted.

Clause 36, as amended, was added to the Bill.

Clause 37.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 37 of the Bill, for the figure ‘ 6 ’ the figure ‘ 5 ’ be substituted.”

The Motion was adopted.

Clause 37, as amended, was added to the Bill.

Clause 38 was added to the Bill.

Clause 39.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in paragraph (c) of sub-clause (1) of clause 39 of the Bill, for the words, letter, figures and brackets ‘ to which clause (c) of sub-section (1) of section 28 applies ’ the words ‘ in which the information received is to the effect that the assessee has concealed the particulars of his income or deliberately furnished inaccurate particulars thereof ’ be substituted.”

This is a purely drafting change by substituting the words of the clause for the reference to the clause.

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in paragraph (d) of sub-clause (1) of clause 39 of the Bill, for the figure ‘ 1938 ’ the figure ‘ 1939 ’ be substituted.”

I have already explained this in connection with some earlier amendment.

The Motion was adopted.

Clause 39, as amended, was added to the Bill.

Clause 40.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in sub-clause (e) of clause 40 of the Bill, for the figure ‘ 1938 ’ the figure ‘ 1939 ’ be substituted.”

The Motion was adopted.

Clause 40, as amended, was added to the Bill.

Clause 41 was added to the Bill.

Clause 42.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 42 of the Bill, for the words, figures and brackets commencing ‘ (1) Section 38 ’ and ending ‘ for clause (3) ’, the words, figures and brackets ‘ For clause (3) of section 38 of the said Act ’ be substituted.”

This is a purely formal drafting change.

The Motion was adopted.

Clause 42, as amended, was added to the Bill.

Clauses 43 and 44 were added to the Bill.

Clause 45.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in sub-clause (a) of clause 45 of the Bill—

(i) for paragraph (i) the following paragraph be substituted, namely :—

‘ (i) for the words “ In the case of any person residing out of British India, all profits or gains accruing or arising to such person,” the words “ All income, profits or gains accruing or arising.” shall be substituted ; ’

[Mr. S. P. Chambers.]

(ii) for paragraph (iii) the following paragraph be substituted, namely:—

' (iii) for the words " shall be chargeable to income-tax in the name of the agent of any such person, and " the words " where the person entitled to the income, profits or gains is not resident in British India, shall be chargeable to income-tax either in his name or in the name of his agent, and in the latter case " shall be substituted ; '

(iii) in paragraph (iv), after the words ' Provided that ', where they occur for the second time, the words ' where the person entitled to the income, profits or gains is not resident in British India, the ' be inserted."

This is not a formal change. It is consequential on the changes made in clauses 4 and 5. It has been found that under the new section 4B we make a class called " persons not ordinarily resident in British India " and it is found that this section which deals with income arising from business connections in British India applied formerly only to persons not resident in British India. We now want it to apply to all persons including the persons not ordinarily resident, so that any person who has any income which arises in a primary sense in British India, even though it may technically arise abroad, and whether that person is resident, ordinarily resident or not ordinarily resident, shall be chargeable to tax in British India.

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

" That for sub-clause (b) of clause 45 of the Bill, the following sub-clause be substituted, namely:—

' (b) in sub-section (2), after the words " Where a person not resident " the words " or not ordinarily resident " shall be inserted; the words " and not being a British subject or a firm or company constituted within His Majesty's Dominions or a branch thereof " shall be omitted; the words " or the Assistant Commissioner, as the case may be," shall be omitted; and for the words commencing " between the resident and the non-resident " and ending " connection with the non-resident " the words " between such persons, the course of business is so arranged that the business done by the resident person with the person not resident or not ordinarily resident " shall be substituted '."

The change made in this sub-clause is entirely consequential upon the one in sub-clause (a).

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

" That in sub-clause (c) of clause 45 of the Bill, for the words ' assessable under this section ' the words ' deemed under this section to accrue or arise in British India ' be substituted."

This again is consequential.

The Motion was adopted.

Clause 45, as amended, was added to the Bill.

Clause 45A.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

" That to clause 45A of the Bill the following marginal heading be attached, namely:—

' Amendment of section 43, Act XI of 1922 '."

The Motion was adopted.

Clause 45A, as amended, was added to the Bill.

Clauses 46 and 47 were added to the Bill.

Clause 48.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in clause 48 of the Bill, in proposed section 44D of the Act,—

(i) in sub-sections (1), (2), (5) and (7) and in the marginal heading, for the word "domiciled" the words "ordinarily resident" be substituted;

(ii) in sub-section (5), for the words "income of another person" the words "income of a person" be substituted;

(iii) in sub-section (8)—

(a) for the words and figures "the financial year 1939-40" the words and figures "the year ending on the 31st day of March, 1940" be substituted;

(b) for the figure "1938" the figure "1939" be substituted."

These amendments are also merely consequential.

The Motion was adopted.

Clause 48, as amended, was added to the Bill.

Clause 49.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in clause 49 of the Bill, for the figure '2' the figure '3' be substituted."

The Motion was adopted.

Clause 49, as amended, was added to the Bill.

Clause 50.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in clause 50 of the Bill, after the words 'of the said Act', the following be inserted, namely:—

'after the word and figure "section 42" the words and figure "or of the proviso to section 45" shall be inserted, and.'

This is consequential upon the change in section 45.

The Motion was adopted.

Clause 50, as amended, was added to the Bill.

Clause 50A.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That after clause 50 of the Bill, the following clause be inserted, namely:—

'50A. In section 47 of the said Act, after the word and figure "section 28", the Amendment of words, letters, figures and brackets "sub-section (6) of section 44E, section 47, Act XI of 1923. sub-section (5) of section 44F" shall be inserted.'

This again, Sir, is consequential.

The Motion was adopted.

Clause 50A, as amended, was added to the Bill.

Clause 51.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 51 of the Bill, in sub-section (4) of proposed section 48 of the Act, for the words and figure ‘ Act of 1939 ’ the word and figure ‘ Act, 1939 ’ be substituted.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : The Question is :

“ That clause 51, as amended, stand part of the Bill.”

***THE HONOURABLE MR. HOSSAIN IMAM :** Sir, I should like to draw the attention of the Honourable Member to this section under which we are entitled to get a refund of the tax which is collected at source, I mean on interest on Government securities and other commercial assets. Now the usual process is that when you apply for a refund you have to file a return showing that you have no assessable income. After filing this, what usually happens in the mofussil is that the Income-tax Officer, although he knows that the man does not come under the Income-tax law because his income is too small from these securities, still he wants him to bring up his books of accounts. Usually there are practitioners, doctors, pleaders and others, who have as a safeguard some investment in these banks or Government securities, they draw a small income from that, they are not people who usually keep books of accounts and when they do not file them, the application for refund is rejected.

THE HONOURABLE THE PRESIDENT : They are not a privileged class.

THE HONOURABLE MR. HOSSAIN IMAM : But, Sir, they do not carry it on as a business. They have another business and as a side line they invest money in these securities.

THE HONOURABLE THE PRESIDENT : Not pleaders ?

THE HONOURABLE MR. HOSSAIN IMAM : Some of them do in the mofussil. That is my experience. There is no amendment of the law required because the law does not insist that books of accounts should be placed before the Income-tax Officer. What I would plead, Sir, is that if it would be possible to grant a certificate to a person once for all that he is not liable to income-tax and if by privilege of the certificate deduction at source may not be at the highest rate.

THE HONOURABLE MR. R. H. PARKER : There is a provision to that effect now.

THE HONOURABLE THE PRESIDENT : That is for a particular year.

THE HONOURABLE MR. HOSSAIN IMAM : What I say is that it should be for some time.

THE HONOURABLE MR. J. F. SHEEHY (Nominated Official) : It is valid until it is cancelled.

THE HONOURABLE MR. HOSSAIN IMAM : If it is there, Sir, then I am mistaken. I was told there is no continuity, that it is only for one year that the certificate is given. At least that is the practice in the mofussil.

* Not corrected by the Honourable Member.

THE HONOURABLE MR. J. F. SHEEHY : Sir, there is a proviso in section 18 (3) as follows :—

“ Provided that where the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total income or *the total world income* of a recipient will be less than the minimum liable to income-tax or will be liable to a rate of income-tax less than the maximum rate, the person responsible for paying any income referred to in this sub-section or in sub-section (2B), as the case may be, to such recipient shall, until such certificate is cancelled by the Income-tax Officer, pay the income without deduction or deduct the tax at such less rate, as the case may be ”.

THE HONOURABLE MR. HOSSAIN IMAM : Thank you, Sir.

THE HONOURABLE THE PRESIDENT : The Question is :

“ That clause 51, as amended, stand part of the Bill.”

The Motion was adopted.

Clause 51, as amended, was added to the Bill.

Clauses 52 and 53 were added to the Bill.

Clause 54.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 54, for the proposed section 49A the following be substituted, namely :—

‘ 49A (1) The Central Government may, by notification in the official Gazette, make provision for the granting of relief in respect of income on which has been paid both income-tax (including super-tax) under this Act and Dominion income-tax ;

(2) for the purposes of this section “ Dominion income-tax ” means any income-tax or super-tax charged under any law in force in any Indian State or in any part of His Majesty’s Dominions (other than the United Kingdom) where the laws of that State or part provide for relief in respect of tax charged on income both in that State or part and in British India which appears to the Central Board of Revenue to correspond to the relief which may be granted by this section ’.”

This is an amendment of some substance, Sir. The original clause provided for the giving of double income-tax relief whenever the Central Government by notification said that there was a proper case to grant relief. In practice in the past such relief has been restricted to cases where there would be reciprocal relief but it has been pointed out that elsewhere in the Bill we have provided for the furnishing of particulars only where there are arrangements for reciprocal relief and that shows that the intention was that the Central Government should grant relief only where reciprocal relief was given, and the clause has therefore been re-worded to that end.

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 54 of the Bill for proposed section 49D of the Act the following section be substituted, namely :—

‘ 49D. If any person who has paid by deduction or otherwise Indian income-tax for any year in respect of any income arising without British India in a country the laws of which do not provide for any relief in respect of income-tax charged in British India proves that he has paid income-tax by deduction or otherwise under the laws of the said country in respect of the same income, he shall be entitled to the deduction from the Indian income-tax payable of a sum equal to one-half of such Indian income-tax or to one-half of such tax payable in the said country, whichever is the less’.”

Relief in respect of tax charged in country not providing for relief in respect of British Indian income-tax.

[Mr. S. P. Chambers.]

Sir, this is only a drafting change. There is no change of substance here. The Motion was adopted.

Clause 54, as amended, was added to the Bill.

Clause 55.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 55 of the Bill, for the figure and letter ‘ 49D ’ the figure and letter ‘ 49E ’ be substituted.”

The Motion was adopted.

Clause 55, as amended, was added to the Bill.

Clause 56.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 56 of the Bill, for the figure and letter ‘ 49E ’ the figure and letter ‘ 49F ’ be substituted.”

The Motion was adopted.

Clause 56, as amended, was added to the Bill.

Clause 57.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 57 of the Bill, for the figure ‘ 1938 ’, in both places where it occurs, the figure ‘ 1939 ’ be substituted.”

The Motion was adopted.

Clause 57, as amended, was added to the Bill.

Clause 58 was added to the Bill.

Clause 59.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 59 of the Bill, for the words, letters, figure and brackets—

‘ In section 51 of the said Act—

(a) in clause (c) ’

the words, letters, figure and brackets ‘ In clause (c) of section 51 of the said Act ’ be substituted and sub-clause (b) of the said clause be omitted.”

This is a purely drafting change, Sir.

The Motion was adopted.

Clause 59, as amended, was added to the Bill.

Clause 60.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“ That in clause 60 of the Bill, the letter and brackets ‘ (a) ’ be omitted from the beginning and inserted after the words ‘ said Act, ’ and that in sub-clause (b) for the word ‘ punished ’ the words ‘ punishable, on conviction before a Magistrate ’ be substituted.”

This, Sir, is intended to make section 52 of the Act consistent with section 51, but there is no change of substance.

The Motion was adopted.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated Non-Official) :
Sir, I move :

“That in sub-clause (b) of clause 60 of the Bill, after the words ‘with both’, the following be inserted, namely :—

‘and if the object of the statement is to reduce the amount of the taxable income, he shall be punished with or without imprisonment with a fine which may extend to ten times the amount sought to be saved by such statement’.”

Sir, I do not think I need say much about this amendment. Supposing a man, instead of giving his income as Rs. 10,000, gives it as, we will say, Rs. 5,000. The amount he saves is the income-tax on the difference between the two, namely, on Rs. 5,000. Let us take it as, say, Rs. 100. I suggest that the Court should have the power to fine him to the extent of ten times the amount, which comes to Rs. 1,000. Supposing a person's income is Rs. 2 lakhs and he returns his income as Rs. 1½ lakhs. He saves the income-tax on Rs. 50,000. My object in bringing this forward is that he should be prevented from giving a false return by punishing him with a fine which may extend to ten times the tax which he saves by his false return. As I said yesterday, Sir, if an ordinary man, whose income is probably Rs. 5,000, returns it as Rs. 4,000, he may be prosecuted and imprisoned, whereas if a very big man, whose income runs into lakhs, returns his income as something less, he may be prosecuted, and very probably, as I said yesterday, the sympathy of the Court would be with him and he may be let off with an imprisonment till the rising of the Court. It is to prevent big people from committing fraud on the Income-tax Act that I have brought forward this amendment and I hope the Honourable the Finance Member will see his way to accept it. If he thinks that ten times is too much, I have no objection to his reducing it to five times or six times —

THE HONOURABLE THE PRESIDENT : As the amendment as drafted stands before me, you cannot refer to any other figure.

THE HONOURABLE SIR DAVID DEVADOSS : I quite see that. It is to prevent big people from making a false return of their income in order to avoid income-tax that I have brought forward this amendment and I hope the Honourable the Finance Member will see his way to accept it.

With these words, Sir, I move.

THE HONOURABLE SIR JAMES GRIGG : Sir, I hate looking a gift horse in the mouth, but I am afraid that I am not in a position to accept this amendment. The Honourable Member will remember that in the

12 Noon. other House the provisions for penalties contained in section 28 were watered down. They thought that what we had proposed was too fierce. I personally do not think we were too fierce in the penalties we proposed ; but anyhow whether we were or not, the Lower House took the view that they ought to be reduced. They had been increased over the penalties provided in the existing law, and taken in conjunction with the provisions for re-opening assessments over four years, and in some cases, over eight years, the penalties are still very heavy. But my plea to the Honourable Member is this, that as the other House has shown itself desirous of rather lightening the penalties which were originally inserted in the Bill to their present figure, if we now suggest stiffening up the penalties—and I repeat here what I said in the first instance that the main penalty provisions are in clause 28 and not under this section at all—if we try and stiffen up the penalties we are only likely to provoke a difference of opinion between the two Houses, which can only be

[Sir James Grigg.]

resolved by the Assembly restoring its own view or by a joint session. I would appeal to the Honourable Member not to attempt anything at this stage which may provoke that conflict with a possible delay in the operation of the Bill. I agree with him that the penalties as reduced by the Assembly are fairly light or lighter than I would like to see them. But at the same time I do not think there is any chance of public opinion generally accepting anything as fierce as this.

THE HONOURABLE MR. HOSSAIN IMAM : May I ask whether this provision of a fine of Rs. 1,000 was originally provided by the Government or has been watered down by the Assembly ?

THE HONOURABLE SIR JAMES GRIGG : It has been taken from the Indian Penal Code. This is only a partial statement of the penalties open under the Income-tax Act. The main penalties are the pecuniary ones under section 28.

THE HONOURABLE MR. RAMADAS PANTULU : I desire to oppose this amendment on its merits. First of all in regard to the words "if the object of the statement is to reduce the amount of the taxable income", almost always that is the only object of an assessee. Other objects are very rare. Therefore, everybody will come under this. Moreover, a fine of ten times the amount sought to be saved will be very excessive. If a man saves Rs. 200, the fine will be Rs. 2,000, or twice the amount provided by the Bill in the clause as it stands. Most first class magistrates have power to fine only up to Rs. 1,000, and if the fine imposed is over Rs. 1,000, the case will have to go before a Sessions Court. So, one result of my friend's amendment will be to commit most of these cases to a Sessions Judge when a fine of more than Rs. 1,000 has to be imposed.

There is no object in stiffening these penalties and I think what the Assembly has done is right. If a very ignorant or poor man sends in a return which is false, the magistrate can show his sympathy by inflicting a nominal punishment. The Courts are expected to exercise discretion, and in some cases, though the maximum penalty may be Rs. 1,000, a man may be fined only Rs. 10. I think the clause as it stands is elastic and I think the stiffening of the section in the manner proposed is objectionable.

THE HONOURABLE THE PRESIDENT : The Question is :

"That in sub-clause (b) of clause 60 of the Bill, after the words 'with both', the following be inserted, namely :—

'and if the object of the statement is to reduce the amount of the taxable income he shall be punished with or without imprisonment with a fine which may extend to ten times the amount sought to be saved by such statement'."

The Motion was negatived.

Clause 60, as amended, was added to the Bill.

Clause 61 was added to the Bill.

Clause 62.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

"That to paragraph (ii) of sub-clause (b) of clause 62 of the Bill, the following be added, namely :—

' or

(m) so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income-tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established'."

This amendment, Sir, is implementing an undertaking given in the Lower House that this power would be given and this exception made in the secrecy provisions of the main original section.

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That to clause 62 of the Bill, the following sub-clause be added, namely:—

'(d) in sub-section (4) so re-numbered, after the words "proceeding under" the words, letter and figure "section 25A or" shall be inserted.'

This is a consequential change.

The Motion was adopted.

Clause 62, as amended, was added to the Bill.

Clause 63.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That to sub-clause (a) of clause 63 of the Bill, the following be added, namely:—

'and after the words "not being a registered firm", the words "or the partners of the firm or members of the association individually", shall be inserted.'

The Motion was adopted.

Clause 63, as amended, was added to the Bill.

Clause 64.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in clause 64 of the Bill, after the words 'said Act', the following be inserted' namely:—

'after the word "company", the words "local authority" shall be inserted, and.'

This, again, is a consequential amendment.

The Motion was adopted.

Clause 64, as amended, was added to the Bill.

Clause 65 was added to the Bill.

Clause 66.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in sub-clause (a) of clause 66 of the Bill, after the words, figure and brackets 'in sub-section (1)' the words 'for the words "the proviso" the words "the second proviso" shall be substituted, and' be inserted."

This again is consequential.

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That to sub-clause (a) of clause 66 of the Bill, the following be added, namely:—

'and for the figure "20", the words, figures and brackets "and 20 and the first proviso to sub-section (1) of section 41 and section" shall be substituted.'

[Mr. S. P. Chambers.]

This again is a consequential amendment.

The Motion was adopted.

Clause 66, as amended, was added to the Bill.

Clauses 67, 68, 69, 70 and 71 were added to the Bill.

Clause 71A.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in clause 71A of the Bill, to proposed section 580 of the Act, the following sub-section be added, namely:—

'(4) The Central Board of Revenue shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless it has given the trustees of that fund a reasonable opportunity of being heard in the matter.'

This, Sir, is implementing an undertaking given in the Lower House to bring forward an amendment of this kind and I think the words of the amendment are themselves self-explanatory.

The Motion was adopted.

Clause 71A, as amended, was added to the Bill.

Clause 72 was added to the Bill.

Clause 73.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in sub-clause (b) of clause 73 of the Bill, for the figure '1938' the figure '1939' be substituted."

The Motion was adopted.

Clause 73, as amended, was added to the Bill.

Clauses 74 and 75 were added to the Bill.

Clause 76.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in sub-clause (b) of clause 76 of the Bill, for the words 'his principal place of business' the words 'the principal place wherein he carries on his business, profession or vocation' be substituted."

This is a consequential amendment, Sir.

The Motion was adopted.

Clause 76, as amended, was added to the Bill.

Clause 77.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in clause 77 of the Bill,—

(i) in sub-clause (d), before the word 'North-West' and within the inverted commas, the word 'the' be inserted; and

(ii) sub-clause (e) be omitted."

This, Sir, is a pure drafting change.

The Motion was adopted.

Clause 77, as amended, was added to the Bill.

Clause 77A.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That after clause 77 of the Bill, the following clause be inserted, namely:—

' 77A. To sub-section (1) of section 66A of the said Act the following proviso shall be added, namely:—
Amendment of section 66A,
Act XI of 1922.

"Provided that where in any reference heard by the Bench of the Court of the Judicial Commissioner of the North-West Frontier Province, a difference of opinion arises between the Judicial Commissioner and the Judge of the said Court, the opinion of the Judicial Commissioner shall prevail."

This amendment, Sir, is merely consequential upon 86 (ii). The particular words are taken out from the end of clause 77 and put into a new clause because they should be in section 66A not in section 66.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): May I just say a word about this amendment, Sir? The ordinary rule is that the opinion of the Judge who agrees with the Lower Court prevails. Why has that rule been reversed? In this case of course there is a reference, but should not the opinion of the Judge who agrees with the Income-tax Officer who refers the case to him prevail here? The rule of law laid down in the Civil Procedure Code—Sir David Devadoss will correct me if I am wrong—is that the opinion of the Judge who agrees with the trial Court prevails. Why has that rule been reversed in this section? I just want to understand.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, the question which is now raised has been raised for the first time on this amendment. The change which has been made by this amendment does not affect that particular point. It was in the original amendment in the Legislative Assembly and I am unable to say why there appears to be this legal arrangement for a difference in procedure in the North-West Frontier Province; I presume there must be some special circumstances in that place and in that place only to warrant such a difference; but if the Honourable Member wants any further information I am afraid I have none on it. It is a special point which has not been raised before this minute.

THE HONOURABLE THE PRESIDENT: The Question is:

"That after clause 77 of the Bill, the following clause be inserted, namely:—

' 77A. To sub-section (1) of section 66A of the said Act the following proviso shall be added, namely:—
Amendment of section 66A,
Act XI of 1922.

"Provided that where in any reference heard by the Bench of the Court of the Judicial Commissioner of the North-West Frontier Province, a difference of opinion arises between the Judicial Commissioner and the Judge of the said Court, the opinion of the Judicial Commissioner shall prevail."

The Motion was adopted.

Clause 77A, as amended, was added to the Bill.

Clause 78.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in clause 78 of the Bill for the proviso to Rule 2 in the proposed Schedule to the Act, the following proviso be substituted, namely:—

' Provided that the amount to be allowed as management expenses shall not exceed
(a) 7½ per cent. of the premiums received during the preceding year in respect of single premium life insurance policies, plus .

[Mr. S. P. Chambers.]

- (b) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums received is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year $7\frac{1}{2}$ per cent. of such first year's premiums received during the preceding year, *plus*
- (c) 85 per cent. of the first year's premiums received during the preceding year in respect of other life insurance policies and $8\frac{1}{2}$ per cent. of other premiums received during that year in respect of such policies."

Sir, this amendment is due to the fact that two amendments were made in the Legislative Assembly, and although separately they appeared to be worded perfectly well, when they were both put into the clause together they failed to make English of the clause, and this amendment now puts the thing into proper English. There is no change of substance made.

The Motion was adopted.

Clause 78.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in clause 78 of the Bill, in rule 5 in the proposed Schedule to the Act—

- (i) in clause (ii), for the words 'except premiums received from policy-holders and interest and dividends in any annuity fund,' the words and brackets '(except premiums received from policyholders and interest and dividends on any annuity fund)' be substituted;
- (ii) in the proviso to clause (ii), for the words 'the latter section' the words 'the last-named section' be substituted;
- (iii) in clause (iii), after the word 'policyholders' the words 'depreciation of and losses on the realisation of, securities' be inserted; and
- (iv) after clause (iv), the following clause be inserted, namely:—
- '(v) "securities" includes stocks and shares.'

Sir, the first two parts of this amendment are purely drafting changes and concern more the punctuation than anything else. The other two are not changes of substance, but are intended to make quite clear the intention of the original amendment.

The Motion was adopted.

Clause 78, as amended, was added to the Bill.

Clause 79.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That clause 79 of the Bill be omitted."

This is only a consequential change. Clause 79 provided that Part II of the Bill should be postponed for two years, but it is now provided for in the amended clause 1 which will come up soon.

The Motion was adopted.

Clause 79 was omitted from the Bill.

Clause 80.

THE HONOURABLE MR. S. P. CHAMBERS: Sir, I move:

"That in clause 80 of the Bill, in sub-section (3) to proposed section 5A of the Act for the words 'accountant member' the words 'an accountant member' be substituted."

THE HONOURABLE MR. RAMADAS PANTULU : Sir, I move :

“That in clause 80 of the Bill, the proviso to sub-section (3) of the proposed section 5A of the Act be omitted.”

Sir, this is a very substantial amendment. We have all expressed our satisfaction on the constitution of an Appellate Tribunal by the provisions of this Bill. The Appellate Tribunal as provided for in clause 80 consists of five judicial members and five accountant members, and clause 3 defines the qualifications of the judicial members and accountant members. In regard to accountant members clause 3 says :

“An accountant member shall be a person who has for a period of not less than six years, practised as professionally a registered accountant enrolled in the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules 1932 ”.

Immediately after these qualifications are laid down, there is a proviso which practically nullifies this section. It says :

“Provided that the Central Government may appoint as an accountant member of the Tribunal any person not possessing the qualifications required by this sub-section, if it is satisfied that he has qualifications and has had adequate experience of a character which render him suitable for appointment to the Tribunal ”.

Sir, this proviso has caused serious misgivings in the minds of associations of auditors and accountants in this country. I have received more than one telegram and more than one written communication from very influential bodies of accountants and auditors in this country asking me to press with all the seriousness and earnestness possible for the deletion of this proviso. There is a fear that under this proviso there is a likelihood of importing into this Tribunal foreign accountants who do not possess the prescribed qualifications. It is not a very uncommon thing with regard to appointments made by the Government of India. Sir, the accountancy profession in this country is already placed in a very disadvantageous position. We all know that most of the accounts of public bodies, like local bodies, are audited by men belonging to the Indian Audit and Accounts Service, and local funds are not generally audited by registered accountants. And so far as the numerous co-operative societies are concerned, the Department of Co-operation has got an audit staff of its own. The audit inspectors employed by the Department audit nearly 100,000 societies in the country besides 500 central banks. So the Registered Accountancy profession is placed at a great disadvantage though we have men in that profession with very high qualifications who can give as good an account of themselves as the professional auditors in England. This class of people will be placed at a very serious disadvantage if this proviso is not deleted. I have received even today a communication from the Indian Institute of Registered Accountants asking me to press for the deletion of this proviso. I do not see why this proviso should have been inserted. We have a large number of qualified registered accountants who are on the Register of Accountants maintained by the Central Government, and they can certainly find five persons to be appointed to this Tribunal. Therefore, Sir, I earnestly commend my amendment to the House. The Government of India is not likely to suffer ; the Tribunal is not likely to suffer for want of a proper personnel, and the professional accountants in this country will feel highly grateful to the Government if they delete this proviso.

With these words, Sir, I once more commend my amendment to the acceptance of this House.

THE HONOURABLE MR. P. N. SAPRU : I should also like to support the amendment of the Honourable Mr. Pantulu. I think the proviso should be omitted. We have a large number of registered accountants and surely it ought to be possible to find qualified accountants to sit on this Tribunal. The proviso would give too much power in the hands of the executive Government and there is an apprehension that the real object is to enable foreign accountants to be appointed at certain times. Therefore, in order to remove this misapprehension it would seem desirable to omit this proviso altogether and to support the amendment of the Honourable Mr. Pantulu.

THE HONOURABLE SIR JAMES GRIGG : I am sorry to disturb the hitherto unbroken harmony of the proceedings in this House and that I have to oppose this amendment. The proviso originated in a desire, which was accepted by the Leader of the Honourable Mr. Pantulu's Party in another place, to provide an opportunity to Government to appoint to the Tribunal in the earlier stages Assistant Commissioners displaced from the income-tax service in consequence of the setting up of a Tribunal. There was no intention whatever of packing the Tribunal with anybody, particularly foreign accountants. The proviso as it stands represents an integral part of a bargain arrived at after a good deal of discussion with the Honourable Member's Party leader and I think it would be a pity to disturb it. Assurances were given and they may be repeated. There is no intention whatever of packing the Tribunal and there is no intention of using this power as a regular habit to the detriment of qualified and experienced accountants in this country. But you have to face the possibility that there may not be at a particular time a suitable accountant who would take the charge. Everybody knows there is a shortage of good accountants and accountants are either able to make big money or else they are not very able.

THE HONOURABLE THE PRESIDENT : As in all professions.

THE HONOURABLE SIR JAMES GRIGG : Government want to have this power to make exceptions in exceptional cases. I again repeat my assurance that there is no intention whatever of misusing this section. I hope the Honourable Member will be satisfied with this explanation, but if he is not, I am afraid I must ask the House to oppose this amendment.

***THE HONOURABLE MR. HOSSAIN IMAM :** The explanation of the Honourable the Finance Member has made the thing even worse than what it was before. The fact that the intention is to appoint Assistant Commissioners displaced means that—

THE HONOURABLE SIR JAMES GRIGG : The Honourable Member has misunderstood me. I said the original intention of the clause was to enable the Government to appoint Appellate Assistant Commissioners who, because of the transfer of a large part of the appellate business to a separate Tribunal, would be rendered redundant. There is no question of making the Assistant Commissioner the normal method of filling accountant vacancies. If the Honourable Member is basing his argument on that, he has completely misunderstood what I said.

THE HONOURABLE MR. HOSSAIN IMAM : Even the chance that Assistant Commissioners would be appointed is bad enough because the services

*Not corrected by the Honourable Member.

of these Assistant Commissioners will not be permanently transferred to the Tribunal. They will still be borne on the cadre of the Income-tax Department and they will be looking forward to preferment through increase of income.

THE HONOURABLE MR. P. N. SAPRU : I thought they were going to be retired Assistant Commissioners ?

THE HONOURABLE MR. HOSSAIN IMAM : Not retired. They become redundant. They are in service and they will continue to be in service and therefore they will not be independent. The real basis of the Tribunal is to have independent people to adjudicate between the public and the Income-tax Department. That object is frustrated. Packing with foreign accountants would not be as bad as putting in Assistant Commissioners on this Tribunal. The Assistant Commissioners should as a rule be excluded from this if justice is to be meted out. The Tribunal would not sit as a whole, there will be benches on which there will be a judicial member and an accountant member. The judicial member will most probably be a Government servant, already in the service of the Provincial Governments or from the I. C. S. Their services also will be temporarily lent to the Tribunal. Then both the members will be Government servants who will be looking to preferment through the betterment of the income of the Government. That, Sir, is really a negation of the Tribunal in its capacity as an independent body to adjudicate between the public and the Income-tax Department. Therefore, I support the amendment of the Honourable Mr. Pantulu.

THE HONOURABLE THE PRESIDENT : The Question is :

“That in clause 80 of the Bill, the proviso to sub-section (3) of the proposed section 5A of the Act be omitted.”

The Council divided :

AYES—10.

Askuran, Hon. Mr. Shantidas.
Hossain Imam, Hon. Mr.
Kalikar, Hon. Mr. V. V.
Kameshwar Singh of Darbhanga, Hon.
Maharajadhiraja Sir.
Padshah Sahib Bahadur, Hon. Saiyed
Mohamed.

Pantulu, Hon. Mr. Ramadas.
Ray Chaudhury, Hon. Mr. Kumarsankar.
Roy Chowdhury, Hon. Mr. Susil Kumar.
Sapru, Hon. Mr. P. N.
Yuveraj Datta Singh, Hon. Raja.

NOES—26.

Ataullah Khan Tarar, Hon. Chaudhri.
Chambers, Hon. Mr. S. P.
Charanjit Singh, Hon. Raja.
Das, Hon. Rai Bahadur Satyendra Kumar.
Devadoss, Hon. Sir David.
Dow, Hon. Mr. H.
Ghosal, Hon. Sir Josna.
Govindaohari, Hon. Rao Bahadur K.
Haider, Hon. Khan Bahadur Shams-
ud-Din.
Hissamuddin Bahadur, Hon. Lt.-Col. Sir.
Hydari, Hon. Mr. M. S. A.
Ismail Ali Khan, Hon. Kunwar Haji.
Jagdish Prasad, Hon. Kunwar Sir.

Khurshid Ali Khan, Hon. Nawabzada.
Lal, Hon. Mr. Shavax A.
Menon, Hon. Sir Ramunni.
Mitchell, Hon. Mr. K. G.
Muhammad Hussain, Hon. Khan
Bahadur Mian Ali Baksh.
Mukherjee, Hon. Sir Satya Charan.
Parker, Hon. Mr. R. H.
Patro, Hon. Sir A. P.
Puckle, Hon. Mr. F. H.
Roy, Hon. Mr. S. N.
Russell, Hon. Sir Guthrie.
Sheehy, Hon. Mr. J. F.
Stokes, Hon. Mr. H. G.

The Motion was negatived.

THE HONOURABLE THE PRESIDENT : The Question is :

“That in clause 80 of the Bill, in sub-section (3) to proposed section 5A of the Act for the words ‘accountant member’ the words ‘an accountant member’ be substituted.”

The Motion was adopted.

Clause 80, as amended, was added to the Bill.

Clauses 81, 82, 83, 84, 85 and 86 were added to the Bill.

Clause 87.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“That in clause 87 of the Bill, sub-clause (b) be re-numbered (c) and that after sub-clause (a) the following sub-clause be inserted, namely :—

‘(b) in sub-section (8) the words “on the application of an assessee” shall be omitted.’”

This is necessary in order that the Court can award costs where an application is made by the Commissioner of Income-tax and not by the assessee.

The Motion was adopted.

Clause 87, as amended, was added to the Bill.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“That necessary corrections of the numbering and lettering of the clauses of the Bill be carried out with consequential corrections of cross-references.”

The Motion was adopted.

Clause 1.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

“That in sub-clause (1) of clause 1 of the Bill, for the figures ‘1938’ the figures ‘1939’ be substituted.”

The Motion was adopted.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

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

‘(2) This section and Part I shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint, and Part II shall come into force on such subsequent date, not later than two years from the date appointed for the coming into force of Part I, as the Central Government may, in like manner, appoint :

Provided that sub-clauses (iii) and (iv) of clause (b) of section 10 shall not take effect earlier than the 1st day of April, 1940.’”

The first part of this amendment merely brings into clause 1 an amendment which stood in a clause before Part II of the Act. The draftsman thought that this was a better place for it. I ought to refer briefly to the proviso. This proviso postpones the operation of the substitution of the written down value basis of depreciation in place of the present cost basis for one year. That has been done for the purpose of implementing an undertaking given in the Lower House.

The Motion was adopted.

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

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. P. CHAMBERS : Sir, I move :

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

THE HONOURABLE SIR JAMES GRIGG (Finance Member) : As I was ill during the final stages of this Bill in the other House, perhaps I might be allowed to make a few general observations of a more or less valedictory character in this House. Of course, when I talk of observations of a valedictory nature, I realise that I am counting my chickens before they are completely hatched. The other House has still to ratify the amendments made by this House, but there ought to be no difficulty about that seeing that these amendments raise no new question of principle ; indeed, they are practically all of them either amendments required to carry into full effect decisions made by the other House or to remedy drafting errors which were discovered during the final scrutiny of the Bill. The first thing I want to do is to express my warmest gratitude and admiration for the work of those who have been officially concerned with the Bill, and I mention particularly Mr. Sheehy and Mr. Chambers and the draftsman, Mr. Bartley. Of course most of us who have been concerned with the Bill have appeared in the public eye more than others but it would be wrong to assign credit or praise on this account alone. If that criterion of the greatest amount of publicity or appearance in the public eye were adopted, I myself should get all the credit for this Bill, but that would be quite definitely wrong, though I am prepared to take all the discredit that may be coming along ; but apart from the public appearances in connection with this Bill there has been a vast amount of arduous and devoted work behind the scenes and that must also be weighed in the scales. Indeed, the Bill could never have made its appearance at all but for the unostentatious work of which the public knows nothing but the results. I could say a good deal more about the credit due to those who have been associated with me in the production and conduct of this measure but, however long I went on, I could not acknowledge fittingly the debt due to them nor could I increase by one jot my actual sense of obligation. But my gratitude does not end with the official Members connected with the Bill. I think that both Houses have played a very great part in the shaping of this measure, and I hope and believe that as a result, it is now, on the whole, a better Bill than when it was originally introduced. Some of the changes made are in the eyes of its authors definite improvements, while one or two of them made in the Lower House I definitely regret and I am rather inclined to think may be embarrassing to the revenue in practice, but I hope the fears I expressed in connection with these amendments in the Lower House will turn out not to be justified. On the other hand, the general structure has been modified so as to command a much greater measure of public acceptance than at one time seemed possible. When the Bill was launched, it immediately ran into very heavy weather and all sorts of threats and designs for preventing its coming into port were bruited. I seem to recollect that one august body was raising a very large fighting fund to ensure that the Bill should never become law. Then for a little while the seas became calmer and the Select Committee produced its report without any of the turmoil which reigned both before it began to sit and immediately after it concluded its labours. Of course it may be said, it has been said, that this was due to the unwonted spirit of sweet reasonableness displayed by the Finance Member, or it may have been

[Sir James Grigg.]

that Acolus withdrew to his cave in order to take breath for a further and more vehement blast. Anyhow, the storms soon began to rage again and they very nearly blew the Bill into hopeless and irretrievable shipwreck. However, the fundamental commonsense of man, which though it may be overlaid is always present, came to the rescue and by a common effort the ship was steered into calm water—how calm can be judged by the fact that in this House there was only one occasion for any difference of opinion at all. If the Bill becomes law, therefore, it will be to an unusual degree an effort in collaboration, and if, as I have said, that collaboration inside the Legislature, by which I mean both Houses of the Legislature, implies a very great measure of common acceptance outside, then the Bill will, I think, represent a definite epoch in the fiscal history of this country. It will mean a fairer incidence of taxation; it will mean a better protection for the honest man, and it will mean a more powerful engine against the dishonest. Of course, the Bill will not do everything; unless it is worked by an efficient and incorruptible administration it will fail of its purpose, and as the House knows, we are already labouring and shall continue to labour to secure this end also. And one may permit oneself the hope that in course of time the Bill may provide the foundation for a system of taxation which adjusts its burdens more fairly and more in accordance with the people's capacity to pay than the present system, with its precarious and undue reliance on indirect taxation, can ever do.

Sir, I support the Motion before the House and again express my personal gratitude to the House for disposing so expeditiously and so sympathetically of this very large and complicated Bill.

THE HONOURABLE THE PRESIDENT: Motion moved:

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

THE HONOURABLE MR. SHANTIDAS ASKURAN (Bombay: Non-Muhammadan): Mr. President, I apologise to the House for my inability to be present during the earlier stages of the discussion on the Bill, as owing to indisposition I was detained at Bombay. I have not been therefore able to say what I would have very much liked to say on the first reading, but I would be failing in my duty if I do not utilise this opportunity to make some observations on the effect of the Bill as I see it.

Sir, I think the Honourable Members of this House will join with me in the complaint that we are not given a fair treatment in the consideration of important Bills of this nature. It is well known that the constituents of the Members of this House are going to be affected more fundamentally by the proposed changes in the income-tax system of this country than the constituents of the Members of the other House. It is a strange irony that those who are affected most by these changes should not have an effective voice in the shaping of these changes at the appropriate time. I use the phrase "appropriate time" deliberately, because it is well known that the possibilities of substantial changes in the Bill at this stage are considerably reduced because of the constitutional arrangements that we have.

THE HONOURABLE THE PRESIDENT: Do you refer to the Joint Select Committee?

THE HONOURABLE MR. SHANTIDAS ASKURAN: Yes, Sir.

It is an accepted practice in the British Parliament that in the case of all important Bills, when a reference is made to a Select Committee for detailed consideration of the clauses, invariably a Joint Select Committee consisting of Members of both the Houses of Parliament is appointed. In this way the experience of the Members of the Upper House, as well as their point of view, is fully reflected in the formative stage of the legislation, which then goes through the other usual stages in both the Houses. I cannot therefore agree with my Honourable friend Mr. Sapru in his contention. We have been deprived of this important privilege by the procedure adopted in connection with this Bill, and are now presented with a Bill which is the result of a compromise arrived at between the Government on the one hand and the leaders of Parties in the other House on the other hand. The air of approval thus given to the Bill puts this House into a very invidious position, because it makes it difficult for Members to succeed in introducing important changes. I do hope that we shall be treated with greater consideration in connection with such Bills of a far-reaching character in future than what the Government have thought fit to do on this occasion.

Questions of finance are usually difficult to understand by the lay public.

12 NOON. The greater the simplicity regarding the financial arrangements of the Government the greater the ease in understanding the same. Instead of helping the Legislature as well as the income-tax-payers to understand the full implications of this Bill, we find that the form in which it has been introduced makes it impossible even for experts to grasp clearly the nature of the changes sought to be introduced. In view of the far-reaching changes involved, the correct procedure ought to have been to introduce an entirely new consolidated Income-tax Bill instead of an Amending Bill, which causes complications and difficulties in following the changes properly. I may assure him that he will get his points more quickly and more easily by making it easy for the ordinary man to know what he is after. There is all the greater reason for him to do so, because the Honourable Finance Member must be painfully aware that similar steps taken by him or by corresponding persons in other countries are looked upon with the greatest suspicion and anxiety by the people at large.

Another thing of general importance to which I must refer is the fact that it is not easy to understand the undue haste with which this legislation is being pushed through at this juncture in our history. We are on the eve of important constitutional changes. It would have been in the fitness of things to leave such changes to the Federal Minister of Finance who could have approached them with greater responsibility, and in any case with greater understanding of the public mind in the country. Is it wise, I ask, to fetter the discretion of the Federal Ministry in such an important respect by presenting them with an accomplished fact of such far-reaching character ?

Before going into the more important aspects of the Bill let me point out at the outset that there are several good points in the Bill, which constitute a distinct improvement in the present system of income-tax administration. The assessee has a distinct advantage in the form of the Appellate Tribunal. The business community must welcome the provision for the carrying forward of losses which has been pressed for such a long time. The insurance companies have got some relief regarding the basis of taxation applicable to them. There are various changes which are chiefly devised to remove the defects of the administrative machinery, to save the assessee from injustice and annoyance and to help him to get a fair deal from the Income-tax Department. On the other hand, no one can deny the need for stricter provisions to prevent the

[Mr. Shantidas Askuran.]

evasion of the tax. The general utility of these changes must be welcome to all concerned, though I must point out the possibility of the misuse of some of the provisions which give large powers to the executive in this connection. While the executive should have reasonable authority to prevent evasion, it should not be possible for them to use such authority in an inquisitorial or harsh manner, nor should it be possible for the executive to cover its own inefficiency by penalties and obligations piled upon the assesseees.

One of the most important changes is the slab system. Though in principle this system has its advantages, it is difficult for us to have an exact idea of the way in which it is going to work because of the uncertainty regarding the rates which the Finance Member has still kept up his sleeve. One thing, however, is certain, that the net result of the slab system and other changes introduced by this Bill will be to increase the total burden of taxation. Sir, in politics, memories are known to be short; it seems, however, that the memories of the Finance Members of the Government of India are shorter still. I should like to remind this House that the rates of income-tax were suddenly increased during the war, and since the war. In 1931, when emergency taxation was imposed, the rates were increased by 90 per cent. on incomes between Rs. 5,000 to Rs. 10,000; by 66 per cent. on incomes between Rs. 10,000 to Rs. 15,000 and by 100 per cent. on incomes between Rs. 15,000 to Rs. 20,000. Sir George Schuster, conscious of the emergency nature of these measures made these observations:

“I wish to make it clear that we regard this very specially as measures designed to meet the present emergency, but not necessarily permanently required”, and he further added, “I have great hopes that it will not be necessary to maintain income-tax at this level”.

THE HONOURABLE THE PRESIDENT: Unless you want to put your views on record, this will serve no useful purpose.

THE HONOURABLE MR. SHANTIDAS ASKURAN: No, Sir, it will because I want to show what will be the effect of this.

Whatever the justification for such a sudden and large increase in the rate of income-tax at that time, the assesseees naturally hoped for an early relief from this heavy burden, particularly as depression went on increasing. What we find, however, is that though the cuts in salaries were restored, the increase in income-tax is likely to become a permanent feature, perhaps with substantial further additions. The intensity of these additions will be realised by us only when the Honourable the Finance Member unfolds his mystery in his Budget Speech, which will be awaited with greater anxiety than ever.

I find that the Honourable Mr. Chambers thinks that the Bill will not kill the goose which lays the golden eggs. I would explain how it is likely to kill the goose.

It is easy to lay down the proposition that the taxation of a country should be paid by those most able to pay the same, and that, therefore, there should be a progressive rise in the rates of taxation on the richer classes. In other countries where the number of people who come under this category is substantially large, the burden is more evenly spread and the amount of the tax collected is also large. In our country the situation is entirely different. In spite of the large population, the total number of persons who can pay income-tax are barely 3,00,000. Roughly, this means that out of every 1,000 persons only one may be able to pay income-tax. Out of this a large number, about 2,40,000

have their income below Rs. 8,000 a year. I take this limit, because people below this limit are expecting to get some relief by the operation of the slab system, which *should be given*. I must point out that the number of people above this limit will be the only persons who will be called upon to pay a substantially larger contribution to the State. Even among these 60,000 persons, the number of persons who have larger income, is very small. For example, the number of persons with an income between Rs. 50,000 and Rs. 1,00,000 is only 1,032 ; and the number of those having an income above Rs. 1,00,000 is only 340. While I do not dispute the principle that taxation should be levied on persons most capable of paying it, I do wish to point out that the way in which this income is going to affect the so-called rich in this country, is likely to kill the goose that lays the golden eggs.

Sir, "Tax the rich" is an easy slogan to be adopted in democratic countries ; but it can succeed in its aims only if the number of the rich is large enough for the purpose. The first aim of the Government should be to see that wealth increases in the country and also that the number of people having large incomes is also increased. This means that there should be an adequate impetus to produce more, and a proper guarantee that those who undertake the risk and enterprise of producing more will be allowed to enjoy the fruits thereof in peace. If this elementary principle is not observed, and the slogan of "Taxing the rich" is carried too far, we shall soon find that the insignificantly small number of rich persons in the country will be reduced still further. This will be so not because wealth will be more evenly distributed, but because the impetus to produce having been taken away, the total production will suffer.

In order to make my point clear, I would like to draw the attention of this House to the fact that the investors in business and industry who, by their investment, help the industrial growth of the country, are the very persons on whom this additional burden is likely to fall. On the one hand the additional tax will take away a large slice from that margin of saving which they invest, and on the other it will discourage such persons from undertaking more enterprises, because of the knowledge that an increasing share of the fruits of their efforts, will be taken away by the Income-tax Department. Sir, no country in the world can afford to discourage productive activity. In India, however, our need to encourage productive activity is so great and so universally acknowledged, that one wonders as to why those very parties who can help in this national work sought to be burdened by the new arrangements.

It would not be out of place to look into this question more closely. We hear the cry for industrialisation all round. His Excellency the Viceroy in opening the Industries Conference in Bombay the other day referred to the work done by the Government of India for our industrial progress, and the Conference itself passed resolutions to push forward the work. The Provincial Governments are all keen to do something tangible to develop industries. In some provinces certain schemes have been put into operation ; in others industrial survey committees have been appointed. Besides, we have the appointment of the National Planning Committee by the Congress, whose main task is to suggest schemes for industrial development. This is enough to show the general awakening in the country for industrial growth. This is the only ray of hope in the midst of poverty and misery in which the country has to live. I want to emphasise, Sir, the fact that this only ray of hope may never shine further, and we may be faced with bitter disappointment, if measures of

[Mr. Shantidas Askuran.]

this kind are adopted by which investment in industries is discouraged at this very juncture.

I would not have emphasised this possibility if we were a flourishing nation, with a wide net work of large industry, and capable of shouldering burdens with comparative ease. On the contrary, recent history tells us that we have been passing through a severe crisis. We have only to recall to memory a few leading events that have dominated our economic life recently. India paid the War contribution of £100 million and had in addition other burdens during the War.

THE HONOURABLE THE PRESIDENT: That is all ancient history.

THE HONOURABLE MR. SHANTIDAS ASKURAN: But it becomes new now because of this heavy burden which is coming on.

This resulted in deficits and increased taxation. The purchasing power of the people did not increase in proportion, and we found ourselves helpless when the depression began. Our biggest industries, cotton and jute, have been passing through critical times. Unemployment, strikes and other troubles were never more severe than in recent years. To make matters worse, the rupee was raised to 1s. 6d. and fixed at that high rate. No other country in the world has committed the folly of keeping its currency at a rate higher than its pre-war rate. Most other countries have considerably devalued their currencies in recent years. In spite of the havoc that this policy has caused to agriculture, industry and trade in this country, we are told by the Government that they are determined to maintain the present ratio at all costs. Even the Dictators in Europe cannot excel in the way in which the Government of India has shown supreme indifference to public need and public opinion in this matter. Having invited low prices in this way, the plight of our people, particularly the agriculturists became pitiable, when the world depression added to the downward tendency of prices, and made it impossible for the farmer to make both ends meet.

The Provincial Governments have come into power with this legacy, and in spite of their best efforts, we may not be surprised if they find it extremely difficult to introduce any cheer in the miserable life of the large masses of people in the country. At this juncture, the only persons who can do something by their enterprise to develop industries, and thus give a fillip to the low economic activity in the country are presented by the Honourable the Finance Member with a situation, which is bound to damp their enthusiasm, kill their initiative, and reduce their capacity to invest in industrial enterprises. Sir, I hope I am not misunderstood as one speaking on behalf of the industrialist and the richer class. I would not have spoken these words, but for my honest conviction that these methods are likely to bring further misery both to agriculture and labour in the country. There is in my opinion no antagonism between the interests of industrialists on the one hand, and those of agriculturists and labourers on the other. Anything that strikes a blow at industry will mean less work for labour, and less demand for the products of agriculture. And at a time when the demand for our agricultural products in other parts of the world has fallen and there are serious difficulties in exporting them with advantage, to prevent the growth of industries is to strike at the only available source which can help our agriculture and labour. I would like to remind the representatives of rural and labour interests that they are following a suicidal policy if they join in this slogan of "Tax the rich" without due consideration of all implications.

While I am at this general point, let me refer to another grave danger to our industrial progress. In dealing with this Bill it is necessary to see how our industrial progress will be affected by a Bill of this kind. Sir Thomas Ainscough, His Majesty's Trade Commissioner in India, has observed in his official report that the industrial development of India will upset our economic balance, and cause conflict between the interests of agriculture and industry. No greater economic fallacy was ever perpetrated than by this responsible representative of the British Board of Trade in this country. I can appreciate the nervousness of Sir Thomas at the general talk of industrial advance in this country, because if it succeeds it will affect British imports. But I cannot appreciate his suggestion of a diversity of interests among the people of India in this matter, which is as mischievous as the traditionary British policy of divide and rule in this country. India has been and will be honourable in paying her just dues to England, but the method of payment need no longer be dictated by British interests.

THE HONOURABLE THE PRESIDENT: Are you going to take the opportunity of replying—

THE HONOURABLE MR. SHANTIDAS ASKURAN: I will not take long, Sir.

THE HONOURABLE THE PRESIDENT: I am not referring to the time. Are these matters directly concerned with this Bill?

THE HONOURABLE MR. SHANTIDAS ASKURAN: That is what I want to show, Sir.

THE HONOURABLE THE PRESIDENT: I have not been able to see your point.

THE HONOURABLE MR. SHANTIDAS ASKURAN: You will see, Sir. Unless I mention these, I cannot strengthen my case.

If British trade wants to flourish in this country, let those concerned learn to appreciate changing events in time, and adjust themselves to win the goodwill of the people of this country.

While the Ainscough alarm is still fresh in our minds, we are told by an influential organ of British capitalist interests, the *Financial News*, that in view of the loss of opportunities for British capital in China, far-sighted people in England are turning their attentions to this country to explore ways and means for investment of their capital. The writer observes that:

“the lack of confidence of Indian investors in purely Indian enterprises and the hunger for reliable undertakings in which to invest form the real background for considering the possibilities of British economic co-operation within India itself”.

THE HONOURABLE THE PRESIDENT: If they come to India, and start industries, they will have to pay this tax.

THE HONOURABLE MR. SHANTIDAS ASKURAN: Quite right, Sir. But look at the way in which it has been put. It is said that we have got no confidence in ourselves.

Sir, it is a libel on Indian enterprises and those in charge of them to say that Indian investors have no confidence in them. The real cause of the diffidence of the Indian investor is to be found on the one hand in the kind of

[Mr. Shantidas Askuran.]

burdens which are being increasingly imposed on Indian enterprise in a variety of ways, and on the other in the fact that British capitalist interests enjoy special privileges in this country—privileges showered on them by the Government of India, and safeguarded by the Act of Parliament. I should however remind my friends in England that this air of superiority, due to such privileges, should be given up in their own interests—because if there is one thing in which all classes of people in this country are united, it is in opposing to a man this theory of the white man's superiority.

One need not be afraid of the alarms raised by the British Trade Commissioner, or of the inspired boasts of the *Financial News*, but for the fact that such ideas do get some direct or indirect support from the authorities in this country. In any other country with a National Government, these sentiments would never have been expressed, and if made would have immediately been replied in an effective manner by the Government. Does the silence of the Government of India in face of this provocation mean their tacit approval of these moves by interested parties? Or, are we to understand that the increase in the burdens on investors and on Indian enterprise now being imposed by the Finance Member, along with the continuation of privileges to British interests in this country, is the contribution of the Government of India to the tendencies to which I have referred?

In order to prove my remarks, I shall in the first instance refer to the compromise on clause 4 of the Bill made in the Assembly. The original clause was supposed to favour British companies unduly, and the compromise has been accepted on the ground that this anomaly has been removed. If the Congress Party in the Assembly believes that they have achieved what they wanted by the compromise, let me say that they are mistaken. The clause as now evolved hinges on the definition of the word "resident". According to this, a company is resident in British India, if the control and management is situated *wholly* in British India, while other bodies such as a firm, a Hindu joint family, etc., are resident in British India *unless* the control and management of its affairs is situated *wholly* without British India. While I have no quarrel with the latter, I must point out that the clause makes it easy for British companies who have even a part of their control and management out of India, to claim non-residence and thus escape the Indian income-tax. I shall be glad if the Honourable Finance Member could tell us how many such companies already exist and what is their total income which will thus escape Indian income-tax. I shall not be surprised if British companies take steps in future to have the full advantage of this clause. The tact that must have been used by the Honourable Finance Member and my European friends in getting the Bill passed in the Lower House excites the admiration even of a keen businessman like myself.

While on this clause for which so much time was wasted in the other House, there is no substantial gain to India, but the favouritism to British companies remains, let me remind this House that nothing could be done by way of relief to the Indian treasury regarding (1) double income-tax relief; (2) exemption from Indian income-tax of interest on sterling debt; (3) exemption of pensions, and so on. The loss of Indian revenue on these items amounts to a few crores of rupees. It is no consolation to be told that there are statutory difficulties in the way of the removal of these legitimate grievances of India. This injustice to India does not cease to be injustice merely because it has obtained Parliamentary approval. This favouritism to British interests does not cease to be such merely because it is incorporated in the Act of 1935. My

European friends in the other House, as well as in this House, who are now so anxious to protest against allegations of favouritism and for whose honesty of professions I have great regard should ask the British Parliament to remove these blots in the Act of 1935, and thus help the Indian treasury to obtain a much needed relief.

Sir, I shall now refer to one or two important details in the Bill. There is the provision for the compulsory distribution of profits. There is also the provision for the adoption of the written-down value in calculating the depreciation allowance. The combined effect of these provisions will be adverse to the large number of small industrial concerns which are now developing in the country. As a rule some of these concerns are run by private limited companies.

THE HONOURABLE THE PRESIDENT : All this is too late, I must point out.

THE HONOURABLE MR. SHANTIDAS ASKURAN : But it is much better to bring it to the notice of the Honourable Finance Member, who is so sympathetic towards Indian industries, so that he may make a change.

The resources are limited. They have, however, to work against great odds. According to the clause, so long as the company distributes 60 per cent. of its profits, and accumulates the remaining 40 per cent., no action will be taken by the Income-tax Department, until these accumulated reserves equal the paid up capital *plus* loan capital belonging to the shareholders or the actual cost of the fixed asset, whichever is greater. If however this is not done, the Income-tax Officer has the right to assess the whole of the undistributed profits and tax the shareholders on the entire profits of the Company. This provision will make it difficult for small companies to build up strong reserves against unforeseen difficulties. The machinery and other assets of such concerns do not usually have a long life. They require frequent replacement and a conservative policy. So long as the reserve is genuinely set apart for replacement of the fixed assets, and there is no intention to evade the tax, the effort to build up such reserves ought to be encouraged, instead of being discouraged as it is bound to be by the proposed arrangement.

The provision by which depreciation allowance shall be calculated on the written-down value introduces a needless complication in the system. I do not think much will be gained thereby. But I have no objection to the change in the system, provided the rates at which the depreciation is allowed are reasonable. The present rates are too low and the Government have accepted an amendment to the effect that until such rates have been fixed in consultation with the interests concerned, this section will not be put into operation. In view of these circumstances I would appeal to the Honourable Finance Member to find a way to meet this difficulty.

In conclusion, I would like to observe, Sir, that so long as adequate efforts at real retrenchment are not made, and so long as the existing unjust exemptions from income-tax are not removed, it is not proper for the Government of India to increase still further the burdens on that small class of loyal citizens who form the backbone of the country for its economic advancement. Let the investors and entrepreneurs of this country, who have to work under several handicaps have a fair chance. Do not damp their spirits at the outset. Encourage them to go forward with their industrial schemes. Assure them that the fruits of their efforts will be substantially theirs. Unless this is done, all talk of industrial progress in this country is moonshine. The

[Mr. Shantidas Askuran.]

poverty and misery in which this country is involved must be removed. All must join hands in this great task. And in order that the agriculturist and the labourer can be given his due, let us all see that the investor who alone can make it possible to give them a chance is allowed opportunities to carry on his fruitful work, and is not hampered in the same by excessive burdens.

Sir, I am not opposing the Bill *in toto*, but I have given expression to these observations for the consideration of the Government.

THE HONOURABLE THE PRESIDENT: I understand that there are several Members who desire to speak at this stage. This is a convenient time to adjourn.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE THE PRESIDENT: The debate will now proceed on the Third Reading of the Bill.

THE HONOURABLE MR. H. G. STOKES (Bengal Chamber of Commerce): Sir, I am very glad to have this opportunity of adding my small tribute to those that have so deservedly been paid to the Honourable the Finance Member and his lieutenants. The Bill, as now before us, contains a great deal that is the result of compromise and it is I think a great achievement for the Finance Member to have been able to weld together so many opinions greatly differing into one whole. Those of us who have had dealings with the Inland Revenue Department in England are not at all surprised to find in the Honourable Mr. Chambers sympathy with our difficulties and a very genuine desire to assist us as far as possible. That spirit, Sir, pervades the Department at home and I very sincerely trust that everything will be done to foster it here. I do not say, Sir, for a moment that it does not already exist in India, but I do not think that it exists to anything like the same extent that it does at home. There are points in this Bill, Sir, which I fear may cause hardship unless they are sympathetically treated and I would like, with your permission, Sir, very briefly to give an instance. Clause 10, the depreciation clause, has a proviso, in sub-clause (iv). With your permission I will read it. It is very short. It says:

" Provided that such amount is actually written off in the books of the assessee "

In other words, the allowance for say machinery may not be granted by the taxing authority unless it is possible to join up the actual amount claimed with the particular article that is being written off. Well, Sir, I feel that if this proviso is interpreted rigidly in the letter it may cause hardship. It may prove difficult to satisfy the taxing authority that depreciation provided in a lump sum is actually linked up with the particular article. I would ask the Honourable the Finance Member to give us an assurance that a rigid interpretation will not be put on this proviso. My colleague, Mr. Parker, has given our views on many aspects of this Bill. I only wish to reiterate that we entirely support the provisions to check evasion which are all to the good of the honest man or the fool as Sir Homi Mody has called him. I am the more sorry, Sir, that the amendment to clause 5 moved by the Honourable Mr. Parker

this morning was not acceptable to the House. I fear, Sir, that if a non-resident assessee refuses to make a return, it will prove extremely difficult to prevent this evasion. Sir, the Honourable Mr. Chambers very aptly warned us that we cannot expect perfection. I feel, Sir, that if this Bill is administered in the spirit of sympathy for which I have pleaded, many of the difficulties we now apprehend will be smoothed away. I support the Bill.

THE HONOURABLE MAHARAJADHIRAJA SIB KAMESHWAR SINGH OF DARBHANGA (Bihar : Non-Muhammadan) : Sir, I congratulate the Honourable Mover on successfully piloting the Bill in this House. The support which it has received here leads me to think that before long it will be put on the Statute-book. I wish I could congratulate the taxpayers as well on this occasion, but my reading of the Bill as it has been shaped so far does not warrant it. I feel that the interests of the taxpayers have been to a great extent ignored. Sir, the chief purpose of the inquiry into the income-tax system of the country which was conducted at the instance of the Government by income-tax experts seems to be to explore avenues of getting more money for the central exchequer so that the top-heavy and perhaps extravagant administration may be carried on. We know that a part of the income-tax proceeds will be given to the provinces, but they too are in such a financial position that it is very difficult to say how far the benefits of this taxation will reach the poor. In my own province, for instance, the revenue is very inelastic, the prohibition programme of the Ministry is bound to reduce it considerably and the obligations imposed by the Government of India Act will not permit it to make as drastic a reduction in its expenditure as it would like to make. Naturally, the development of the province and the betterment of the condition of the masses have to be deferred. The one convenient cry that is heard everywhere today is, "Tax the rich". It is generally believed that the so-called rich are lightly taxed and can bear further taxation. But I have no hesitation in asserting that the belief is grossly erroneous and the various taxes, central, provincial and local, are as heavy on them as on any other class. If these taxes are not spent properly and judiciously the result will be that the fountain of the country's resources will dry and the country will remain where it is if not in a worse position.

Sir, one of the greatest British Parliamentarians once rightly remarked :

"Taxing is an easy business. Any projector can contrive new impositions, any bungler can add to the old ; but is it altogether wise to have no other bounds to your impositions than the patience of those who are to bear them ?"

I, as a taxpayer, ask this very question today of the Honourable the Finance Member.

Sir, even under the existing law, the taxpayers have been subjected to hardships and one could have expected that the Committee would look into that aspect of the question also ; but it did nothing of the sort and the Bill which has been framed on the Report of the Income-tax Inquiry of 1936 contains provisions that are calculated to increase their hardship and place them more and more at the mercy of the Income-tax authorities. I am at one with the Government in their desire to punish the dishonest assessee, but I cannot persuade myself to subscribe to a measure that will put the honest and the dishonest on the same level. Sir, although the Bill has amply protected the Income-tax Department against dishonest taxpayers, it has done nothing to protect the taxpayers from dishonest men in the Income-tax Department. Under the Income-tax Act of the United Kingdom, officers of the Department including commissioners, inspectors of taxes, assessors, collectors and clerks.

[Sir Kameshwar Singh.]

of Commissioners are liable to pay penalties for neglect, fraud, corruption or vexatious surcharges. If such provisions are necessary in the United Kingdom, notwithstanding the general satisfactory relations existing between the taxpayers and the revenue authorities, there is a greater need for such protection in India if the administration is to look to the point of view of the taxpayer. We have been assured that the Government will take departmental action on the faults of the income-tax people, but I regret to say that in practice we find that the attitude of the Department inclines more towards protecting their officers and even conniving at their high-handedness than towards punishing them for the same. I know this to my own cost rather too well. I think that some provisions ought to have been made in the law to protect the assesseees from the harassment of the Income-tax authorities.

Sir, I would have liked as a taxpayer that some of the provisions in the Bill should have been further modified and I crave the indulgence of the House for allowing me to point out some of the provisions that are greatly prejudicial to the taxpayer. First of all, I would like to draw the attention of the House to sub-clause (6A) in section 2, where the word "dividend" has been defined. This clause has been incorporated to prevent the payment of super-tax by persons whose profits are distributed in the form of bonus shares, etc., and has been copied from a similar provision in the Dividend Duties Act of 1902 of Western Australia. Except this, there is no other precedent which can be quoted for it.

THE HONOURABLE THE PRESIDENT: Has not that definition been amended now? I understand that the bonus shares are not liable to taxation unless they are accompanied by release of assets.

THE HONOURABLE MR. S. P. CHAMBERS: That is so.

THE HONOURABLE MAHARAJADHIRAJA SIR KAMESHWAR SINGH OF DARBHANGA: I am glad to hear that. So long, such dividends were treated as capital receipts. The Privy Council decision in Commissioner of Income-tax, Bengal, *v* Mercantile Bank of India, Ltd., as well as a limited number of English rulings have put the matter beyond doubt. There was no provision of this nature in the Income-tax law of the United Kingdom and it was a matter for consideration whether it would be prudent to depart from the fundamental principles of civil law, on which English law was based, on distinction between capital and income and to define income by enumerating particular cases. This was likely to create an anomalous position, namely, if a company having concerns both in the United Kingdom and India went into liquidation there would be one law governing its affairs in India and another in the United Kingdom. Further, this distinction was sure to create a feeling of injustice in the minds of assesseees taxed in British India.

I pass on to section 4 over which there was so much controversy in the other place. The chief change that has been allowed to remain is that the taxation on "remittance" basis on foreign income has been replaced by "accrual" basis. In this matter, again, the Indian law has gone in advance of the law in the United Kingdom by which taxes are assessed on remittance basis.

THE HONOURABLE SIR JAMES GRIGG: That is not so.

THE HONOURABLE MAHARAJADHIRAJA SIR KAMESHWAR SINGH OF DARBHANGA: It is also significant that even the United Kingdom Income-tax Codification Committee, 1936, which took nearly six years to investigate

and report the various problems in connection with the Income-tax law of the United Kingdom has favoured the remittance basis. This is probably due to the fact that by such a basis the country encourages and stimulates her foreign trade. It has been argued that the clause will prevent the flight of capital to foreign countries. But we are yet to know to what extent the Income-tax Department in this country will be richer by this method? How many wealthy persons there are in British India who can afford to refrain from having the income remitted to British India? On the other hand, let it not be forgotten that it will take away the incentive of trading in foreign countries without any corresponding benefit to the Indian industry or to the revenues of the Government. Again, it will be sheer injustice to the Indian investors who are driven to go in for foreign investments by reason of the uncertainty of investments in this country brought about by changed condition of things if the section is amended in the manner in which it has been. Sir, I am strongly opposed to this clause in the Bill in spite of the improvements made in the Assembly.

I will now pass on to the amendment to section 15. It will be seen that the life insurance premium and contribution to provident fund which at present are exempted up to one-sixth of the total income of the assessee have been limited to the extent of Rs. 6,000 only and although an increment of the amount has been made in the case of a Hindu undivided family, I have no doubt that by this amendment a large number of the assessees will be hard hit.

Further, sub-section (4) is sought to be introduced to give exemption based on the slab system which is one of the most important features of this Bill. Whatever may be the merits of the slab system, much of it depends upon the rates that will be fixed in the Finance Act. But I may say at once that the specimen scale as drafted by the Inquiry Committee is most objectionable because the burden has not been distributed evenly. The Government should not utilise the slab system as a means of getting additional revenues, particularly above Rs. 9,000. There should be some reasonable limits to the incidence of the tax on higher incomes. The taxpayers have been constantly clamouring for the removal of the surcharge and now the fear has arisen in their minds that the slab system is going to be revised for an imposition of a substitute scale of rates amounting either to commutation of the remaining surcharge or to stiffening the tax for any level of income. The Government should not lose sight of the fact that Indian taxpayers are in no better position than the taxpayers of the United Kingdom who enjoy so many reliefs and allowances for different purposes.

I would now come to section 22 of the Act. Sub-section (1) of this section has been so amended as to make it obligatory on the part of the assessee to file returns within 30 days from the 1st of May or before in each year, when the Income-tax Officer gives notice either by publication in the press or by publication in the prescribed manner. This amendment, I have no doubt, will work as a great hardship on the assessees. The publication in the press will in most cases go unnoticed and if the present practice of serving notice is not adhered to there will be ample scope for harassing the ignorant or supposed taxpayers. In legislating for India we must look to the conditions prevailing in this country and I wonder whether it is right to make such a provision in a country where such a high percentage of people are illiterate.

Now, I pass on to section 34. The present section gives power to Income-tax Officers to revise assessment within one year from the end of the financial year in which the assessment was originally made. The new amendment proposes to extend the period to four years. This is likely to lead to abuse of power and harassment of assessees. Even the present limit of one year is

[Sir Kameshwar Singh.]

very troublesome to assesseees but if it is increased to four years the trouble would never end. It will mean that no assessment will be final till at least four years have elapsed and during this period the Sword of Damocles will remain hanging on the assesseees and they will remain in perpetual fear of the caprices and torture of the Income-tax authorities.

THE HONOURABLE SIR JAMES GRIGG: Not unless they have cheated in the first instance.

THE HONOURABLE THE PRESIDENT: Four years for the honest man and eight years for the dishonest!

THE HONOURABLE MAHARAJADHIRAJA SIR KAMESHWAR SINGH OF 3-5 P. M. DARBHANGA: Even for honest people there are a lot of pin-pricks by the Income-tax authorities.

Section 35 extends the time for correction of any mistake made by the Income-tax authorities to four years and it appears to me to be superfluous since an assessee is not expected to sleep over the matter for such a long time.

I now pass on to section 66 which deals with the question of refund. The amendment made in the proviso to sub-section (7) of section 66 means that even after a High Court judgment has been obtained in favour of the assessee he may not be entitled to get refund with interest as at present and the same can be postponed by the Commissioner if he intends to prefer an appeal to the Privy Council. This amendment takes away the inherent power of the High Court and brings it down from its high position of being a protector of the rights of the subjects against the vagaries of the executive, to one having sympathy with the administration of the taxing department. Whereas under section 45 of the Indian Income-tax Act, 1922, an assessee failing to pay any demand within the time mentioned in the notice becomes a defaulter and penalty may be imposed and recovery may be made according to the provisions of the law; with this amendment, the taxpayer, even when he is granted a refund by the High Court, is debarred from getting it without any compensation if the matter is taken up to the Privy Council. This provision undoubtedly smacks of partiality towards the Department.

Sir, at this late stage I do not want to take up the time of the House any further by referring to other clauses in the Bill that are not quite in conformity with the interests of the assesseees. I feel that the Income-tax law should have been more thoroughly revised and consolidated, instead of amended, as has been done in the present case. This has added to the complications of this highly technical Bill. Further, the question should not have been approached merely with a view to increase the income. The entire system should have been placed on a just and equitable basis keeping in view the interests of trade, industry as well as investments. In the Bill before us we find that the English law has been followed only where it has suited the authorities and neglected where it did not answer their purpose. This is again very unsatisfactory. But there it is. In spite of its imperfections it has received the blessings of the Congress Party and the Muslim League Party and, Sir, this surely is an achievement on which the Government must be congratulated.

***THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan):** Sir, although it is my desire not to disturb the valedictory character of the speeches on the Third Reading of this Bill which the Honourable

*Not corrected by the Honourable Member.

the Finance Member started, I find that there are some points on which I have to differ with much regret from the framers of the Bill. Although there will not be much sympathy with the Honourable the Maharajadhiraja's opposition to clause 4, there are certain points which the Maharajadhiraja has raised which will be endorsed by all of us. The first is his attack on the vagaries of the Income-tax Department. The Maharajadhiraja could have quoted a number of instances involving lakhs of rupees in which the Income-tax Department had wanted to extort money which the law courts denied them. I recounted a story in the Second Reading. Another story came to my knowledge, which, although it does not involve a big amount, will show how the hands of the Income-tax Department come down heavily on the honest people. A certain Government official in the province he was serving received a notice from the Income-tax Department that in addition to his salary he had to pay Rs. 1,800 odd additional taxation from some source of income which was not disclosed. On his inquiry, he was told that he possessed a house in another province on which he had been assessed. When he preferred an objection—

THE HONOURABLE THE PRESIDENT: That has been said already.

THE HONOURABLE MR. HOSSAIN IMAM: This is a different story altogether. This is about a Government official. The house happened to be fortunately within municipal limits and the valuation of the house was Rs. 600, while the Income-tax authorities had imposed a taxation that would be imposed on an income of Rs. 12,000 a year. As he happened to be a Government official—

THE HONOURABLE SIR JAMES GRIGG: Is the Honourable Member suggesting that a house which was worth Rs. 50 a month had been valued at Rs. 1,000 a month? Not more than a few houses in India are valued at Rs. 1,000 a month.

THE HONOURABLE MR. HOSSAIN IMAM: If the Honourable Member desires, I can place the papers before him.

THE HONOURABLE SIR JAMES GRIGG: I should very much like to see them.

THE HONOURABLE MR. HOSSAIN IMAM: I shall show them to him. As he happened to be an official fairly high up, he was able to get it brought down to the ordinary level, but he had been given notice and a penalty was going to be imposed on him because he had failed to file a return.

Then I should like to ask the Honourable Member to explain to me an English word which I have not been able to follow quite correctly. The tax is to be imposed on the accrual basis. Accrual does not mean whether it is realised or not. Profit accrues to a person as soon as it is declared. There are any number of instances where, for instance, a moneylender at the close of a year gets an income by interest which accrues to him, but before it is realised he may be affected by the different Acts of the provinces which reduce the interest. Realisation is different from the accrual. Accrual is on the basis of a contract whereas realisation is affected by the vagaries—

THE HONOURABLE THE PRESIDENT: I do not follow you. Honestly I cannot follow you. When an income has accrued, it is real. He may get paid a few days later, but it accrued at the source. Why do you say that the two things are different?

THE HONOURABLE MR. HOSSAIN IMAM : I will give you an instance with which my Honourable friend Mr. Ramadas Pantulu is very conversant. There are any number of co-operative societies in my own province which are in a bad way. Deposits are there and interest accrues on them. But it is impossible to realise even the capital from them. The Honourable Mr. Pantulu presided over the provincial co-operative meeting in my province and therefore I draw his particular attention to this fact. There are any number of instances of this nature where accrual does take place without realisation. It is an administrative act—

THE HONOURABLE THE PRESIDENT : I am afraid this is hair-splitting.

THE HONOURABLE MR. HOSSAIN IMAM : In my province at least it is a very burning question because the realisations are not at all in keeping with the accruals. Not only in this co-operative business but also in the money-lending business as perhaps the Maharajadhiraja will bear me out—

THE HONOURABLE SIR JAMES GRIGG : Don't they get allowance for bad debts ?

THE HONOURABLE MR. HOSSAIN IMAM : It is not a question of bad debts.

THE HONOURABLE SIR JAMES GRIGG : Surely it is.

THE HONOURABLE MR. HOSSAIN IMAM : It is a question of something accruing on the basis of an agreement ; but when we go to the law courts, on account of the working of the different Acts that have been passed in the Provincial Legislatures against creditors, like the Usurious Loans Act—

THE HONOURABLE SIR JAMES GRIGG : There is an allowance for bad debts.

THE HONOURABLE MR. HOSSAIN IMAM : But whether they counter-balance or not will depend on the vagaries of the Income-tax Officer.

THE HONOURABLE SIR JAMES GRIGG : Not at all.

THE HONOURABLE MR. HOSSAIN IMAM : Now, I come to sections 6 and 35 about Appellate Assistant Commissioners. I had voiced my views on another occasion about the Tribunal, that the Assistant Commissioners are not quite what we want them to be. They are not independent officers. We are told that these people who will be appointed will also remain under the Commissioner of Income-tax and therefore their independence of judgment would be much restricted. Sir, it is a well known fact that in the Income-tax Department as well as the Excise Department the promotions of officers are dependent on the increase of revenue they bring in into the department. It is one of the criteria on which the ability of an officer is judged—

THE HONOURABLE SIR JAMES GRIGG : Who told you that ?

THE HONOURABLE MR. HOSSAIN IMAM : That is our experience.

THE HONOURABLE SIR JAMES GRIGG : It happens not to be true.

THE HONOURABLE MR. HOSSAIN IMAM : But that is our experience.

THE HONOURABLE SIR JAMES GRIGG : How can you have that experience? You have never been a Government officer.

THE HONOURABLE MR. HOSSAIN IMAM : When a particular officer is able to collect more money for the Government, he is promoted. We have seen it in the Provincial Government, and the same is the case in the Government of India also.

THE HONOURABLE SIR A. P. PATRO : It is your Government.

THE HONOURABLE MR. HOSSAIN IMAM : I am not speaking of the present Government. I am speaking of the previous Government under the Montford scheme, of which we had experience for nearly 16 years.

THE HONOURABLE SIR DAVID DEVADOSS : That is dead and buried.

THE HONOURABLE MR. HOSSAIN IMAM : The Government of India is working on the same lines. If the Honourable Member will give us an assurance that this will be disqualified, we would welcome it.

Now, Sir, I come to section 62 in which there is a provision that income-tax officers should supply a list of those paying income-tax up to a certain limit to the authorities concerned. I had occasion to draw attention to this point on the 17th March, 1937, when I moved my Resolution on this Bill, and I then showed that it was carried too far. Now, I should like to tell the Government that they have conveniently used a word which may or may not be of use to us. The wording of the amendment which Mr. Chambers moved just now says so much of the set particulars should be sent to the appropriate authority. The words "appropriate authority" may mean either the officer in charge of preparing the roll or the objectors. It is we who are objectors. We say that a certain person is not entitled to be shown in the list where we will come in. That will mean that people who are not qualified will remain on the electoral rolls, because the Government of India is not prepared to give the list of the people who want it to disprove the fact that a certain person is or is not eligible to be a voter. That, Sir, is an administrative action, and Government should reconsider the matter, because the authority does not preclude a private person. The point is whether a person is entitled to remain or not I claim that for the purpose of excluding persons the objectors should also be included in the list of authority.

Sir, it is rather an unfortunate fact that the Congress and the Muslim League were satisfied with the assurance of the Honourable the Finance Member that no new exemptions would be given under section 60 of the old Act. What we would have liked was that the whole law of exemptions given therein was quashed and a new list incorporated in the Government of India Act giving exemption to those who really deserve to be exempted as is the case in other democratic countries. If that had been done, then this Act would have been a democratic Act, but as it is, it is still a bureaucratic Act.

I also regret, Sir, that Members were content to leave the matter dealing with double income-tax relief under sections 53 to 56 where it stood before. The Honourable the Finance Member in the other House made two statements about the quantum of this relief. When he introduced the Bill on the 7th April his estimate was different to what he gave on the last day when he presented the Report of the Select Committee—

THE HONOURABLE SIR JAMES GRIGG : They were later figures.

THE HONOURABLE MR. HOSSAIN IMAM : They were not later figures.

THE HONOURABLE SIR JAMES GRIGG : I say they were later figures. The first lot of figures dealt with previous years, and the second lot dealt with subsequent years. For one series of years the average is about Rs. 30 lakhs ; then it came down to Rs. 85 lakhs.

THE HONOURABLE MR. HOSSAIN IMAM : It was a jugglery of figures because your second set of figures was brought about by the fact that British India now excludes Burma, and so the later figures did not incorporate the tax relief given in Burma. Rs. 41 lakhs was the relief given in Burma, and a major part of that will now come to the Government of India under the present section 4, because of the domicile of the Burma Oil Company it gets more than its profit in British India, and therefore it will be liable to taxation in India now. You will see that as soon as this Act comes into operation, the amount of relief under section 49C will mount up by over a crore of rupees. Therefore, I say it was a jugglery of figures.

Sir, we were glad to find our Honourable colleague Mr. Sapru in his new role of an apologist of the Government. Perhaps he will continue in this role for the full session.

THE HONOURABLE MR. P. N. SAPRU : I am an apologist for what is right.

THE HONOURABLE THE PRESIDENT : At the same time, I cannot understand your attitude and that of your colleagues ? On the first day all Members were showering their praises on the Finance Member, and today you are all attacking him ?

THE HONOURABLE SIR JAMES GRIGG : I will give you the explanation. I have exhausted my right to answer back.

THE HONOURABLE THE PRESIDENT : You are entitled to speak again if you wish to. The Standing Order allows you to speak or to make a statement if you wish to do so.

THE HONOURABLE MR. HOSSAIN IMAM : I regret that part of our work was handicapped by the fact that the Government did not extend to us the courtesy which they had extended to the Assembly. There they had presented a comparative statement—

THE HONOURABLE SIR JAMES GRIGG : I did the same here also.

THE HONOURABLE MR. HOSSAIN IMAM : You did not.

THE HONOURABLE SIR JAMES GRIGG : Yes, I did.

THE HONOURABLE MR. S. P. CHAMBERS : A copy was sent to every Honourable Member.

SOME HONOURABLE MEMBERS : Yes, we all got a copy.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I am sorry for wrongly attacking the Honourable the Finance Member.

Then, Sir, the speech of the Honourable Mr. Shantidas Askuran showed, which is a bad commentary on the Income-tax Department as well as on ourselves, that there are only 339 people who are assessed to income-tax to over a lakh of rupees, and that shows that there is a good deal of tax-dodging, and that the Income-tax Department is not vigilant enough—

THE HONOURABLE THE PRESIDENT : Whether the Income-tax Department is not vigilant enough or the dodgers are very sharp is the question.

THE HONOURABLE MR. HOSSAIN IMAM : It may be either. However, I had expected to find a much larger number of people in Bombay alone. It is a very significant fact that the relief under section 49 is the least in Bombay. I never expected it.

THE HONOURABLE THE PRESIDENT : Then you accuse Bombay of dishonesty ?

THE HONOURABLE MR. HOSSAIN IMAM : Then under foreign incomes, I find the largest number which will get relief under section 49 is Calcutta whereas in Bombay they get more than 60 per cent. of the exemption.

Now, Sir, before concluding my remarks, I hope that better sense will prevail when a more responsible Government is established at the centre, and this double income-tax relief will go together with the power to the Governor General under section 60 to exempt incomes which is thoroughly undemocratic.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : I should like to join in expressing my warm appreciation of the work of those who have been associated with this Bill—Mr. Sheehy, Mr. Chambers and Mr. Bartley. Mr. Chambers, if he will allow me to say so, has piloted this Bill most excellently. He was on his feet for very nearly half of yesterday and very nearly half of today and he was courteous and conducted himself extremely well. The Honourable Sir James Grigg also deserves credit for this Bill. In my new role as an apologist for Government I would plead that he deserves credit for this Bill because I think by this Bill he will enable the provinces to get more money for social services.

THE HONOURABLE MR. HOSSAIN IMAM : But not from double income-tax.

THE HONOURABLE MR. P. N. SAPRU : He has not been afraid of attacking certain interests. So far as double income-tax relief is concerned, my views are entirely the same as those of my Honourable friend Mr. Hossain Imam. As a matter of fact, I do not believe in relief from double income-tax at all. I think the principle ought to be the capacity to pay. I see no reason why a company should not pay full income-tax in England and in India also. I believe there are some economists who hold the view that double income-tax is not economically wrong or unsound. I am also prepared to agree with Mr. Hossain Imam that under the present double income-tax relief system we get less benefit than our British friends. Very few Indian companies are operating in England ; many more British companies are operating in India. Therefore, there is not much reciprocity about this double income-tax relief business. I hope that some day this double income-tax relief business will be put on a more equitable basis. I hope also that some day we shall have an amendment of section 272 of the Government of India Act. Pensions ought

[Mr. P. N. Saprú.]

not to be exempted from income-tax in India. We shall have to go on pressing for this as we had been going on pressing for this before. But while saying all this I also recognise that certain interests which had escaped taxation before have been attacked by this Bill. Some pensions and leave salaries are going to be taxed under this Bill and I think we ought to give credit to those who are responsible for this Bill for these small mercies. It has been said that the maximum that we have got under this Bill is the best of a bad bargain. Speaking quite frankly, I do not subscribe to that view. Even alien Governments can sometimes give good measures, and I think the present Bill is one of those measures. A better basis of taxation is envisaged by this Bill and I say that with all respect to my very distinguished friend the Maharaja of Darbhanga. There is a better distribution of the incidence of taxation on account of this slab system, and I would like to say that I am in entire agreement with Appendix II of the Income-tax Inquiry Report. I hope, whatever happens, that basis in the Report will not be disturbed. The specimen rates put forward by the Inquiry Report strike me as on the whole good. My Honourable friend Mr. Hossain Imam has criticised the clause which deals with the power in the hands of the executive to exclude certain classes from income-tax. I agree with those criticisms and I hope that that clause will some day be amended.

I should like just to say one or two words about the administration of the Indian Income-tax Department. I hope that the administration of this Act will be in a very sympathetic spirit. At present one's experience is that people have got to go to the Income-tax Officer, sometimes dance attendance on him for hours, have the books dislocated, and so on. All that ought really to stop. Dislocation of business is caused by all that sort of thing and I should like the administration, therefore, to be better in these respects. I can say from my experience of my province that the standard of honesty among our Income-tax Officers is very high. I am speaking with reference to my province, I cannot speak about any other province, but I think a word of praise is due to the Income-tax Officers in our province. They work under great temptations. Unfortunately there is no public opinion in regard to certain basic matters in this country. People are ready to offer them bribes and yet they resist these temptations. It is greatly to their credit that they do their work as honestly as they have been doing so far.

I have indicated my views on this Bill in my first speech and I do not wish to go over the ground which I covered in that speech. I find myself in general agreement with all the clauses, but I would like just to say one word about Mr. Parker's amendment regarding the definition of companies. Our Group is in agreement with Mr. Parker's definition. We do not feel ourselves bound by any agreement that may have been arrived at between the Finance Member and the Congress Party. We do not belong to the Congress Party. Congress represents the Government in nine provinces, the Finance Member represents the Government of India, and they can therefore always understand each other much better than we can do. Normally we should have supported Mr. Parker's amendment, but we are very weak just now, a number of our members are not present and therefore we allowed the matter to be settled between Mr. Parker and Sir James Grigg and did not interfere in the discussion between him and Sir James Grigg. Also I should like to make it clear that in giving support to this Bill I am speaking for myself. So far as our Party is concerned ; it has allowed us freedom of vote on this Bill and therefore I cannot

commit the Party to which I belong, on anything. But so far as I am concerned, as I have said, I am in favour of this Bill and I give it my hearty support.

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official): Sir, this is the Third Reading of the Bill and any long speech which would have been most appropriate at the First Reading is not very relevant at this stage of the Bill.

THE HONOURABLE THE PRESIDENT: I see that more points have been urged at this stage than at the first stage.

THE HONOURABLE SIR A. P. PATRO: Yes, Sir, four days' reflection has inspired persons.

I have only to speak a few words on the very interesting though not very relevant speech made by the Honourable Mr. Shantidas Askuran. It was a characteristic speech, characteristic of the class which he represents. Is it not a fact, I would ask him in all earnestness, that the Federation of Indian Merchants passed a resolution and appointed a committee to raise funds for the purpose of opposing the taxation of Indian merchants trading abroad. That has been the theme of the Federation on which the Honourable Mr. Shantidas discoursed, therefore it is quite characteristic that he should on this occasion say that the industrialists are taxed heavily and the industries of India are handicapped and the agriculturists are suffering. What a great sympathy has been manifested by him! And I will shortly show that in the name of the agriculturists these people, the Federation, have been exploiting the country for their own ends. And may I ask the class which he represents whether or not they are free—

THE HONOURABLE THE PRESIDENT: May I tell you at the outset that personal charges are to be avoided under the Standing Orders?

THE HONOURABLE SIR A. P. PATRO: I am speaking of a class, Sir.

THE HONOURABLE THE PRESIDENT: Which he represents.

THE HONOURABLE MR. SHANTIDAS ASKURAN: I represent the Bombay Non-Muhammadans, including the agriculturists.

THE HONOURABLE SIR A. P. PATRO: Quite sympathetic agriculturists too. Because is it not a fact, I ask the Honourable Member, that the result of this Bill is that, while the Indian merchants and capitalists pay only $3\frac{1}{2}$ annas in the rupee, the European merchants and capitalists pay $4\frac{1}{2}$ annas in the rupee? Is this or is this not a fact? Has he analysed the position? My conclusion is that $3\frac{1}{2}$ annas is paid by the Indian merchant and capitalist and $4\frac{1}{2}$ annas by the European merchant and capitalist. That is the position under the Bill. I am open to correction.

Again, I would ask the question whether or not in the name of the Indian agriculturist and tiller of the soil, the Indian merchant is protected in every way? What about the cotton duty? To whose advantage is it? At present when Japan is not taking as much cotton as she might, when impediments are placed in the way of Britain taking as much cotton as she was taking, what is the position of the agriculturist? He has to sell to the capitalist at a lower rate than he was selling before. That is how the agriculturist has been profited in the circumstances.

[Sir A. P. Patro.]

Then again, Sir, what about Sir Homi Mody's statement that three sets of account books are maintained in certain quarters ?

THE HONOURABLE THE PRESIDENT : He did not say three sets of account books but three classes of taxpayers.

THE HONOURABLE SIR A. P. PATRO : He also said three sets of account books are maintained. And that is a statement made by a responsible member of the capitalist and manufacturing and industrial classes.

Now, if those are the facts, if matches are protected, sugar is protected and cotton manufactures are protected, at whose expense are they protected ? At the expense of the agriculturist. He has to bear the burden. He has to pay the price—and a high price too. And yet great sympathy is shown to the agriculturist that in his interests the industrialist should be protected. Now, Sir, it is forgotten that the effect of this Bill is that about five-sixths of the assesses are given relief. 260,000 people are given relief out of 300,000. People with an income under Rs. 8,000 are given relief. Is this not a very great help to the assesses, the poorer and the middle classes ? Why should then the capitalist and the industrialist complain and say that this Bill is a great hardship in India against the industrialist ? It has absolutely nothing to do with industries. Industries may flourish as well as they do now. All that this Bill aims at, the Honourable Member should remember, is to bring in income, the world income of Indian residents and others. They were evading it till now and now this Bill ropes them in and brings them in to pay the just demands of the State. When the State helps them in the matter of their industries, their nascent struggling industries, when the State is helping them in so many ways, is it not fair and reasonable that their income should be subject to taxation ? Is it anything wrong or unfair that the Bill has done in this matter ?

Then, Sir, it is said that this Bill has been hastily put forward in order to add revenue to the Government of India. I would certainly say that it is the legitimate desire of the Government that they should increase their sources of revenue so that it may be used for the purpose of good administration. Now what is it that is being done ? In the matter of increasing the revenue, what have they done ? They have done something in the way of helping the poorer assesses and roping in the rich. Is it therefore unfair that they should increase the revenues of the State ? How else could the Government be carried on when every now and again we make demands for development and for improvement. And what is the majority party in the provinces doing now ? I would appeal to my friend to say what in his own province the majority party is doing. Their legislation, their administration Acts ? And what is being done in Bihar ? My Honourable colleague Mr. Hossain Imam has given some instances of the way in which they are dealing with this matter. Therefore, I say, even the Provincial Governments today as they are constituted at present are enacting legislation at headlong speed, legislation without any regard for the people, legislation only to promote the programme of the Party. Beyond Party interests they do not show any interest for the welfare of the people. And such being the case, compare that with what we have got in this Bill, in which an equitable basis has been formulated for the purpose of obtaining income-tax revenue. It gives under a slab system a very reasonable basis for the purpose of the distribution of the tax. How could that be challenged ? And it has not been urged by the Honourable Member that there is any inequity in the slab system. It is the slab system which gives advantage

to the poorer class of assesses. It is said that you are now taxing the rich to such an extent that there may not be any more revenue coming in and that you are really destroying the interests of those who have been contributing to you.

THE HONOURABLE THE PRESIDENT : Why are you apologising for Government? Government admit that they are taxing the rich and trying to show as much relief as possible to the poor. That is their case.

THE HONOURABLE SIR A. P. PATRO : That is my case also. My case also is that. Do not take the name of the agriculturist or the poorer classes. Do not exploit the country in the name of the agriculturist and the poorer classes. Be honest and truthful and say without fear that we have been avoiding our tax till now and this Bill ropes us in. If that admission is made, then there is absolutely no question. But that is not made. Hence my contention that all this tall talk about the agriculturist is all unreal.

THE HONOURABLE THE PRESIDENT : Is it human to make that admission?

THE HONOURABLE SIR A. P. PATRO : It is but human to say, "I need not pay any tax at all. My neighbour may pay the tax and let me enjoy all the privileges of citizenship". That is also human nature. It is that selfish human nature that I am attacking. I say that there should be equitable distribution of tax. That is the effect of this Bill. It gives relief to honest citizens on the one hand, and it wants to bring in the revenue which should properly be paid to the State by those who have till now been avoiding it. These two objects are achieved in the various provisions of the Bill. Defects, there may be, as has been stated by the Honourable Mr. Chambers, but by working the Bill we may be able to put it on a more proper basis. For all the work that has been done in bringing in this Bill we are very grateful to those who have been helpful in this matter.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I shall not be provoked by my Honourable friend Sir A. P. Patro's speech, into any defence of my Party or the Provincial Governments. I will say one or two words so far as they are strictly relevant to the Bill before us. Sir, one of the reasons why I welcome this Bill is that it legitimately augments the income of the Government of India from income-tax. In this country most of the taxes are paid by the people by way of indirect taxation. The customs revenue forms the bulk of the revenue and only Rs. 17 or Rs. 18 crores of the Government of India's income come from income-tax, and if this income is increased, under the Neimeyer award the provinces will get something. I believe they will get about Rs. 5 crores and on that computation my province will get about Rs. 75 lakhs immediately, and after the expiry of the award period I believe my province will get half of that, or Rs. 37½ lakhs. That is the calculation I have made, subject to correction. Therefore, from the point of view of the provinces, I welcome this measure.

There was one remark made by the Honourable Sir A. P. Patro the other day, namely, that the Provincial Governments are wasting their revenues on prohibition schemes and on agrarian relief to the ryots and therefore they should not be given any money. That is an entirely wrong view to take. Sir, the Provincial Governments are pursuing a policy of industrialisation on the one hand, to improve the prosperity of the province, and on the other hand, they are also pursuing a policy of agrarian relief in order mainly to increase

[Mr. Ramadas Pantulu.]

the purchasing power of the masses. Of course we have got to take a survey of the general effect of all the measures a little later. I do not know whether there are any data with the Government of India to know what the effect of the Debt Relief Act in Madras has been. Many of the creditors who had lent money have had their dues scaled down considerably. In one case, I know a creditor who sued for Rs. 1,60,000 got a decree for Rs. 17,000. Naturally he would not now pay the income-tax which he was paying. So, when we take an estimate of the effect of the Debt Relief Acts in the various provinces, we may find that they adversely tell on the income of the Government of India from income-tax because creditors whose claims are scaled down will be entitled to relief from income-tax. But, at the same time, these measures have resulted in a certain amount of prosperity to the agriculturists who are the debtors and they will contribute their share to the Government revenues in due course under the economic laws whose operation is inevitable. Sir, the policy of industrialisation of the rural parts and of giving agrarian relief and also of prohibition to improve the savings of the poorer classes who are wasting their money on drink are all beneficial measures which on the whole contribute to the economic benefit of the province. My friend, Sir A. P. Patro, is unable to apply his generally acute mind to these aspects of the Provincial Government's activities on account of his very rank bias against Congress and the Congress Governments towards whom he is often very bitter—for obvious reasons.

One word more about Sir A. P. Patro's speech of the other day. He referred to Mr. Dixon, Collector of Salem, and another Indian officer who made a very interesting report on the work of prohibition in the Salem District. They never said that prohibition was a failure. They only said that those who were very enthusiastic to help them at the inception of the prohibition movement began to show some slackness in their endeavour—even the Congress volunteers—and both the officials only asked for greater support in their endeavours and also exhorted the people to be more enthusiastic about the experiment that is being carried on in several parts. Therefore, my friend's quotation from that report is obviously an incorrect one.

Having said so much, I would once more say that on the whole the Congress Party supports this measure because it makes the rich pay a little more than they now do—and they could pay this—and it gives relief to the poorer classes to some extent by the slab system. It also prevents evasion and avoidance of tax on the part of those people who could and ought to pay. These are really good features. There may be defects. No Act can be perfect. But on these three grounds we welcome the measure.

A word about the rich people being taxed excessively. My Honourable friend Mr. Shantidas Askuran, in the course of his very interesting speech, has pleaded for the industrialist. We do not at all say that the industrialist should be harshly treated or that they should be so taxed as to prevent the development of industries or the investment of capital in growing industries. That is nobody's desire. But, at the same time, I must say that the benefit of the protection which the industrialists have got in this country from the Government of India are being enjoyed by them while the burdens have been passed on to the consumer. The Government of India derive the bulk of their revenues from customs and excise, and they impose certain burdens on the consumer in order to protect the industry. Therefore, I cannot say that the industrialists have made any great sacrifice so far in regard to the development of industries. They do it but to some extent at the expense of the consumer. Nevertheless it was for the general good of the country that we

supported discriminating protection. Under this Bill, how they will be affected remains to be seen, after the Finance Member introduces his Finance Bill where the rates of income-tax, super-tax, and the various slabs are shown. As I have said the other day, a man who made a return of Rs. 3 lakhs of income will have to pay roughly 37½ per cent. of his income as income-tax and super-tax in this country. That may be subject to correction, I said. I do not think it is excessive. If people with such large incomes are even taxed to the extent of 8 annas in the rupee I would say that it is not excessive. You have got to tax the rich to some extent in order to serve the poor. I give a warning to my friends here who plead against taxation of the rich that they run the danger of socialism enveloping them very soon. Take a country like England, which is essentially conservative and capitalistic in its outlook. They have kept at bay the forces of Bolshevism and Socialism by their desire or readiness to tax the richer classes in order to serve the poor. They have unemployment relief, old-age pensions, and various social reliefs which to this day we have not attempted in this country because we have no money. I hope the Government of India and the Provincial Governments will in due course tap every source of revenue in order to give such relief to the poor. That is a great necessity in this country, and I make a most earnest appeal to the great landlords and capitalists like the Maharajadhiraja of Darbhanga to take a more dispassionate view in these matters. I am sure he will make some sacrifice in order to serve his poor countrymen.

Sir, I do not wish to refer in detail to any of the sections of the Income-tax Bill again. One or two sections require amendment very soon. Though we have for the present given our support to the Bill and to the provisions relating to double income-tax relief, we shall not be satisfied with the existing provisions for a very long time. According to a note circulated by some expert bodies, I understand that we are to make a present of about Rs. 90 lakhs annually to the British Exchequer on account of this double income-tax relief. That is nearly one crore of rupees, or one-seventeenth of the entire income from income-tax. That is too large a sacrifice for the Indian Exchequer to make for a long time. Therefore if the Federation ever comes I suppose it will be the first duty of the Federal Ministry to see this section amended.

Similarly in regard to pensions, about which we have heard a great deal, and with regard to various other sources of income like the interest on sterling loans as exempted under the Government of India Act. There is a growing demand to see that the injustice done to India under certain sections of the Government of India Act like 178, 272 and 315 in relation to income-tax rightly due to the Indian treasury is undone at the earliest opportunity.

I have one word to say with regard to the appeal made by some Members to treat this House more generously in regard to such important measures. I entirely associate myself with what they have said. Also I would appeal to my elected colleagues in this House to show a greater readiness to serve the country and not to be attached too much to business at home. Today I only found 10 elected Members to vote on a division out of a House of more than 30 elected Members. If we do not show earnestness and we are not at the post of duty when we are required to serve the country, we cannot expect much better treatment or respect from outsiders. Therefore, I hope the elected Members of this House will show a greater sense of responsibility. For instance, of my own Party of eight members I had only three with me here today. (Laughter.)

Another thing is that I wish that some Members specialised in questions of taxation and finance affecting special interests. For instance, in regard to

[Mr. Ramadas Pantulu.]

co-operative finance, our case has gone by default because there was nobody who has specialised in that in the Legislative Assembly. If there had been one co-operator in the Assembly I am sure he would have explained our position to Sir James Grigg and the Income-tax Department, as to the hardships we labour under, and I am sure that sympathetic consideration would have been given to such representation. There is a tendency to brush aside technical aspects of special financial interests in the anxiety to give a political turn to all the discussions. I think the Legislature should proceed on more business-like lines and less on political lines on such Bills. Some of us suffer very seriously if business aspects are not kept in view and only political considerations are brought into the discussions of the Legislature on taxation measures. Therefore I hope and trust that though the Income-tax Bill is a measure to which we give our hearty support, and with full appreciation of the services rendered by the Finance Member and his Department—that an early opportunity will be taken to amend the measure so as to make it more satisfactory.

One word more and I have done. The members of the European Group in the Assembly and in this House deserve our special thanks. But for their co-operation, clause 4 of the Bill, which gave so much trouble, could not have been so easily set right. They agreed to eliminate the distinction between domiciled and non-domiciled foreign residents and showed a commendable spirit of co-operation with the people of the country. I am glad to find that their spokesmen say more often now that their real safety lies not in sections 111 to 117 of the Government of India Act but in their co-operation with the people of this country and in working in harmony with them for the common benefit of India.

THE HONOURABLE MR. S. P. CHAMBERS (Nominated Official): Sir, the debate on the Third Reading has ranged over a very large field and at this late hour I do not propose to detain the House for more than a few minutes. In the first place I cannot possibly deal with all the points that have been raised that have nothing whatever to do with income-tax. That is quite beyond my scope and capacity and I think also it is entirely irrelevant. Then again, some Members have been replied to by other Members and to that extent I think my task has been relieved. And then one third point, that is that a number of points of detail have been raised and I think that this was not the right stage to raise those points of detail; that stage was I think on the First Reading or when we were on the detailed consideration of the clauses.

I propose therefore to deal with three points only. First of all, the Honourable Maharaja of Darbhanga made a comparison between the law as is proposed in this Bill and the United Kingdom law. He made the comparison on two points, first of all on the assessment of foreign income. Now may I assure him quite emphatically that in this respect the law in the United Kingdom is much more comprehensive, the scope of the tax is more comprehensive than the law we are proposing here. I hope he will not ask me to give him details. If he wishes to have details he can find them in the United Kingdom Income-tax Act, 1918, mainly in cases 4 and 5 of Schedule D and partially in case 1. He will see everything there. He will see that as far as foreign income is concerned, the law there is much harsher, if you can call it harsh, than the law we are proposing here.

The other aspect to which he referred was the allowance for dependants, wives, etc., and he was referring to rich people generally, or so I imagine. May I also assure him that if he makes a comparison between the tax payable in the United Kingdom by people in that class after deducting all the allowances,

the allowances for wives and children and life insurance premiums he will find that the percentage of tax payable there in all those ranges is far higher than the percentage of tax which is shown in the Inquiry Report to which I think he referred.

Then the next matter to which I shall refer was one which was raised by the Honourable Mr. Stokes. He said there was a provision in sub-section (4) of clause 10 which dealt with obsolescence and made it necessary for the Income-tax Officer to make a comparison between the amount written off in the books and the amount which would otherwise be allowable. He said he thought this provision was possibly unnecessary and might cause difficulty in practice. I can give him an assurance that when this is being worked in practice, as far as possible instructions will be given to see that assessee are not unduly harassed and that the comparison made between the amount written off in the books and the amount to be allowed is not unduly meticulous. I can appreciate his difficulty that the amounts may be written off in one year in the books and yet the allowance may be otherwise due in another year for income-tax purposes. As far as possible that will be dealt with with as much consideration as the law permits. And then the Honourable Mr. Hossain Imam

4-5 P. M. referred to a number of troubles with the Income-tax Department. He referred to various cases of hardship about a house. I did not quite follow the example. He must have been a very wealthy man, because we can only tax a man on one-tenth of his total income in that respect. He must have been an extremely wealthy assessee with a house assessed at Rs. 12,000. However, I could not quite see what his point was in relation to this Bill, because under it Assistant Commissioners are divided into two groups, and as I explained on an earlier occasion, there will in future be Assistant Commissioners whose sole duty will be to inspect and see that Income-tax Officers neither over-assess nor under-assess and to take disciplinary action if they administer the Act improperly or harshly.

That, Sir, is all I wish to say, except, in closing, that the object to which the Income-tax Officer should direct himself is not to make the assessment as high as possible, nor is it to be unduly lenient; he should as far as possible get the assessment right, and in future—I think it has been so in the past; but the matter will be stressed in future—his promotion will depend not upon the manner in which he deals with assessee, that is to say, not upon the harshness with which he deals with assessee, but the extent to which he can get the assessment right.

THE HONOURABLE THE PRESIDENT: The Question is :

“That the Bill further to amend the Indian Income-tax Act, 1922, as passed by the Legislative Assembly and as amended by the Council of State, be passed.”

The Motion was adopted.

STATEMENT OF BUSINESS.

THE HONOURABLE KUNWAR SIE JAGDISH PRASAD (Leader of the House): The legislative business for Monday, the 30th, will consist of the following Bills :

- (1) Ajmer-Merwara Municipal Regulation Bill.
- (2) Cotton Cess Bill.

[Sir Jagdish Prasad.]

(3) Destructive Insects and Pests Bill.

(4) Motor Vehicles Bill.

The first three Bills are minor amending Bills and it is hoped they will not take long to dispose of.

Discussion on the Motor Vehicles Bill will then be resumed and if the Bill is not disposed of that day, the discussion will be continued on the following day.

The Council then adjourned till Eleven of the Clock on Monday, the 30th January, 1939.
