

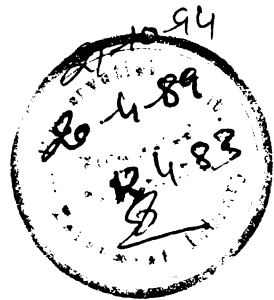
THE
LEGISLATIVE ASSEMBLY DEBATES

Official Report

Volume II, 1940

(6th March to 26th March, 1940)

ELEVENTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1940



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Legislative Assembly

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CONTENTS.

VOLUME II.—6th March to 26th March, 1940.

	PAGES.		PAGES.
WEDNESDAY, 6TH MARCH, 1940,—		MONDAY, 11TH MARCH, 1940,—	
Member Sworn	957, 979	Starred Questions and Answers	1087—98
Starred Questions and Answers	957—75	Unstarred Question and Answer	1098
Unstarred Questions and Answers	975—79	Short Notice Question and Answer	1098—1100
Publicity of the Proceedings of the Meetings of Select Committees	979	Statements laid on the Table	1100—04
The Excess Profits Tax Bill—Presentation of the Report of the Select Committee	979	The General Budget—List of Demands	1104—58
Messages from the Council of State	980	Demand No. 12—Executive Council	1104—58
The Drugs Bill—Extension of the time for the presentation of the Report of the Select Committee	980—87	Forward Policy of the Government of India in the North-West Frontier Province	1104—17
The Coal Mines Safety (Stowing) Amendment Bill—Passed	987—92	Government of India's Policy <i>re</i> Recognition of Unions	1117—20
The Agricultural Produce Cess Bill—Referred to the Select Committee	992—1025	War aims of the British Government	1120—58
FRIDAY, 8TH MARCH, 1940,—		TUESDAY, 12TH MARCH, 1940,—	
Starred Questions and Answers	1027—40	Starred Questions and Answers	1159—76
Unstarred Questions and Answers	1040—42	Unstarred Questions and Answers	1176—83
The General Budget—List of Demands	1042—86	Publicity of the Proceedings of the Meetings of the Select Committee	1183—84
Demand No. 12—Executive Council	1043—86	The General Budget—List of Demands—	1184—1249
Importance of initiating a decisive policy of training Indians to undertake the defence of the Country and of establishing a Defence Advisory Committee	1043—70	Demand No. 12 —Executive Council—	1184—1237
Indianisation of the Indian Army	1071—82	Taxation Policy of Government	1184—1206
Forward Policy of the Government of India in the North-West Frontier Province	1082—86	Grievances of Government Employees	1207—23
		Indifferent Attitude of the Government towards the welfare of the Scheduled Castes	1224—36
		Demand No. 1—Customs	1237

TUESDAY, 12TH MARCH, 1940,—
contd.

The General Budget—List of
Demands—*contd.*

Demand No. 2—Central Ex- cise Duties	1237
Demand No. 3—Taxes on Income including Corpo- ration Tax	1237
Demand No. 4—Salt	1237
Demand No. 5—Opium	1237
Demand No. 6—Provincial Excise	1238
Demand No. 7—Stamps	1238
Demand No. 8—Forest	1238
Demand No. 9—Irrigation (including Working Ex- penses), Navigation, Em- bankment and Drainage Works	1238
Demand No. 10—Indian Posts and Telegraphs De- partment (including Work- ing Expenses)	1238
Demand No. 11—Interest on Debt and other Obligations and Reduction or Avoid- ance of Debt	1238
Demand No. 13—Council of State	1239
Demand No. 14—Legislative Assembly and Legislative Assembly Department	1239
Demand No. 15—Home De- partment	1239
Demand No. 16—Legislative Department	1239
Demand No. 17—Depart- ment of Education, Health and Lands	1239
Demand No. 18—Finance Department	1239
Demand No. 19—Commerce Department	1240
Demand No. 20—Depart- ment of Labour	1240
Demand No. 21—Depart- ment of Communications	1240
Demand No. 22—Central Board of Revenue	1240
Demand No. 23—India Office and High Commis- sioner's Establishment charges	1240

PAGES.

TUESDAY, 12TH MARCH, 1940,—
contd.

The General Budget—List of
Demands—*contd.*

Demand No. 24—Payments to other Governments, De- partments, etc., on account of administration of Agency Subjects and management of Treasuries	1240
Demand No. 25—Audit	1241
Demand No. 26—Adminis- tration of Justice	1241
Demand No. 27—Police	1241
Demand No. 28—Ports and Pilotage	1241
Demand No. 29—Lighthouses and Lightships	1241
Demand No. 30—Survey of India	1241
Demand No. 31—Meteorolo- gy	1242
Demand No. 32—Geological Survey	1242
Demand No. 33—Botanical Survey	1242
Demand No. 34—Zoological Survey	1242
Demand No. 35—Archæology	1242
Demand No. 36—Mines	1242
Demand No. 37—Other Sci- entific Departments	1243
Demand No. 38—Education	1243
Demand No. 39—Medical Services	1243
Demand No. 40—Public Health	1243
Demand No. 41—Agricul- ture	1243
Demand No. 42—Imperial Council of Agricultural Research	1243
Demand No. 43—Scheme for the improvement of Agri- cultural Marketing in India	1244
Demand No. 44—Imperial Institute of Sugar Techno- logy	1244
Demand No. 45—Civil Vete- rinary Services	1244
Demand No. 46—Industries	1244
Demand No. 47—Aviation	1244
Demand No. 48—Broad- casting	1244

PAGES.

	PAGES.
TUESDAY, 12TH MARCH, 1940,—	
<i>concl.</i>	
The General Budget—List of Demands— <i>concl.</i>	
Demand No. 49—Capital outlay on Broadcasting	1245
Demand No. 50—Indian Stores Department	1245
Demand No. 51—Commercial Intelligence and Statistics	1245
Demand No. 52—Census	1245
Demand No. 53—Emigration—Internal	1245
Demand No. 54—Emigration—External	1245
Demand No. 55—Joint Stock Companies	1246
Demand No. 56—Miscellaneous Departments	1246
Demand No. 57—Currency	1246
Demand No. 58—Mint	1246
Demand No. 59—Civil Works	1246
Demand No. 60—Central Road Fund	1246
Demand No. 61—Superannuation Allowances and Pensions	1247
Demand No. 62—Stationery and Printing	1247
Demand No. 63—Miscellaneous	1247
Demand No. 64—Grants-in-aid to Provincial Governments	1247
Demand No. 65—Miscellaneous Adjustments between the Central and Provincial Governments	1247
Demand No. 66—Delhi	1247
Demand No. 67—Ajmer-Merwara	1248
Demand No. 68—Panth Piploda	1248
Demand No. 69—Andaman and Nicobar Islands	1248
Demand No. 70—Indian Posts and Telegraphs	1248
Demand No. 71—Indian Posts and Telegraphs—Stores Suspense (not charged to revenue)	1248
Demand No. 72—Indian Posts and Telegraphs—Capital outlay on Telephone Projects (not charged to revenue)	1248

	PAGES.
TUESDAY, 12TH MARCH, 1940,—	
<i>concl.</i>	
The General Budget—List of Demand— <i>concl.</i>	
Demand No. 73—Capital outlay on Vizagapatam Harbour	1249
Demand No. 74—Delhi Capital outlay	1249
Demand No. 75—Commuted Value of Pensions	1249
Demand No. 76—Interest-free advances	1249
Demand No. 77—Loans and Advances bearing Interest	1249
WEDNESDAY, 13TH MARCH, 1940,—	
Starred Questions and Answers	1251—71
Election of the Standing Committee for Roads	1272—73
Election of the Standing Committee for the Department of Communications	1273—75
The Excess Profits Tax Bill—Discussion on the motion to consider not concluded	1275—1308
THURSDAY, 14TH MARCH, 1940,—	
Member Sworn	1309
Starred Questions and Answers	1309-15
Unstarred Questions and Answers	1316
The Agricultural Produce Cess Bill—Appointment of Khan Sahib Abdul Hamid to the Select Committee	1317
The Excess Profits Tax Bill—Consideration of clauses not concluded	1317—61
FRIDAY, 15TH MARCH, 1940,—	
Starred Questions and Answers	1363—73
Unstarred Questions and Answers	1374—76
The Drugs Bill—Presentation of the Report of the Select Committee	1376
The Excess Profits Tax Bill—Discussion on the consideration of clauses not concluded	1376—1424

PAGES.	PAGES.
MONDAY, 18TH MARCH, 1940,—	WEDNESDAY, 20TH MARCH, 1940,
Member Sworn 1425	— <i>contd.</i>
Starred Questions and Answers 1425—56	Notification <i>re</i> certain amendments to the Motor Vehicles International Circulation Rules 1612
Unstarred Questions and Answers 1456—58	The Excess Profits Tax Bill—Passed as amended 1612—60
Statements laid on the Table 1458—60	THURSDAY, 21ST MARCH, 1940,—
Election of the Standing Committee for the Department of Communications 1460	Members Sworn 1661
Election of the Standing Finance Committee for Railways 1460—65	Starred Questions and Answers 1661—71
Election of the Central Advisory Council for Railways 1466	Short Notice Question and Answer 1671—73
Election of the Standing Committee for the Labour Department 1466	Election of the Standing Committee for the Labour Department 1674
Election of the Standing Committee for the Department of Commerce 1466—68	Statement laid on the Table 1674
Election of the Standing Committee on Emigration 1468—70	The Agricultural Produce Cess Bill—Presentation of the Report of the Select Committee 1674
Election of the Standing Finance Committee 1470—75	The National Service (European British Subjects) Bill—Introduced 1674
The Indian Mines (Amendment) Bill—Introduced 1476	The Petroleum (Amendment) Bill—Introduced 1675
The Excess Profits Tax Bill—Discussion on the consideration of clauses not concluded 1476—1511	The Indian Tariff (Amendment) Bill—Introduced 1675
TUESDAY, 19TH MARCH, 1940,—	The Insurance (Amendment) Bill—Introduced 1675
Starred Questions and Answers 1513—23	The Indian Tariff (Second Amendment) Bill—Introduced 1675—76
Election of Members to the Standing Committee for Roads 1523—24	The Indian Finance Bill—Discussion on the motion to consider not concluded 1676—1725
The Excess Profits Tax Bill—Discussion on the consideration of clauses not concluded 1524—81	TUESDAY, 26TH MARCH, 1940,—
Report of the Committee on Conveyance Allowances admissible to Members of the Indian Legislature 1581	Starred Questions and Answers 1727—35
Appendix 1582—84	Unstarred Questions and Answers 1736
WEDNESDAY, 20TH MARCH, 1940,—	Election of the Standing Committee for the Department of Commerce 1736
Starred Questions and Answers 1585—1602	Message from the Council of State 1737
Unstarred Questions and Answers 1602—11	The Motor Vehicles (Amendment) Bill—Introduced 1737
Statement of Business 1611	The Indian Finance Bill—Discussion on the motion to consider not concluded 1737—90

LEGISLATIVE ASSEMBLY.

Friday, 15th March, 1940

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

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS

DUTY HOURS OF WATERMEN AND SWEEPERS ON THE NORTH WESTERN RAILWAY.

396. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state the maximum number of hours that watermen and sweepers are required to be on duty?

(b) Is it a fact that on the North Western Railway, at small roadside stations, these men, besides doing their legitimate work of supplying water or cleaning the station and its premises, are also required to perform eight or twelve hours' duty in rotation with other members of the staff, for watch duty and giving of line-clears, etc.?

(c) If the reply to part (b) above be in the affirmative, are these watermen and sweepers classified as:

- (i) continuous workers,
- (ii) intermittent workers, or
- (iii) exempted workers?

(d) If they are exempted from the hours of Employment Regulations, why are they given any duty in rotation for eight or twelve hours, besides doing their legitimate duty?

The Honourable Sir Andrew Clow: (a) No maximum period has been prescribed, but I would refer the Honourable Member to my reply to part (d) of his question No. 280 asked on the 22nd September, 1939.

(b) At roadside stations, the legitimate work of watermen and sweepers includes assistance to the station staff.

(c) Their classification depends on the circumstances under which they work.

(d) I would refer the Honourable Member to the reply I have just given to part (b).

Mr. Lalchand Navalrai: In view of the fact that these sweepers and watermen are used for even unloading at some stations, some definite rule should be made as to what particular extra work they should be given. Will the Honourable Member kindly revise the rule and see that they are not overworked or given any extra work which they cannot do?

The Honourable Sir Andrew Clow: I am not aware of the fact that they are used for unloading.

Mr. Lalchand Navalrai: The Honourable Member might take it from me that it is so, and I am asking that something should be done with regard to that, to see that they are not overworked or that they are not given work to the detriment of their health.

The Honourable Sir Andrew Clow: I cannot investigate the case of every sweeper or waterman on the line. If anybody feels that he is overworked, he can make a representation to the authority concerned.

Mr. Lalchand Navalrai: But if all of them are so overworked, will he address the Agents

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is arguing.

Dr. Sir Ziauddin Ahmad: Will the Honourable Member make enquiries if they are overworked? If they are overworked, they ought to be overpaid—that is, paid more over and above their salaries, that is what I mean. They should be paid overtime as settled in the rules framed by the management.

Mr. President (The Honourable Sir Abdur Rahim): That is hypothetical. The Honourable Member said that they are not overworked.

MEMORIALS SUBMITTED BY THE VISION-FAILED STATION AND ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.

397. ***Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether Government are aware that agitation and discontentment prevail amongst the station and assistant station masters on the North Western Railway, on account of very heavy reduction in their emoluments in refixing them in alternate appointments on failure to attain a particular standard of vision test or colour perception fixed for their class?

(b) If the reply to part (a) above be in the affirmative, will the Honourable Member please state how many memorials on the subject have been received by the General Manager, North Western Railway, Lahore?

(c) If the Honourable Member has no information in regard to part (b) above, will he please ask for particulars from the General Manager and lay a statement on the table of the House? If not, why not?

(d) Is it a fact that posts of van sorters carry fixed emoluments and all appointments to this post are in an officiating capacity? If so, why are not these posts given to the vision-failed station and assistant station-masters?

(e) Is it a fact that the scale of pay for van sorters not being similar to grade II scale of goods clerks, the latter do not stand to gain in increments by counting their service as van sorters? If so, why goods clerks only are recruited as van sorters?

(f) Are Government aware that station and assistant station masters have better qualifications than goods or booking clerks? If so, why are they not employed as van sorters, if no other equivalent post is available for them on the same rate of pay or pay which approximates to their original pay?

The Honourable Sir Andrew Olow: (a), (b) and (c). The provision of alternative employment for staff who fail in vision tests was referred to in memorials received from station masters and assistant station masters in 1934, 1939 and 1940, and I would refer the Honourable Member to the orders issued by the General Manager, North Western Railway, on the subject which have been laid on the table in connection with my reply to parts (b), (c) and (d) of his question No. 398 asked on the 12th March, 1940.

(d) The answer to the first part is in the affirmative. As regards the latter part, these posts are not filled permanently.

(e) The answer to the first part is in the negative. Goods clerks officiating as van sorters count such service for increment in their substantive grade on which they hold a lien. The latter part does not arise.

(f) Station masters and assistant station masters are not necessarily as well qualified in goods and coaching work as goods clerks and booking clerks and they are not as well qualified for the work of van sorters as goods clerks.

Mr. Lalchand Navalrai: Have they been put to any test to the effect that they are not capable of carrying on as van sorters when they had worked as assistant station masters before?

The Honourable Sir Andrew Olow: No test. It is merely a matter of general qualifications.

Mr. Lalchand Navalrai: That may be a guess, and, therefore, I am asking that they should be tested and given these places. Will the Honourable Member kindly do that?

The Honourable Sir Andrew Olow: No, I do not see why. That would necessarily interfere with the promotion of other men.

MEMORIALS SUBMITTED BY THE VISION-FAILED STATION AND ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.

398. ***Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether the General Manager has received a memorial from the station masters and assistant station masters employed on the North Western Railway, requesting that failure in vision test or colour perception of persons already in service be treated as occupational disease under the Workmen's Compensation Act? If so, how was the same disposed of?

(b) If the reply to part (a) be in the negative, will the Honourable Member please get the required information from the General Manager and inform the House?

(c) Does the Honourable Member propose to treat this as occupational disease? If not, why not?

The Honourable Sir Andrew Clow: (a) Memorials were received in 1940 from the staff of two Divisions and are under consideration.

(b) Does not arise.

(c) I have not seen the memorials but so far as I am aware, failure in vision of the kind under consideration is not a disease peculiar to the employment in question.

RACIAL DISCRIMINATION IN THE EQUIPMENTS OF GUARDS' RUNNING ROOMS.

399. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state the equipments of a European Guards' running room, and the Indian Guards' running room?

(b) Is it a fact that the equipment of a European running room is better? If so, what are the reasons for the discrimination?

(c) Is it a fact that at the Walton Training School mess there were European, Hindu and Muslim messes, but now these messes have been divided into:

(i) senior mess,

(ii) Muslim mess, and

(iii) Hindu mess?

(d) Can an Indian higher grade guard go to a European running room? If not, what is the reason for this discrimination? When do Government propose to remove this? If not, why not?

The Honourable Sir Andrew Clow: (a), (b) and (d). In view of part (c) of the question, I presume the Honourable Member refers to the North Western Railway, and I have called for information from that Railway which will be laid on the table of the House in due course.

(c) There were originally three messes, for Christians, Hindus and Muslims. There are now five messes, three senior messes for Christians, Hindus and Muslims and two junior messes for Hindus and Muslims.

Mr. Lalchand Navalrai: Why should they be called senior and junior?

The Honourable Sir Andrew Clow: I presume there are senior men in the senior ones and junior in the junior ones.

Mr. Lalchand Navalrai: Does it mean with regard to their salaries?

The Honourable Sir Andrew Clow: I cannot say.

Mr. Lalchand Navalrai: If Indians and Europeans live more or less in the same style, why should there be any difference between them?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is arguing.

PURCHASE OF DISINFECTING FLUIDS BY THE NORTH WESTERN RAILWAY.

400. *Sardar Sant Singh: (a) Will the Honourable Member for Railways please state whether it is a fact that the North Western Railway

confines its purchases of disinfecting fluids to an imported brand, when disinfecting fluids of Indian manufacture are available on the Indian Stores Department contracts?

(b) Are Government prepared to draw the attention of the North Western Railway authorities to the Stores Purchase Rules and direct them to give preference to Indian made goods?

(c) What is the total quantity of disinfecting fluid purchased by the North Western Railway during the year 1939 and what brand has been purchased?

(d) Is it a fact that the North Western Railway authorities have disinfectant fluid reservoirs on different railway stations with the name of the brand of the imported stuff they use?

The Honourable Sir Andrew Clow: (a) and (c). 6,490 gallons of 'Izal' disinfecting fluid were purchased by the North Western Railway during the contract year ending on 31st October, 1939; but it is not a matter of policy to confine purchases to imported brands.

(b) The Administration is familiar with the Stores Purchase Rules and its purchases are subject to these rules.

(d) There are no standard reservoirs for disinfecting fluid on the North Western Railway but as different brands of fluid require different treatments before use it is probable that containers marked with the names of brands are kept at certain stations to ensure that the proper treatment is carried out.

Sardar Sant Singh: May I know if it is not a policy to confine their purchase to imported brands,—may I know how much Indian made brand was purchased during this period?

The Honourable Sir Andrew Clow: During that year? None.

Sardar Sant Singh: Why?

The Honourable Sir Andrew Clow: I presume because, following the principles of the rules, this was found to be cheaper, quality and price being considered.

Sardar Sant Singh: Will the Honourable Member make enquiries as to what was the price quoted both for imported brand as well as for home-made brand?

The Honourable Sir Andrew Clow: I see no reason for that. I believe that contracts for imported materials are scrutinised by the Indian Stores Department.

FIXATION OF PAY OF RETRENCHED HANDS OF COMPILATION SECTION OF THE NORTH WESTERN RAILWAY ON RE-APPOINTMENT.

401. ***Sardar Sant Singh:** (a) Will the Honourable Member for Railways please state:

(i) if it is a fact that certain retrenched hands of Compilation Section of North Western Railway were offered appointment by the Chief Accounts Officer in old scales of pay;

- (ii) if it is a fact that they were re-appointed in the **Compilation Section, Chief Accounts Office, North Western Railway, Lahore**, in the old scales of pay and were subsequently confirmed in the old grade of pay;
- (iii) if it is a fact that though they were originally fitted on initial pay of the grade, yet on subsequent representation to the **Controller of Railway Accounts, New Delhi**, they were given the benefit of the previous service in the fixation of pay in old scales of pay; and
- (iv) if it is a fact that in 1936 on receipt of Agent's letter No. 220/E./O./IV, dated April, 1936, they were fitted in the new scales of pay?

(b) If the reply to the preceding parts be in the affirmative, is the Honourable Member prepared to reconsider their case?

The Honourable Sir Andrew Olow: I would refer the Honourable Member to my reply to starred question No. 99 asked by Bhai Parma Nand on the 15th February, 1940.

GRIEVANCES OF THE ASSAM BENGAL RAILWAY EMPLOYEES *re* GRANT OF LEAVE.

402. *Mr. Akhil Chandra Datta: Will the Honourable the Railway Member be pleased to state:

- (a) if Government are aware of the discontent among the **Assam Bengal Railway** employees regarding the manner in which leave is sanctioned;
- (b) if Government's attention has been drawn to the article published in the *New Equity* of April, 1939—an organ of the **Assam Bengal Railway Employees' Association**—wherein this grievance has been ventilated;
- (c) if Government are aware that even in urgent cases, such as *sradh* ceremony, son's death marriage ceremony in the family, etc., the position of the applicant's name in the leave register rather than the urgency of the occasion is taken into consideration in granting leave due; and
- (d) what is the percentage of the relieving staff to the total staff (i) in the **Assam Bengal Railway**, and (ii) in other railways?

The Honourable Sir Andrew Olow: (a) No.

(b) I have seen a copy of the article referred to.

(c) Government have no information with regard to the position, except the statements made in the journal to which the Honourable Member has referred.

(d) As regards the first part. Government have no information as the **Assam Bengal Railway** is a Company-managed railway. As regards **State Railways**, there is no uniform percentage for relieving staff, and provision for relief is not necessarily made by means of relieving staff.

FUNCTIONS OF THE CENTRAL BOARD OF PUBLICITY.

403. *Dr. Sir Ziauddin Ahmad (on behalf of Mr. Muhammad Nauman):
(a) Will the Honourable Member for Railways be pleased to state the functions of the Central Board of Publicity and its total cost?

(b) What arrangements for publicity regarding Indian Railways are there in the United Kingdom and other foreign countries? What is the total amount of expenditure in this connection with details of every city, office or agency, in foreign countries?

(c) Do Government propose to reduce the expenses on this account in foreign countries?

The Honourable Sir Andrew Olow: (a) If I am correct in assuming that the Honourable Member wishes particulars relating to the Central Publicity Bureau its functions are given in Chapter V, paragraph 68, page 79, of the Railway Board's Annual Report for 1938-39, and its cost, in the Proceedings of the Meetings of the Standing Finance Committee for Railways, Volume XVI, No. 5, Annexure C to Demand No. 6-G.

(b) Publicity for Indian railways is undertaken in the United Kingdom by the London Office of the Central Publicity Bureau, which has no offices in foreign countries. Particulars of the expenditure on this office are also given in the Standing Finance Committee's proceedings to which I have referred.

(c) No.

Dr. Sir Ziauddin Ahmad: With reference to the answer to part (b) of the question, may I know whether the Railway Board have decided to abolish their offices in New York?

The Honourable Sir Andrew Olow: Yes, it is abolished.

Dr. Sir Ziauddin Ahmad: May I know whether he can mention now or later what are the advantages in abolishing this Department? Only economy?

The Honourable Sir Andrew Olow: I think the conclusion reached was that the amount of extra traffic secured was not commensurate with the expense of the office.

Dr. Sir Ziauddin Ahmad: Did the Honourable Member consider only the profit and loss of the railways or did he also consider the profit and loss to the country as a whole? Did he also consider whether travellers coming to this country and spending money are buying rupees in dollars in America, which will help the monetary policy?

The Honourable Sir Andrew Olow: I considered none of those factors. because I did not make the decision.

SYSTEM OF GIVING ADVERTISEMENTS ON CERTAIN RAILWAYS.

404. *Dr. Sir Ziauddin Ahmad (on behalf of Mr. Muhammad Nauman): (a) Will the Honourable Member for Railways be pleased to state the cost of Publicity Departments of the East Indian Railway, Eastern Bengal Railway, and Bengal and North Western Railway, together with the names of the heads of these departments?

(b) What is the system of giving advertisements to vernacular papers and which of the Urdu papers and of which Provinces are on the list?

(c) How are the rates ascertained from these newspapers for advertisements, and on what chief consideration is the particular paper favoured?

(d) Is it a fact that rates of advertisements in English papers are three times the rates of a Vernacular paper? What are the rates per page, half page and per column for Vernacular and English papers, separately?

The Honourable Sir Andrew Clow: (a) The Publicity Branch of the East Indian Railway is under Mr. J. C. Rose, the Chief Commercial Manager. Its cost, during 1938-39, was Rs. 1,09,468.

The Bengal and North Western Railway have no separate Publicity Department.

As regards the Eastern Bengal Railway, I have called for the information and will lay a reply on the table in due course.

(b) Advertisements are placed with such newspapers at the discretion of the Railway Administrations. I lay on the table a list of Urdu newspapers to which advertisements are supplied by the East Indian Railway and the Bengal and North Western Railway, in the various provinces.

(c) By direct negotiation with the newspapers concerned. Various factors regulate the placing of advertisements. Among them may be mentioned the nature and scope of the advertisement, the circulation of the paper and the area served.

(d) No: while the rates for papers printed in English are on the whole higher than those for papers in Indian languages, there does not appear to be the disparity suggested by the Honourable Member. I have only the rates per column inch and these for a large number of leading newspapers in English vary from 13 annas 10 pies to Rs. 7-8-0 and in the case of papers in Indian languages, they range from 10 annas to Rs. 5.

List of Urdu Papers to which Advertisements are given by the East Indian and Bengal and North Western Railways.

Railway	Province	Papers
East Indian Railway	Bengal	"Asre-Jadid", Calcutta; "Hind", Calcutta.
Do.	Bihar	"Ittehad", Patna.
Do.	United Provinces	"Sadaqat", Cawnpore; "Haq", Lucknow; "Haqiqat", Lucknow;
Do.	Delhi	"Mukhbir-i-Alam", Moradabad.
Do.	Delhi	"Ryasat", Delhi; "Swarajya", Delhi; "Tej", Delhi.
Do.	Punjab	"Milap", Lahore.
Bengal and North Western Railway.	United Provinces	"Hamdam" and "Mulk".

Dr. Sir Ziauddin Ahmad: Will the Honourable Member advise the officer in charge of publicity on the East Indian Railway that he should employ at least one man who knows decent Urdu, because every notice, which is issued by the East Indian Railway, is expressed in very bad language and is very jarring to the ear.

The Honourable Sir Andrew Olow: I will send a copy of the question and answer to the General Manager.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member say whether it is the intention of Government to reduce its Railway Publicity Department activities, and if the answer is in the affirmative, whether this is not contrary to the recommendation of the Wedgwood Committee.

The Honourable Sir Andrew Olow: We have been making efforts to secure certain re-organisation and economy in publicity. I am not aware of what the Wedgwood Committee recommended, but obviously they could not have contemplated the present condition of things which tend to restrict foreign tourist traffic.

Babu Baijnath Bajoria: With reference to the answer to part (b), may I know the names of the Hindi papers on the list in the various provinces?

The Honourable Sir Andrew Olow: I have not got those. The question referred only to Urdu papers and these are in the statement I am laying on the table.

ABSENCE OF FACILITIES FOR OFFERING THEIR FRIDAY PRAYERS TO MUSLIM EMPLOYEES IN THE EAST INDIAN RAILWAY WORKSHOPS.

405. *Mr. Muhammad Nauman: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that Muslim employees at different Workshops on the East Indian Railway are not offered any facilities for their Friday prayers?

(b) Is it a fact that these Muslim labourers and employees who go for Friday prayers are permitted to do so at a loss of their salary for that time, i.e., that particular hour is not counted for them as "working hour" and in pay sheets the amounts for absence are deducted?

(c) If the reply to parts (a) and (b) be in the affirmative, are Government aware that there is a feeling that it amounts to a hardship for poor people?

(d) Is the Honourable Member prepared to consider the desirability of allowing them "leave with pay" for one hour on Fridays?

The Honourable Sir Andrew Olow: (a) and (b). Muslim employees at Lucknow and Lilloosh are granted a break for Friday prayers, but the time so spent is not paid for.

(c) and (d). The question has been considered on more than one occasion. Government are not prepared to grant leave with pay in excess of that permitted under the rules applicable to employees of all communities.

Mr. Muhammad Nauman: Does this not infringe the religious laws of a certain section of the community? Although you permit him to perform his prayers, you penalise him for that period?

The Honourable Sir Andrew Olow: I do not know of any religious law which prescribes that a man should be paid for the time he spends in prayers.

Dr. Sir Ziauddin Ahmad: May I know the exact answer? If a person is employed for six hours a day and on Friday he absents himself for one hour, then he will be paid only for five hours?

The Honourable Sir Andrew Olow: It is the case that no payment is made for such periods spent out of employment.

Mr. Muhammad Nauman: I wrote a letter to the Agent of the East Indian Railway on this subject and he has written back to say that the hours spent in prayers are deducted out of the working hours, and for that no pay is allowed. This is creating a sort of agitation in the minds of the Muslim employees, and I hope the Honourable Member will look into this matter.

The Honourable Sir Andrew Olow: I do not think what the Honourable Member says is in any way in conflict with what I said just now. The question has been considered on several occasions in the past.

Dr. Sir Ziauddin Ahmad: Will the Railway Administration make any allowance for the time spent in taking meals.

The Honourable Sir Andrew Olow: I submit that hardly arises.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is not prepared to answer that.

The Honourable Sir Andrew Olow: I must require notice of that.

Dr. Sir Ziauddin Ahmad: If he makes allowance for this necessity of life. . . .

The Honourable Sir Andrew Olow: The Honourable Member is arguing.

Dr. Sir Ziauddin Ahmad: If he makes allowance for this necessity of life, then prayer is a greater necessity of life. Will you please make enquiries?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is certainly arguing.

RECRUITMENT OF APPRENTICES IN WORKSHOPS ON THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

406. *Mr. Muhammad Nauman: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that for apprentices in workshops on the East Indian Railway, the qualification of a University

Certificate of "Matric" is considered necessary, whereas for Anglo-Indians no educational qualification is necessary?

(b) Are Anglo-Indians and Christians offered special facilities for joining, as apprentices in Railway Workshops, and Indians are not so allowed?

(c) Will the Honourable Member state the method adopted in recruiting apprentices in Loco. Workshops and other Workshops on the East Indian Railway and the Eastern Bengal Railway and whether communal quota is maintained there?

(d) How is labour recruited in Workshops? Have the East Indian Railway and Eastern Bengal Railway administrations fixed different quotas in accordance with the population of different communities? If so, what are the quotas for Muslims in different Workshops with regard to labour recruitment?

The Honourable Sir Andrew Olow: (a) I presume the Honourable Member refers to apprentice mechanics. If so, the minimum qualifications are the passing of the Matriculation or the Junior Cambridge examination with a pass in Mathematics.

(b) No, except to the extent that reservations are made under the regulations governing the representation of minority communities.

(c) I would refer the Honourable Member to rule 2, Section I—Apprentice Mechanics, and rule 2, Section II—Trade Apprentices, of the Rules for the recruitment and training of apprentice mechanics and trade apprentices in the Mechanical Workshops of State-managed Railways, a copy of which is in the Library of the House.

(d) Government have laid down no rules for the recruitment of labour other than those relating to communal recruitment. On the East Indian Railway, 33½ per cent. of direct appointments are reserved for the redress of marked communal inequalities. On the Eastern Bengal Railway, orders were issued in 1935 that the percentage of each minority community then existing should be maintained in the inferior services of the Railway including labour. These percentages apply to the Railway as a whole and not to particular shops.

Mr. Muhammad Nauman: The Honourable Member said that reservations are being made for Anglo-Indians and Christians. Am I to understand that in the reservation no question of qualification is taken into consideration?

The Honourable Sir Andrew Olow: That is. I think, the question that the Honourable Member put in part (a), and I gave him an answer.

Mr. Muhammad Nauman: The Honourable Member said that the Matric or Junior Cambridge examination was a necessary qualification. Does this apply to Anglo-Indians or not.

The Honourable Sir Andrew Olow: My statement was quite general. It applies to all.

UNSTARRED QUESTIONS AND ANSWERS

RECRUITMENT OF SUB-INSPECTORS OF WORKS ON THE NORTH WESTERN RAILWAY.

80. Sardar Sant Singh: (a) Will the Honourable Member for Railways please state whether the Divisional Superintendent, North Western Railway, Lahore, invited applications for selection for the posts of Sub-Inspectors of Works in August, 1927? If so, how many candidates appeared and what number was recruited, both temporarily or on probation, as a result thereof?

(b) Will the Honourable Member please place on the table of the House a copy of the Circular letter No. 237-E./6, dated the 8th September, 1928, from the Agent, North Western Railway, Lahore, to the Divisional Superintendent, Rawalpindi, and others, and also please state if there was any effect of this circular letter on the men appointed, *vide* part (a), with regard to the terms of their appointments? If so, what was the effect? -

(c) What are the numbers of the men so affected?

(d) Were the men, so affected, entitled to the benefits of Fundamental Rule 9-(6)-(8)-I. C., section III and Supplementary Rule 2 (12)-3 (15)?

(e) Is it a fact that afterwards some new men were appointed as Sub-Inspectors of Works and certain works mistries were promoted to Sub-Inspectors' ranks and subsequently confirmed as such, in preference to those appointed, *vide* part (a)?

(f) Will the Honourable Member please state the present position of the men appointed, *vide* part (a), as compared with those appointed, *vide* part (e)?

The Honourable Sir Andrew Olow: I have called for certain information and will lay a reply on the table of the House in due course; but I cannot undertake to secure particulars of a selection which was apparently made many years ago or to lay on the table correspondence between the Agent and his Divisional Superintendent.

PROVISION OF RENT-FREE QUARTERS TO BLOCK MAINTAINERS ON THE NORTH WESTERN RAILWAY.

81. Mian Ghulam Kadir Muhammad Shahban: With reference to the Honourable the Railway Member's reply to my starred question No. 55, asked on the 9th February, 1940, will the Honourable Member be pleased to state:

- (a) whether the General Manager is considering the question of provision of rent-free quarters to those block maintainers who enjoyed this concession; as block mistries before 1st August, 1928; if not, why not;
- (b) whether the Honourable Member is aware that block maintainers referred to in part (a) above, were granted this concession with effect from 1st May, 1931, to 31st August, 1931;

(c) whether it is a fact that the concession was given to them again in 1936 by the General Manager, North Western Railway, with the concurrence of the Chief Accounts Officer; if so, why it was withdrawn in 1939; and

(d) whether the concession is being revived; if not, why not?

The Honourable Sir Andrew Olow: (a) and (d). I understand that the merits of the case for providing rent-free quarters for block maintainers on promotion from block mistries are being examined by the General Manager.

(b) I have made an enquiry on this point but have been unable to verify it.

(c) Yes. It was apparently found in 1939 that the rules had in this particular case been misinterpreted.

RESTRICTIONS ON CANDIDATES IN EXAMINATIONS FOR PROMOTION TO HIGHER APPOINTMENTS ON RAILWAYS.

82. Mian Ghulam Kadir Muhammad Shahban: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that an employee on failure to pass examination for promotion to higher appointment, is debarred for five years from appearing for the same?

(b) Is it a fact that in other Government Departments, such a long limit is not placed on re-appearance for the same examination?

(c) Do Government propose to reduce this restriction to about one to two years only? If not, why not?

The Honourable Sir Andrew Olow: (a) I am not aware of any such general orders.

(b) I have no information with regard to the practice in other Government Departments.

(c) Does not arise.

SENIORITY OF LOCO. RUNNING STAFF ON THE NORTH WESTERN RAILWAY.

83. Mian Ghulam Kadir Muhammad Shahban: (a) Will the Honourable Member for Railways be pleased to state whether the seniority of grade I and II Loco. staff is amalgamated for working trains on the North Western Railway?

(b) Why has the seniority of grade III and IV Loco. running staff not been amalgamated on the North Western Railway for the purpose of working trains?

(c) Is it a fact that junior grade IV drivers are detailed to work mail trains, while grade III drivers with much longer terms of service, have to work on passenger and goods service?

(d) Do Government propose to do away with the distinction between grades III and IV and allow senior grade III drivers to work mail and passenger trains? If not, why not?

The Honourable Sir Andrew Clow: I have called for information and will lay a reply on the table of the House in due course.

THE DRUGS BILL

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE

Sir Girja Shankar Bajpai (Secretary, Department of Education, Health and Lands): Sir, I present the Report of the Select Committee on the Bill to regulate the import, manufacture, distribution and sale of drugs.

THE EXCESS PROFITS TAX BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the Excess Profits Tax Bill, clause by clause. The Chair proposes to leave out clause 2 which contains definitions until after the other substantive clauses have been disposed of.

There are no amendments to clause 3.

The question is:

“That clause 3 stand part of the Bill.”

The motion was adopted.

Clause 3 was added to the Bill.

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

“That clause 4 stand part of the Bill.”

Mr. S. P. Chambers (Government of India: Nominated Official): Sir, I move:

“That in clause 4 of the Bill, for the words ‘up to’ the words ‘in respect of any chargeable accounting period ending on or before’ be substituted, and after the words ‘and shall’ the words ‘in respect of any chargeable accounting period beginning’ be inserted.”

The object of this amendment is to make it clear that the tax is to be charged—unless the Bill, or the Act as I hope it will be, is amended—up to the 31st March, 1941; that is to say, in respect of any chargeable accounting period up to that date. As the clause stands, there is a doubt that after the 31st March, 1941, no more assessments could be made or no more refunds could be given. This is purely a drafting point and I think the House will consider this amendment favourably.

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

“That in clause 4 of the Bill, for the words ‘up to’ the words ‘in respect of any chargeable accounting period ending on or before’ be substituted, and after the words ‘and shall’ the words ‘in respect of any chargeable accounting period beginning’ be inserted.”

The motion was adopted.

Babu Baijnath Bajoria (Marwari Association: Indian Commerce): Sir, I move:

"That in clause 4 of the Bill, for the words 'equal to fifty per cent. of that excess' the following be substituted:

'equal to thirty per cent. of that excess not exceeding Rs. 20,000,
 equal to thirty-five per cent. of that excess exceeding Rs. 20,000 and not exceeding Rs. 70,000.
 equal to forty per cent. of that excess exceeding Rs. 70,000 and not exceeding Rs. 1,70,000.
 equal to forty-five per cent. of that excess exceeding Rs. 1,70,000 and not exceeding Rs. 3,70,000.
 equal to fifty per cent. of that excess exceeding Rs. 3,70,000.'"

Sir, the effect of my amendment would be to charge this Excess Profits Tax on a sliding scale and on a slab system, which has been recognised by the Government and of which my Honourable friend. Mr. Chambers, is the author, and I think, Sir, that they would agree to apply the same system and the same principle of the slab system in this Excess Profits Bill also. Sir, my amendment seeks that excess income from Rs. 30,000 to Rs. 50,000 will be charged at 30 per cent., excess income from Rs. 50,000 to one lakh will be charged at 35 per cent., and excess income from one lakh to two lakhs will be charged at 40 per cent., and excess income from two lakhs to four lakhs will be charged at 45 per cent., and for excess income of over four lakhs of rupees the full rate of fifty per cent. will come into operation. Sir, I think the Honourable the Finance Member will consider that this is a moderate and modest amendment. I do not know exactly what effect it will have on the proceeds of this Bill, but in equity and justice I would say that this amendment is reasonable and I hope it will be carried. It would help to a certain degree those industries and those businesses which have not got a very large income. With these few words, I commend this amendment to the House.

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

"That in clause 4 of the Bill, for the words 'equal to fifty per cent. of that excess' the following be substituted:

'equal to thirty per cent. of that excess not exceeding Rs. 20,000,
 equal to thirty-five per cent. of that excess exceeding Rs. 20,000, and not exceeding Rs. 70,000.
 equal to forty per cent. of that excess exceeding Rs. 70,000 and not exceeding Rs. 1,70,000.
 equal to forty-five per cent. of that excess exceeding Rs. 1,70,000 and not exceeding Rs. 3,70,000.
 equal to fifty per cent. of that excess exceeding Rs. 3,70,000.'"

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I support this amendment. Apart from the grounds on which the Mover of this amendment has moved it, I support it on the ground of principle. An Excess Profits Tax is a tax on income, and it is accepted everywhere as a fundamental principle of taxation that in regard to all taxes on income the principle of graduation should be applied. Here is a demand for applying the principle of graduation to the Excess Profits Tax; so if we are to go by principles, this amendment should be accepted. I hope the Treasury Benches will accept this amendment.

Mr. Husenbhai Abdullabhai Laljee (Bombay Central Division: Muhammadan Rural): Sir, I rise to support this amendment; and I would only ask the Honourable the Finance Member and the House to read carefully only what was said in this House about the slab system at the last time when that system was introduced. It is in all fairness, as the worthy Professor Dr. Banerjea has pointed out, that we ought to pay on the graduated basis. We ought not to be hard upon those whose incomes are smaller; in fact all throughout in the Bill it has been taken that the income of the people in this country is as big as that in any other country, but I have always contended that we are much poorer than those in any other country, and that being our condition, surely the principle laid down about the slab system, which was so much welcomed not only by the Government Benches here but even by the Opposition Benches, is reasonable and I hope that when that fair principle has been adopted unanimously, the same principle will be applied in this case also as soon as possible.

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): Sir, the principle of the introduction of a graduated scale has something to commend itself, in that it is not right that people and companies with various incomes should be treated on the same footing. If a flat rate of 50 per cent. is to be departed from, I am sure it would not be just to treat men with an excess profits income of Rs. 50,000 in the same way as you treat a man or company with an excess profits income of five lakhs of rupees. For instance, a man with an excess profits income of Rs. 10,000 or Rs. 15,000 is well off, but he is by no means rich. I think if we are going to introduce a graduated scale, then we should so arrange matters that the burden that falls on those who are well off and on those who are really rich should be proportioned to their profits earned during the year concerned. I do not think this principle of a graduated scale can be called an objectionable principle. At the same time, Sir, before I am able to make up my mind, whether to support the amendment or not, I would very much like to know as to what would be the effect of the adoption of this amendment on the finances to be raised under the Bill. I believe the position of the Honourable the Finance Member is that, in the year 1940-41, he expects to get something in the neighbourhood of three crores if a flat rate of 50 per cent., apart from other provisions of the Bill, were adopted. What I would very much like to know is, what would be the effect of the introduction of the graduated scale embodied in the present amendment on the amount proposed to be raised. It is obvious that the amount would be decreased, because the scale mentioned in the amendment varies between 30 per cent. and 50 per cent. So, naturally, there must be a decrease in the amount proposed to be raised under the Bill.

Dr. P. N. Banerjea: It would go very much above the three crores.

Sir Syed Raza Ali: I do not see the logic of my Honourable friend. What I would like to know is this. Assuming that the figures mentioned by the Honourable Member in charge are correct, and I believe they are correct more or less, by how much would this proposed amount of three crores during the year concerned be reduced? What I mean is this. If this amendment is going to reduce that amount substantially, I do not

think, I, for one, would be prepared to support it. On the other hand, if the decrease, that is sure to occur, is going to be in the neighbourhood of, say, 10 or 15 lakhs, then the amendment is well worth consideration. So, before I am in a position to make up my own mind—and I speak for myself and nobody else—I would very much like to know how the amendment, if adopted, would affect the amount to be raised under the Bill.

Mr. Husenbhai Abdullabhai Laljee: Does the Honourable Member want to know what will be the price or value of the principle of the graduated scale?

Sir Syed Raza Ali: No. What I want to know is by how much is the amount proposed to be raised going to be reduced?

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I do not agree with the figures which are mentioned in this particular amendment but I would like to say a few words about the principle underlying it, namely, whether we should have a fixed rate, whatever it may be, or a rate under the slab system. I know that in the United Kingdom they have a fixed rate and we generally follow the Acts of the United Kingdom in important cases. Canada is the only country which has adopted a slab system. This is a point which requires a very careful consideration. We cannot adopt the slab system in an off-hand manner without carefully considering the monetary value of the proposals underlying this system. We have also to determine accurately what percentages we should adopt for raising a particular revenue. We will have to find out whether the percentage should be between 30 and 50 as is proposed by my friend, Mr. Bajoria, or whether it should be between 35 and 60 as is proposed by my friend, Sir Syed Raza Ali, or any other figure. So, I think it is not wise to adopt the slab system when it has not been worked out in very great detail in the Select Committee, however desirable it may be. If the House agrees to have the slab system, then I would certainly like this matter to be referred to a smaller Committee which may work out the monetary values of the system, and it may be discussed perhaps next year after working out this particular system.

As far as the particular proposal contained in the amendment is concerned, there is no attempt to increase the amount. Had it been proposed that it should be from 25 to 65 per cent., then people with a smaller income would have been compensated by an increased revenue from those persons on whom wealth is rolling. But this particular proposal only reduces the income; it does not increase it at all. Sir, I would like to point out one thing to my wealthy friends that after all the tax-payers in India will have to pay a certain amount for the revenues of the country. If we deduct the money here, then the burden will have to fall heavier on poorer persons as compared to those who are rolling in wealth. Whenever we cut down any revenue under this particular head, we must constantly keep in mind that the losses here will have to be compensated somewhere else and I am sure there are good many friends on my side who would welcome a reduction in the price of postcards from 9 pies to 6 pies. I would rather have a reduction in taxation in certain other commodities where the incidence falls on poorer people. Besides, when we propose any reduction in the percentage, we should also keep in mind that we should not definitely reduce the income which is supposed to be derived under this Bill.

[Dr. Sir Ziauddin Ahmad.]

There is, however, one point more. There is a great difference in principle, if not in words. My friends on whom wealth is rolling and who call themselves 'poor orphans' will always say: "When both are orphans, why should not the incidence of taxation fall on the other orphans also". This may be all right in words but in practice what we see is that the prices of various commodities are going up very rapidly and they are hitting hard the poorer and the lower middle classes and therefore we should make every effort to reduce the burden of taxation on them and try to put the taxation on the class of persons who have been especially benefited at the expense of the consumers. Therefore, it is not desirable to accept the proposal of my friend, Mr. Bajoria, which may reduce the income. Although I may have some sympathy with the slab system, I think it is too late in the day to take it up for purposes of this Bill. Therefore, I oppose the amendment.

- **Pandit Lakshmi Kanta Maitra** (Presidency Division: Non-Muhammadan Rural): Sir, I rise to support this amendment. The amendment lays down a graded scale in place of a flat rate. It involves the question of application of a principle of taxation which has already been accepted by the Government in the income-tax legislation. Sir, I think it will not be denied that there is a good deal of force in the contention of those who think that a uniform flat rate should not be applied to all and sundry. In other words, it seems only reasonable and equitable that the incidence of taxation should be distributed in such a way that it would fall on those shoulders that can best stand it. As I hear my friend, Dr. Sir Ziauddin Ahmad, I could understand that he was in favour of the principle of a graduated scale of taxation in respect of excess profits.

Dr. Sir Ziauddin Ahmad: I did not say I was in favour of it, but I said I was quite prepared to consider it. I did not have the opportunity to visualise it in my mind.

Pandit Lakshmi Kanta Maitra: My friend is not opposed to the principle of graduation, and his only difficulty seems to be that he is apprehensive that if it is given effect to in this piece of legislation, the estimated yield of three crores may not be reached. We, on the other hand, believe that three crores is a gross under-estimate, and even accepting this graduated scale, a good deal more than three crores would be realised. The contention of my Honourable friend, that he had not been given an opportunity to calculate what would be the proceeds if this graduated scale were adopted, does not trouble us at all. Sir, I do not think there would be much difficulty in arriving at figures. Whatever differences there may be, we are decidedly of opinion that it will never come below three crores, but much more than that figure. I think that even in matters of taxation Government should try to maintain uniformity of principle. During the debate on the Income-tax Bill, the whilom champion of the slab system, I mean my Honourable friend, Mr. Chambers, was so eloquent about it that we were swept away by his eloquence and persuasion and it found place in the Statute-book. I hope I am not going to be told this time that he could not agree to this as "consistency is the hobgoblin of petty minds". We do always believe that consistency is a great virtue, and my friends on

the Treasury Benches will do well to practise it even in matters of taxation. I, therefore, think, that as it embodies the sound principle which has already been accepted by the Government in the income-tax legislation, it does not now lie in their mouth to say 'Oh, no you are debarred from having it'. Sir, I support the amendment.

Mr. A. Aikman (Bengal: European): Sir, there is only one aspect of this amendment that I would like to point out to the House. I think the idea behind it is that by making this alteration it will temper the wind to the lambs that are proposed to be shorn

Mr. M. S. Aney (Berar: Non-Muhammadan): Some wool

Mr. A. Aikman: Not much. There is a fallacy in this suggestion. I agree with my friend, Pandit Lakshmi Kanta Maitra, that taxation should fall on the shoulders of those who are best able to bear it. It must be kept in mind, however, that this tax is not going to be applied to individuals, but to businesses, and if I might just illustrate the point, I would like to take the business which has two partners who have been making a lakh of rupees, and who now are going to make Rs. 1 lakh and 60,000. These two partners under the suggestion made will be taxed on Rs. 60,000 to the extent of only 30 per cent., whereas in the case of a limited company which may make an additional profit of say four lakhs, but which has 400 shareholders, who might each make an additional profit of a thousand rupees only, each of these investors would be taxed to the extent of 50 per cent. So what is proposed to be achieved by this amendment is not achieved when it comes to be applied. For that reason, Sir, I oppose the amendment.

The Honourable Sir Jeremy Raisman (Finance Member): Sir, I must oppose this amendment, and on grounds of principle as well as on financial grounds. To take the revenue effect first, although I cannot for obvious reasons calculate the precise effect of such an amendment, I can assure my friend, Sir Raza Ali, that it would be very substantial, and that it would certainly exceed a figure of ten or fifteen lakhs. But my main objection to this amendment is that the principle of a slab system is inapplicable to a tax of this kind. The object of a slab system is to ensure that assesseees with large incomes pay not merely a larger sum but a larger proportion of their income, because there is a reasonable presumption that they are better able to pay a larger proportion. Now, the graduation of an Excess Profits Tax has got nothing to do with the total income of the assessee. The tax is only applied to that slice of the income which represents the excess above his standard income, so that if you have an assessee with a standard income of Rs. 20 lakhs who makes an extra lakh, you would under this graduated system tax him less than the assessee with a standard income of a half a lakh who makes an additional lakh or a lakh and half. In other words, the principle of graduation, as my Honourable friend, Mr. Aikman, pointed out, may work in an entirely perverse way in the case of a tax like this.

Now, Sir, I would also claim that so far from being inconsistent, we are supremely consistent in excluding graduation from a tax of this kind. It must be remembered that the majority of the assesseees will be companies, and in the case of companies, neither the income-tax nor the super-tax is

[Sir Jeremy Raisman.]

graduated on the slab system. Finally, I would point out that if it is the smaller business which the amendment is sought to assist, then what is called the exemption limit or rather the limit below which the tax will not operate is the appropriate relief. I claim, Sir, that there is a principle, a better and overriding principle, to be applied to excess profits, and that is the principle that in times of emergency the State should at least share equally with the fortunate assessee who finds himself better off, and the State should at least get a half share in the amount of the excess.

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

"That in clause 4 of the Bill, for the words 'equal to fifty per cent. of that excess' the following be substituted:

'equal to thirty per cent. of that excess not exceeding Rs. 20,000,
equal to thirty-five per cent. of that excess exceeding Rs. 20,000 and not exceeding Rs. 70,000,
equal to forty per cent. of that excess exceeding Rs. 70,000 and not exceeding Rs. 1,70,000,
equal to forty-five per cent. of that excess exceeding Rs. 1,70,000 and not exceeding Rs. 3,70,000,
equal to fifty per cent. of that excess exceeding Rs. 3,70,000'."

The motion was negatived.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir I move:

"That in clause 4 of the Bill, for the word 'fifty' the word 'twenty-five' be substituted."

Mr. President (The Honourable Sir Abdur Rahim): The Chair thinks all similar amendments may be moved together, so that the House may discuss them all at the same time.

Mr. Akhil Chandra Datta: Sir, I move:

"That in clause 4 of the Bill, for the word 'fifty' the word 'thirty' be substituted."

I move:

"That in clause 4 of the Bill, for the word 'fifty' the word 'thirty-five' be substituted."

I move:

"That in clause 4 of the Bill, for the word 'fifty' the word 'forty' be substituted."

Babu Baijnath Bajoria: Sir, I move:

"That in clause 4 of the Bill, for the words 'fifty per cent' the word 'one-third' be substituted."

Mr. Akhil Chandra Datta: Sir, before giving my reasons in support of these amendments, I will make one general observation, particularly for the consideration of the Honourable the Finance Member with regard to these amendments. I make this suggestion in all humility

Mr. M. S. Aney: More in sorrow than in anger.

Mr. Akhil Chandra Datta: Neither in sorrow nor in anger. My friend, Mr. James, is not here now, but he was right in saying that that was my mood in the Select Committee, for obvious reasons which need not be discussed here. In view of the state of the House now, when we move any amendment for the consideration of the House, I feel that we move it for the consideration of the Finance Member only; because, in the present state of the House, his word is law unto us. The House means Sir Jeremy Raisman, and Sir Jeremy Raisman means the House. I suggest that this position only increases the responsibility of the Finance Member.

Now, Sir, so far as this particular series of amendments relating to the rate of assessment is concerned, we have discussed it almost threadbare on a previous occasion and to repeat those grounds would serve no useful purpose. I propose to add only one more argument that comparing the present rate with the rate of 1919, I may say that the rate of income-tax and super-tax has been very considerably raised since 1919. I have got here some figures to show the extent of the enhancement. Take the case of a company with an income of one lakh. The tax payable under the old system was about Rs. 18,000, and, under the new law, it is about Rs. 22,000. For assessées other than companies the figures are still more startling. Under the old system, the amount was Rs. 16,623; under the present system, it is Rs. 26,000,—an increase of Rs. 10,000. For a company with an income of two lakhs, under the old system, the deduction was Rs. 38,000 odd, and now it is Rs. 43,000 odd. For assessées other than companies, the amount was Rs. 43,792, and now it is Rs. 65,000. For a company with an income of five lakhs, it was one lakh before, and now it is Rs. one lakh and 9,000. For assessées other than companies, it was Rs. one lakh and 62,000, and now it is Rs. two lakhs and 15,000. This increase has been due to the amendment of the Income-tax Act last year. These figures have to be taken into consideration on the question of what is likely to be the result upon industries and business and also the effect of these increments on the estimated yield. We must remember that in 1919 the yield was over nine crores at 50 per cent, and it is proposed now to raise only three crores. These figures, therefore, must be considered in relation to the question of rate.

Mr. M. S. Aney: Has my friend worked out the amount that would accrue according to his proposed taxation on the basis of the figures available there?

Mr. Akhil Chandra Datta: No, I have not worked it out.

Mr. M. S. Aney: Government will not work it out for you.

Mr. Akhil Chandra Datta: It will make a very great difference. So, to speak frankly, in view of the attitude of the Honourable the Finance Member on this question of the rate, I must confess I am not expecting 25 per cent. but may I, at the same time, ask him to consider whether he can make any concession in the rate of the tax?

Mr. M. S. Aney: May I ask the Honourable Member whether these reduced rates he has suggested were suggested in the Select Committee and they were rejected there?

Mr. Akhil Chandra Datta: Yes.

Mr. M. S. Aney: One more question. Were the Members supplied with an approximate estimate of the reduction in the estimate he made on account of the adoption of these reduced rates by the Honourable the Finance Member there?

Mr. Akhil Chandra Datta: No.

I have only one more word to say in support of my amendment. It must have been noticed that the industries and businesses are very very keen over this question of percentage. That should be taken into consideration. As a matter of fact, after the first sitting of the Select Committee, the *Statesman* published a certain incorrect report as to what had happened in the Select Committee with regard to this rate of assessment. It was said there, though very incorrectly, that it has been decided that 50 per cent. would be the rate; and I am sure the Honourable the Finance Member has come to know what was the immediate effect of that publication. The markets collapsed. This is a question on which the Honourable the Finance Member might not be as unrelenting as he was in the Select Committee.

Sir H. P. Mody (Bombay Millowners' Association: Indian Commerce): What is moved, Sir? All the amendments?

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

"That in clause 4 of the Bill, for the word 'fifty' the word 'twenty-five' be substituted."

The next amendment of the Honourable Member is:

"That in clause 4 of the Bill, for the word 'fifty' the word 'thirty' be substituted."

The next is:

"That in clause 4 of the Bill, for the word 'fifty' the word 'thirty-five' be substituted."

The last amendment of the Honourable Member is:

"That in clause 4 of the Bill, for the word 'fifty' the word 'forty' be substituted."

The Chair forgot to put Mr. Baijnath Bajoria's amendment, No. 13 on Supplementary List No. 1:

"That in clause 4 of the Bill, for the words 'fifty per cent' the word 'one-third' be substituted."

Mr. M. S. Aney: May I ask, on a point of order? This House is rather put in a difficult position as all these amendments have been moved together. We do not know what is it that we are discussing: are we only discussing the general principle that some reduction at any rate should be made in the rate proposed by the Government or any particular reduction which we want to adopt?

Mr. President (The Honourable Sir Abdur Rahim): The House has now got to deal with particular amendments. One Honourable Member may support 25 per cent. another may support 30 per cent., and he may give his reasons against other amendments. There is no difficulty that the Chair can see.

Dr. Sir Ziauddin Ahmad: We can have a debate on the general principle.

Mr. President (The Honourable Sir Abdur Rahim): There is no general debate. It is a question of what proportion it ought to be. That is all. It would be sheer waste of the time of the House to have a debate first on 25 per cent., and the Members to say "No, not 25 per cent." and again on 30 per cent., and so on.

Sir H. P. Mody: Sir, I do not want Government to claim the sole monopoly of the virtue of consistency. I want to share with them fully to the extent of 50 per cent. of this virtue. I moved for a reduction of the percentage in the Select Committee, and I must stand by what I did then. But apart from the question of consistency there is one consideration which I would like to urge upon my friends on the Treasury Benches, and it is this. No one knows, definitely at any rate, how much this tax is going to yield. We say five crores; Government say three crores. Who is to decide? There is only one man in this House, or for that matter in the country, who has got the mathematical equipment to figure these things out, and, unfortunately, he is generally out by a few crores. So, we are in this unfortunate position, that we think that Government will realise a great deal more than three crores and Government think with such calculations as they have made that the yield would be substantially less. That being the case my suggestion would be that Government might well accept what I had suggested in the Select Committee, *viz.*, 35 per cent. If after a year's working they find that it has not yielded enough, let them put it up to 50 per cent., or even more, so long as they can make out a case. The whole point is that today unless they definitely establish to our satisfaction that 50 per cent. is going to yield no more than three crores, they have no case for resisting one at least of the amendments of my Honourable friend, the Deputy President, *viz.*, the amendment to reduce the rate to 35 per cent. When my Honourable friend, the Finance Member, made his speech on the Budget I made him a very sporting offer that I was prepared to underwrite the Excess Profits Tax, for the first period at any rate, for 3½ crores, and he would not accept it. . . .

The Honourable Sir Jeremy Raisman: I will sell it to you!

Sir H. P. Mody: Then, I understand that the Government are prepared to accept 35 per cent., and the rest is a matter of private arrangement between the Finance Member and myself. That being so, I think we should all be very happy.

Sardar Sant Singh (West Punjab: Sikh): Sir, never was such a generous offer made by a taxpayer to a tax-collector to give such a wide choice between 25 and 40 per cent. The Honourable the Finance Member has put this excess profits tax from the very beginning of the war period, and as such it has had a depressing effect upon the markets in the commercial world. As they are all gambling upon this, as to what effect it will really have upon the markets, it is but fair that, in the first year of the war, some concession should be shown to the commercial community and the tax should be levied at a lower rate than 50 per cent.

The second point which I would make particularly about this is that it was the duty of the Finance Department to furnish us with details as to

[Sardar Sant Singh.]

what amounts are likely to be realised as estimated by them, according to their wish if the tax is levied from 25 to about 40 per cent. With about 50 per cent., they say they are likely to raise something like three crores. On this side of the House, there have been persistent and consistent argument that this estimate is too low. If the Department has furnished us with their estimate of the probable realisation of the tax, say from 25 to about 40 per cent., we would have been in a position to contribute materially towards the argument what was fair and what was not. But here we are all groping in the dark and the best course will be to take into consideration the effect of this new tax upon the new industries as well as upon the markets of this country. I will, therefore, request the Honourable the Finance Member to reconsider the position as regards this rate, and, from such a large choice that has been offered to him, he should be able to pick up one, and he should not be so exacting as the taxpayers of old.

Babu Baijnath Bajoria: Sir, in the Income-tax (Amendment) Act we fought against the slab system and lost the battle. Here in the present Bill we fought for the slab system and again lost the battle. In the Income-tax (Amendment) Act, the slab system suited the Government because, as has been pointed out by the Deputy President, that system gave them much more revenue than the step system used to give them. In this amendment which I tabled, they would have got a little less than they will get under the 50 per cent. basis and so they objected to it. The Finance Member claims that he is consistent. I say that the Government are always consistent in their inconsistencies.

The Honourable Sir Jeremy Raisman: Whichever is greater.

Babu Baijnath Bajoria: Sir, they always play the game that 'heads I win, tails you lose'. So in this case also they are trying to exact their full pound of flesh from the taxpayer. Several amendments which have been moved in the House are all, of course, for reducing the percentage of rates and as such they will give relief to the taxpayer. It has also been said by previous speakers and in the debates on previous days that the estimate of the Honourable the Finance Member, about three crores at the rate of 50 per cent., is a gross under-estimate. Now, Sir, I would request the Honourable the Finance Member, that as my Honourable friend, Sir H. P. Mody, likes 35 per cent. basis and as it is very near to my amendment of 33 1/3 per cent., the Government might accept either my amendment or the amendment for 35 per cent.

Mr. Husenbhai Abdullabhai Laljee: I, as a businessman, fail entirely to find out on what basis this 50 per cent. has been fixed. If we take that it is on the basis of the fact that in Great Britain there is sixty per cent. or if we take it on the basis that after the last war which was carried on for four years, it was fixed at fifty per cent., in which case also we fail to see because even at that time there was a stipulation made that there should be either super-tax or excess profits tax. I should certainly like to know on what basis this 50 per cent. has been brought in. If it is on the score of expenses that are to be incurred, well then the expenses that Great Britain are incurring for the war and the 60 per cent. that has been fixed there could have no relation whatsoever in any degree with the 50 per cent. that the Honourable the Finance Member wishes to put on this

country. Really speaking, these three crores here against what Great Britain is spending, and the 60 per cent. tax in Great Britain is nothing in proportion whatsoever. I, therefore, submit that this figure of 50 per cent. has been taken without any calculation but on the fact as to what existed sometime back in India, but not on the same conditions. I say so because last time there was super-tax or the 50 per cent. was fixed after four years of war and the condition of the people then was much better. Therefore, if we are asked as to whether there should be three crores or 3½ crores I as a businessman fail to understand what is the amount of money that the Finance Member wants.

Mr. M. S. Aney: Three crores.

Mr. Husenbhai Abdullabhai Laljee: He does not want three crores.

The Honourable Sir Jeremy Raisman: Ask Russia.

Mr. Husenbhai Abdullabhai Laljee: So all this is speculation, sheer gamble at the cost of the poor people of this country. (Interruption.) Yes, absolutely poor compared with other countries, the poorest in the world. If you calculate the income of the people of this country and of any other country in Europe, especially England, you will find that the condition of the people here is the poorest. My Honourable friend Dr. Sir Ziauddin Ahmad asked a pointed question on the last amendment as to what would be the loss if we agree to the good principle which was adopted by us and to know whether the percentage fixed by the Government was fair? The Honourable the Finance Member said that the difference would be more than 10 or 15 lakhs. He said that it would be not more than 25 or 30. I know he won't gamble so much on the finances of the country. When he calculates three crores, surely, what this little difference would make that is between 20 or 30, he should know. The difference cannot be so much as 40 or 50 lakhs. If that was so, then there was no calculation, I submit with regard to the whole estimate of three crores. The difference must be between 10 or 15 or 20 lakhs. If that is so, then I ask in all fairness why should it not be conceded. Only recently for the Agricultural Research Council, for the purpose of agricultural development, we have been taxed to the extent of 15 lakhs. A great portion of which was being paid actually through regular revenues. That has gone away. On every pretext the Government have been taxing the poor. If it is only a question of 10 or 15 lakhs there would be no question whatsoever of conceding without further more effort. I think this is all speculation, or a gamble. Let us make a decent show. In the case of a country like England which is spending crores every day, it is only 60 per cent. fixed, in the case of India which is not spending or is unable to spend anything like it the percentage should be at least half of that, but what the Government aim at is to fix as much as 50 per cent. which is much nearer sixty per cent. I do hope and sincerely trust that the Government will consider this aspect of the question in this way that the country is very poor, that during the last war when it was introduced, the condition of the people was much better than at present, that it has no comparison whatsoever with the taxes prevailing in other parts of the world, that in many other parts of the British Empire, there is no excess profits tax and that even in Ceylon, Burma and other places, it has not yet been introduced, that under these circumstances this gamble of 50 per cent. may be reduced. I appeal to the Government to try and make at least a decent and fair show that they are

[Mr. Husenbhai Abdullabhai Laljee.]

taxing the people on a little fairer basis. I hope and trust that the Honourable the Finance Member and the Government will show to the world that they are fair to the country's finances and to the condition of the people.

Dr. Sir Ziauddin Ahmad: I did not intend to speak on this amendment, but wanted to record my silent vote of opposition. But the remarks of my Honourable friend, Sir Homi Mody, have compelled me to get up and tell him something. He made an unnecessary and uncalled for remark about myself and I would, therefore, like to tell him something about himself. He wanted to purchase the income, if the Honourable the Finance Member is selling it. I also make an offer. If he let go clause (d) of sub-clause (2) of this Bill, I am willing to purchase it for Rs. 75 lakhs. Let him give up that clause and I will purchase it for Rs. 75 lakhs.

Sir H. P. Mody: I want you to give that in writing, and I will want your thumb mark on it.

Dr. Sir Ziauddin Ahmad: My Honourable friend, the Finance Member, told us a story about the tiger yesterday. The story was very good, but I shall also tell him a story which is relevant to this particular question. That is a story taken from *Tilsm dil Ruba*. There was a witch. She could assume the appearance of any person. She always assumed the appearance of a beautiful lady and whenever any person went near her she always devoured him.

An Honourable Member: She must have been a bitch.

Dr. Sir Ziauddin Ahmad: Then, at some other time when she was called upon to go to the Legislature, she adopted an entirely different policy, and I just quote it from this well-known book. Here it is.

"Whenever this witch went to the seat of the Government, she licked the Commerce Member, bluffed the Finance Member, kicked the Home Member, humoured the Law Member and ignored all the other Members, and she took full advantage of the absence of co-ordination among these Members."

This was the practice which she adopted with regard to the Legislature. On this particular question I do not want to take the time of the House very much, but these are the two points to which I would like to draw the attention of the House. If more humour comes from Sir Homi Mody, then I will have the privilege of relating more stories. With these words I oppose the amendment.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural): I must say that I am not a gambler, nor have I amassed money by gambling. The point before the House is whether the rate should be 50 per cent. No doubt, the Select Committee have accepted 50 per cent., but the matter is left to the decision of this House, and the consensus of opinion at least from a section of the House is that there ought to be some reduction. On account of that, certain offers have been made by these amendments that are before the House.

Dr. P. N. Banerjee: No acceptance.

Mr. Lalchand Navalrai: With regard to that, if we are united we can get it, but if we are not united and if Members commit themselves to this 50 per cent. in advance, then what can we do? I submit that the incidence of tax is always determined upon some data. I would ask if any materials have been placed before us to show how much this tax can produce. At the time when the rate of income-tax is decided upon, full facts are placed before the House showing what the surplus is or what the deficit is, and showing also the particular purpose for which the tax is demanded. It is said that the excess profits duty is being imposed for the purpose of the war, but the Honourable the Finance Member has up to this time given us no indication whatever of what he is going to realise. He is merely making his dictatorial decision and he says that it will be three crores. That is being objected to. Does the Honourable the Finance Member want to act the part of Hitler today in this House, by asserting only by speculating or from his imagination that it is going to yield so much? I do not think the ways of Hitler are liked in this country, and why should they be in this case. The Honourable Member should not be immovable like that. The rate offers have been made. The first, that is, 25 per cent., has been given up. That was even in my name. Then other Honourable Members have raised it to 30, 35

An Honourable Member: 40.

Mr. Lalchand Navalrai: Then the point is, let the Honourable the Finance Member get up and say he is going to accept 40 per cent. I give him a chance now and I will sit down at once if he says that he will accept 40.

Mr. Akhil Chandra Datta: Silence is tantamount to consent.

Mr. Lalchand Navalrai: He has not said anything expressly about it. I know that he must be considering it, because otherwise he will be acting like an autocrat. Unless he places his cards on the table and shows what these profits will be, for which he has at present not given us any data or any materials, I am afraid that this House will not be satisfied. I need not take up any more time on this point. Suggestions have been made, and let us see what he is going to accept.

Sir Syed Eaza Ali: I will have only a few words to add. The position which this House has to consider is this. The House must remember that those who are most interested in this amendment are either big business men or big business concerns. The way to give relief to big business concerns and big business men was to adopt one of these two methods—either this relief could be given by reducing the flat rate of 50 per cent. to something varying from 35 to 45 per cent. The other course that could be adopted, which was a very reasonable course, I must say, of giving relief to big business concerns and big business men, was to add to the number of options that were embodied in the Bill as originally introduced and include among those options the year 1938-39 which, according to the evidence of big business men, was a very prosperous year. It was not possible, and I do not think it would be reasonable for business men to insist that they should have it both ways. They could either expect a reduction in the flat rate or an additional option among those options which were given to business concerns and business men according to the Bill as introduced.

[Sir Syed Raza Ali.]

A very important change has been introduced by the Select Committee. The Select Committee went very carefully into the question, and, as you will have noticed, a very important alteration was made by the Select Committee in that it added to the optional years that could be chosen by business men, the year 1938-39, taken along with the year 1937-38. That was a very important change that has been made. I am surprised that no reference to this very important fact has been made by any of the Honourable Members who have spoken on the subject. Sir, considerable relief has already been given to business concerns and business men. I am afraid that if this flat rate of 50 per cent. was reduced to something like 35 or 40, so far as I can see—we discussed the subject very carefully in the Select Committee—it would very considerably disturb the arrangement of the Bill. It would interfere very considerably with the principles on which the Bill is based. Therefore, I take the responsibility of repeating what I said in the Select Committee and also in the report, namely, I have no particular fault to find with the flat rate of 50 per cent. I do not say that it is ideal. It may be that it can be improved upon, but surely you cannot improve by reducing the amount from 50 to 45 or 40 unless you take 35 at the lowest rung of the ladder and something like 60 per cent. at the other end. If you do that, you can equalise the effect no doubt, but that is not the proposal. Therefore, I must oppose the amendment.

The Honourable Sir Jeremy Raisman: I do not think I have left the House in doubt at any stage about my attitude on the question of percentage. My Honourable friend, the Deputy President, appealed to me in view of the state of the House to give consideration to this matter. I can assure my Honourable friend that this is a matter to which I have given consideration from the very beginning and all along and he himself has recognised that in spite of the strong position which he attributes to me in the House—and the position was the same in the Select Committee—I was anxious to make all concessions and modifications which I felt that the equity of the case demanded.

Now, Sir, I feel very strongly that the agitation and the criticism on the subject of the 50 per cent. is entirely unreal—I would almost say it is meaningless. If I come forward in the first instance with a proposal for 50 per cent. of an amount of profits which might aggregate say ten crores and if I, subsequently, make modifications which may reduce the amount of profit coming under tax to six crores, it seems to me that it is entirely inappropriate to continue to harp on the question of the percentage. It is a matter of common arithmetical knowledge that if you multiply a vulgar fraction by another vulgar fraction, the result is a very small vulgar fraction indeed. In other words if you multiply $\frac{5}{9}$ ths by $\frac{5}{9}$ ths, then the result is something which is a good deal less than $\frac{5}{9}$ th and, therefore, if you have already made a reduction, a very substantial reduction in the amount to which the fraction is to be applied you obviously, if you have done it with full consideration, cannot proceed then to make a similar reduction in the fraction in the percentage.

Now, a good deal has been said on the subject of the estimation of the yield of this tax. I must admit that like all Finance Ministers or Chancellors of the Exchequer in dealing with a tax of this kind I am in a position of great difficulty. In fact in the United Kingdom, the Chancellor of the Exchequer made no attempt whatever to

foretell the yield of the excess profits tax. I felt that in the circumstances of India it was desirable that I should make some attempt to estimate the yield but what I had in mind was the limited problem of the amount which was likely to be collected in the year 1940-41. As regards the further future, I do not know in what form it will be necessary to continue this measure. I cannot foretell the future of the war or how hostilities may extend. The House must realise that in dealing with a situation like that it is entirely impossible to adhere to the meticulous basis of calculation which is appropriate in ordinary times of peace. Nevertheless the more I have thought over the estimate which I placed before the House the more I feel that it is extremely unlikely to be exceeded in the course of the year 1940-41. This is the problem with which I had to deal in connection with this Budget. I regret that my friend, Mr. Lalchand Navalrai, should have accused me of an autocratic attitude in this matter. I think that in relation to this Bill I can fairly claim to have refrained from taking advantage of any excess of power which the situation may have conferred upon me and that I have done my best to meet reasonable criticism and to improve the equitable basis of the Bill but I do feel that the question of the percentage has now become a matter of principle—that having improved the Bill to the extent which it has been improved in the Select Committee we are fully justified—we have strong moral justification for claiming that the share of the State in the excess profits as determined by the measure should not be less than 50 per cent.

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : With your permission, may I ask a question of the Honourable the Finance Member?

Mr. President (The Honourable Sir Abdur Rahim) : Yes, if it is not a speech.

Pandit Krishna Kant Malaviya : He said that the figure of three crores is not likely to be exceeded. May I ask whether he would be willing to stop the collection of this tax as soon as the figure of three crores has been realised?

The Honourable Sir Jeremy Raisman : If I can stop the war at the same time.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair would now like to put the amendments. The question is :

“That in clause 4 of the Bill, for the word ‘fifty’ the word ‘forty’ be substituted.”

The motion was negatived..

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

“That in clause 4 of the Bill, for the word ‘fifty’ the word ‘thirty-five’ be substituted.”

The Assembly divided :

AYES—11.

Aney, Mr. M. S.
Bajoria, Babu Baijnath.
Benerjea, Dr. P. N.
Datta, Mr. Akhil Chandra.
Lalchand Navalrai, Mr.
Laljee, Mr. Husenbhai Abdullabhai.

Maitra, Pandit Lakshmi Kanta.
Malaviya, Pandit Krishna Kant.
Mody, Sir H. P.
Parma Nand, Bhai.
Sant Singh, Sardar.

NOES—55.

Abdoola Haroon, Seth Haji Sir.
Abdul Hamid, Khan Sahib Shaikh.
Abdullah, Mr. H. M.
Ahmad Nawaz Khan, Major Nawab Sir.
Aikman, Mr. A.
Bajpai, Sir Girja Shankar.
Bewoor, Sir Gurunath.
Boyle, Mr. J. D.
Buss, Mr. L. C.
Campbell, Mr. D. C.
Caroe, Mr. O. K.
Chambers, Mr. S. P.
Chapman-Mortimer, Mr. T.
Chettiar, Dr. Rajah Sir S. R. M. Annamalai.
Clow, The Honourable Sir Andrew.
Daga, Seth Sunderlal.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Captain.
DeSouza, Dr. F. X.
Essak Sait, Mr. H. A. Sathar H.
Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
Ghiasuddin, Mr. M.
Gidney, Lieut.-Colonel Sir Henry.
Griffiths, Mr. P. J.
Gwilt, Mr. E. L. C.
Imam, Syed Haider.
Ismail Ali Khan, Kunwar Hajee.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.

Kamaluddin Ahmed, Shamsul-Ulema.
Khan, Mr. N. M.
Kushalpal Singh, Raja Bahadur.
Lillie, Mr. C. J. W.
Mackeown, Mr. J. A.
Maxwell, The Honourable Sir Reginald.
Mehr Shah, Nawab Sahibzada Sir Sayad Muhammad.
Miller, Mr. C. C.
Muazzam Sahib Bahadur, Mr. Muhammad.
Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.
Ogilvie, Mr. C. M. G.
Oulsnam, Mr. S. H. Y.
Pillay, Mr. T. S. S.
Rahman, Lieut.-Col. M. A.
Raisman, The Honourable Sir Jeremy.
Raza Ali, Sir Syed.
Scot, Mr. J. Ramsay.
Sen, Rai Bahadur G. C.
Shahban, Mian Ghulam Kadir Muhammad.
Sheehy, Mr. J. F.
Sher Muhammad Khan Captain Sardar Sir.
Sivaraj, Rao Sahib N.
Spence, Sir George.
Umar Aly Shah, Mr.
Zafrullah Khan, The Honourable Sir Muhammad.
Ziauddin Ahmad, Dr. Sir.

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair will now put the next amendment. The question is :

“That in clause 4 of the Bill, for the word ‘fifty’ the word ‘thirty’ be substituted.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair will now put the last amendment. The question is :

“That in clause 4 of the Bill, for the word ‘fifty’ the word ‘twenty-five’ be substituted.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : Today being Friday, the Assembly will now adjourn till a Quarter Past Two.

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

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

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

“That in clause 4 of the Bill, for the words ‘fifty per cent.’ the word ‘one-third’ be substituted.”

The motion was negatived.

Sir Syed Raza Ali : With your permission, I should like to move together my amendments Nos. 14 and 15 in the Consolidated List. Amendment No. 15, if agreed to, will be followed by the consequential amendment No. 14. In fact, amendment No. 14 is part and parcel of amendment No. 15. In fact, both are one and they cannot be separated. As a matter of convenience, I have numbered them separately. I think this morning we took amendments Nos. 10 and 13 together as a matter of convenience, and the same procedure might be adopted.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment No. 14 does not make any sense at all. However, the Chair would suggest this course. Let the Honourable Member move amendment No. 14 and follow it up by reading the percentage incorporated in amendment No. 15. In that way, it can be moved.

Sir Syed Raza Ali : It is only for convenience of draftsmanship that I numbered them as 14 and 15.

Mr. Deputy President (Mr. Akhil Chandra Datta) : There is some real difficulty and the Chair suggests to the Honourable Member that he should move the amendments in the form suggested by it.

Sir Syed Raza Ali : You can get out of that difficulty. I propose to move first of all No. 15, and then No. 14.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member cannot move like that. Amendment No. 14 has no meaning at all.

Babu Baijnath Bajoria : Sir, I rise to a point of order. Damage will be done if the amendment is moved. My point of order is that amendment No. 15 raises the incidence of taxes above 50 per cent. I should like to know whether the Honourable Member can move this amendment without the sanction of the Governor General.

Sir Syed Raza Ali : I am delighted to inform my Honourable friend that I have got the sanction of the Governor General.

[Sir Syed Raza Ali.]

I move :

“That in clause 4 of the Bill, for the words ‘fifty per cent.’ the words ‘the following percentage’ be substituted.”

Sir, it will be enough if I inform the House

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair is sorry the Honourable Member did not follow what it suggested. He has moved amendment No. 14 and he has stopped with it, and he is making a speech. The Chair suggests that he should leave out the introductory words in amendment No. 15 and go to the percentage.

The Honourable Sir Jeremy Raisman : With due respect, Sir, I should like to point out that that makes it an entirely different amendment for which no sanction has been obtained. The effect of the amendment which you, Sir, have suggested would be to introduce a graduated scale with immediate effect from the first year, whereas, the effect of the amendment, as I see it, is intended to introduce a graduated scale for the future.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Yes, there is that difficulty.

Sir Syed Raza Ali : What I meant to convey in my amendment was to substitute a graduated scale for 50 per cent. That is all I tried to do; nothing more nothing less.

The Honourable Sir Jeremy Raisman : I regret that the Honourable Member's amendment does not seem to have that effect.

Mr. M. S. Aney : I do not see why these two amendments should not be taken together. It would regularise the procedure.

Sir Syed Raza Ali : Sir, with your permission, I propose to move the amendment like this. I want to delete the words “fifty per cent. of that excess” after the words “equal to” in line 6 of the clause, and substitute the scale of “35 per cent.”, etc., as given in my amendment No. 15. If there is no objection, I shall move it like that.

The Honourable Sir Jeremy Raisman : Sir, I have no objection.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Then the Honourable Member may move it.

Babu Baijnath Bajoria : Sir, on a point of order. The House has already rejected the taxation of excess profits by 35 and 40 per cent. Is the Honourable Member in order again to propose that 35 and 40 per cent. should be the amount of the tax?

Mr. Deputy President (Mr. Akhil Chandra Datta) : What has been rejected by the House is a flat rate of 35 per cent. for all amounts. What the Honourable Member now proposes is 35 and 40 per cent. if the profit

goes beyond a certain figure. There is a difference between the two, and the Honourable Member can move it.

Sir Syed Raza Ali: I am glad that the vexatious point of order has met the fate that it deserved.

Mr. Lalchand Navalrai: Sir, on a point of order. Is the Honourable Member justified in characterising a point of order raised by another Honourable Member as vexatious?

Mr. Deputy President (Mr. Akhil Chandra Datta): The word may not be quite desirable, but the Chair does not know that it is unparliamentary.

Babu Baijnath Bajoria: Sir, I do not take any objection to that word.

Sir Syed Raza Ali: Sir, I beg to move:

“That in clause 4 of the Bill, after the words ‘equal to’ in line 6, the words ‘fifty per cent of that excess’ be deleted and the following table be substituted:

- 35 per cent. if the excess is not more than Rs. 30,000;
- 40 per cent. if the excess is more than Rs. 30,000 but not more than Rs. 60,000;
- 45 per cent. if the excess is more than Rs. 60,000 but not more than Rs. 100,000;
- 50 per cent. if the excess is more than Rs. 100,000 but not more than Rs. 150,000;
- 55 per cent. if the excess is more than Rs. 150,000 but not more than Rs. 200,000;
- 60 per cent. if the excess is more than Rs. 200,000.”

Honourable Members will see that though my amendment seeks to introduce a graduated scale, there is a world of difference between the graduated scale in my amendment and that which was moved by my Honourable friend, Mr. Bajoria, earlier in the day. The essential difference is this,—and I invite the attention of the Treasury Benches to this. Whereas, in the amendment of Mr. Bajoria, the total amount of revenue to be derived by Government was considerably or appreciably reduced, under my amendment the revenue will not be affected at all. And I had this difference in mind when I used the word “vexatious”. Unfortunately, my Honourable friend does not belong to the learned profession of law to which I belong, and, therefore, he cannot see the difference on the face of it. I have made inquiries, and I am told that the acceptance of my amendment will not affect the total revenue which will be raised under this Bill. If my amendment is accepted, the Government may be able to get a little more than they would get under the Bill. That is how I understand it. It is for the Honourable the Finance Member to say whether my information is correct or not; but I have put the information I have gathered fairly and squarely before the House. If I am right in what I have stated, it is not for the Treasury Benches to oppose my amendment. In that case, I would ask them to abstain from voting if the amendment is pressed to a vote. On the other hand, I think it is high time that we applied a proper test to the convictions and creeds of the non-official Members of this House. The clear effect of my amendment would be to ask the really rich man to give a little more than he would have to give under the clause as it stands now in the Bill.

Mr. A. Aikman: That would not be the result.

Sir Syed Raza Ali: I think that would be the result, so far as I can see. I would be very interested to hear my Honourable friend, Mr. Aikman's logic. To me it seems that 60 per cent. of 100 rupees is 60 rupees and fifty per cent. is 50 rupees, and the difference between the two is ten rupees. That is a matter of simple calculation. So that, if my motion arouses the opposition and hostility of rich people, I should not be in the least surprised. I am not here to speak for the rich man or the company which earns lakhs of rupees. I am here to represent the view of the small man, the man whose income is not expected to be very much: in any case the excess income would be between 30,000 and 1,00,000 rupees. All depends on what view this House takes, and that is the reason why I suggest to the Government to abstain from voting after the Honourable the Finance Member has made his speech. As I have said, so far as I can see, this amendment will not affect the financial position of the Government at all. All that it seeks to do is to ask individuals and companies who are in receipt of an income of more than 1,50,000 a year to contribute more to the exchequer than they would if the clause is allowed to stand as it is. On the other hand, I may say that my amendment seeks to give relief to those who, though not poor, are not by any means rich: I may call them fairly well off. That is the real point. The contest this afternoon, so far as I can see, lies between those who are very rich—though in our country unfortunately there are not very many people who are very rich, and I have every sympathy with them—and those not so rich: I have greater sympathy for those who are well off and not very rich.

An Honourable Member: For the poor rich!

Sir Syed Raza Ali: My endeavour has been to try to have a scale of taxation under which really rich men would have to make proportionately greater contributions than those who, strictly speaking, belong to the middle classes. The man with an excess income of, we will say, 30,000 or 35,000 a year would be a middle class man in a western country, but will not be called a rich man in Europe or America. I want to give those people relief: I want them to contribute not more than 35 per cent.; whereas, if a man's income or a company's income is more than Rs. 2,00,000 a year, then I suggest that he or it should be taxed at the rate of 60 per cent. I believe it is a perfectly reasonable and feasible proposition. These are days when everybody is asked—quite apart from the war in the midst of which we unfortunately find ourselves—the tendency of modern legislation in all civilised countries is to make the rich man pay proportionately at the high scale than the scale which is applicable to the middle class man. In spite of the violent shakings of head on the part of my friend, Sir Homi Mody, that principle of law remains there. All legislation in modern countries is based on that. My amendment seeks to give effect to that principle and nothing more. Those of us who are in favour of the enforcement of the principle, under which every man should be required to contribute to the State Exchequer according to his means, would readily agree with and support my proposition. I am for lightening the burden of, comparatively speaking, the small man: I am

for making the burden on the really rich man a little more onerous than it is; and, as I have stated, I have very good reasons for doing that.

Summarising the whole position, we find ourselves in this situation, that whereas the Government are not affected by my amendment, either at all or if at all to a very small extent and even that to their advantage, the real contest lies between the small man and the rich man. I suppose this Honourable House will realise its duty towards those who are by no means rich, and who yet, in spite of their circumstances, are called upon to make the same contribution under the Bill to the State Exchequer as a man with an excess income of five or six lakhs a year. To apply the same principle indiscriminately to these two classes of men and make no distinction between them is, I submit, not equitable. If both these classes are to be treated fairly and justly, the scale of taxation applicable to each one should be different. Sir, I move.

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

"That in clause 4 of the Bill, after the words 'equal to' in line 6, the words 'fifty per cent of that excess' be deleted and the following table be substituted:

'35 per cent. if the excess is not more than Rs. 30,000;
40 per cent. if the excess is more than Rs. 30,000 but not more than Rs. 60,000;
45 per cent. if the excess is more than Rs. 60,000 but not more than Rs. 100,000;
50 per cent. if the excess is more than Rs. 100,000 but not more than Rs. 150,000;
55 per cent. if the excess is more than Rs. 150,000 but not more than Rs. 200,000;
60 per cent. if the excess is more than Rs. 200,000."

Sardar Sant Singh: May I know what the effect of this amendment will be, whether the words, "and shall after that date be equal to such percentage of that excess as may be fixed by the Annual Finance Act", will remain or not?

Mr. Deputy President (Mr. Akhil Chandra Datta): Those words will go.

Sir H. P. Mody: That means the whole Bill goes out.

Mr. Deputy President (Mr. Akhil Chandra Datta): Whether the whole Bill goes out or not, that is the motion moved. The Chair is not concerned with the effect of the motion.

Sir H. P. Mody: May I rise on a point of order? In clause 4, there are two ideas, one, the idea of fixing the percentage at 50 per cent. and the other idea is, after March, 1941, such percentage of the excess will be fixed by the Legislature as may be deemed fit by the Legislature—these are two distinct ideas. My Honourable friend's amendment seeks to apply to only one set of ideas, namely, the percentage to be laid down. By this amendment which merely fixes itself on to the percentage he also wants to do away with the review which has been provided for in clause 4.

Mr. Deputy President (Mr. Akhil Chandra Datta): That is a ground for opposing the amendment.

Sir Syed Raza Ali: May I point out what the position is? The position, if my amendment is accepted, will be this. After the amendment, will come the words, "and shall after that date be equal to such percentage of that excess as may be fixed by the Annual Finance Act", so that this will remain in force up to the 31st March, 1941, and it will be open to this House to revise and modify this percentage after the end of that period.

Mr. Deputy President (Mr. Akhil Chandra Datta): That cannot be, because 50 per cent. in clause 4 remains.

Sir Syed Raza Ali: No. I moved a deletion of 50 per cent.

Mr. Deputy President (Mr. Akhil Chandra Datta): There is some misconception. Will the Honourable Member give his amendment precisely in writing?

Sir Syed Raza Ali: I need only read out the words. The words will be—I need not read out the whole of clause 4. If you take the fourth line of the clause from the bottom, then the amendment is, "1941, be equal to thirty-five per cent. if the excess is not more than Rs. 30,000, Rs. 40,000. . . ." and so on, up to the end of my amendment, and then the words, "and shall after that date be equal to such percentage of that excess as may be fixed by the Annual Finance Act". It makes everything quite clear. 50 per cent. gone.

Mr. Deputy President (Mr. Akhil Chandra Datta): Honourable Members should have taken exception when I read out, and at that time there was no objection raised.

Sir H. P. Mody: Now that we have at least understood the amendment, I would have said, if I did not entertain such a respect for my Honourable friend, Sir Raza Ali—I would have said that the amendment is vexatious. Speaking for the rich poor and the poor rich, I would like to point out to my Honourable friend that his amendment would achieve exactly the contrary of that which he intends. He thinks that by fixing as high a percentage as sixty per cent. for excess of more than Rs. 2 lakhs, he is really tapping the pockets of the rich, the people who according to him could be bled and should be bled. My Honourable friend, the Leader of the European Group, this morning pointed out the fallacy in that argument. What I would like to point out is, assume that in the standard period a man's income is only Rs. 30,000 and in the chargeable accounting period it is Rs. 2,40,000. The excess is over 2 lakhs. That business with a modest income of Rs. 2,40,000 would pay at the rate of 60 per cent., because the excess is more than two lakhs.

Sir Syed Raza Ali: He should pay at that rate.

Sir H. P. Mody: Whereas if a business has in the standard period an income of Rs. 50 lakhs and in the chargeable accounting period an income

of, say, Rs. 50,35,000, that business which makes all that enormous profit will pay at the rate of 35 per cent. I see that my Honourable friend has not understood the point. . . .

Sir Syed Raza Ali: Somebody was talking to me. I did not hear you. Will you please repeat it?

Sir H. P. Mody: What I was saying was this. Suppose a business has got an income of Rs. 30,000 in the standard year and an income of Rs. 2,40,000 in the chargeable accounting period, it means that in the chargeable accounting period the excess is Rs. 2,10,000. Under your scheme of things that business would have to pay 60 per cent. of the excess. Take another case. A business has got an income of 50 lakhs in the standard year and Rs. 50,35,000 in the chargeable accounting period. Under your scheme of things, that business would be paying only 35 per cent.

Sir Syed Raza Ali: Quite right. I am surprised at this argument. That is what it should be. Like to like.

Sir H. P. Mody: No, this is very unlike to very unlike. There is no like to like in this.

Sir Syed Raza Ali: If the standard profits were 50 lakhs and if in the chargeable accounting period the profits were Rs. 50,25,000, of course, he does not pay at the higher rate. It is obvious which my learned friend should see.

Sir H. P. Mody: I do not know what my learned friend is talking about. My point is this. My Honourable friend was all the time talking about the rich. But does he regard the business which has an income of 50 lakhs as rich or a business which has an income of 2 lakhs? Which is the richer party? Perhaps in the learned circles in which my Honourable friend moves, it must be the other way about. (Laughter.) But taking the common sense and severely practical view of things, my submission is that the amendment would perpetrate a monstrous injustice, because a business having a profit of as much as 50 lakhs and more might pay only at the rate of 35 per cent. or nothing at all, and a business which has a profit of a little over 2 lakhs pays 60 per cent. of the excess profit,—where is the justice in this scheme of things?

Sir Syed Raza Ali: A thing like that will never occur under the sun; it is impossible.

Mr. A. Alkman: Why not?

Sir H. P. Mody: Well, if it will not occur, that settles it!

I hope, Sir, I have said quite enough to convince my friend opposite.

The Honourable Sir Jeremy Raisman: Sir, I explained this morning why on principle I did not regard a graded scale as suitable to the Excess Profits Tax, and that applies just as much to the amendment of my friend,

[Sir Jeremy Raisman.]

Sir Syed Raza Ali, as it did to the amendment moved by my friend, Mr. Bajoria. I think it is suitable that I should on this occasion take some credit to myself for my moderation, because I believe that the amendment now before the House would have the effect of giving us a considerably larger revenue than the Bill as it stands. However, in proof of my own consistency, I refuse to be lured from the path of rectitude by the glittering vision of larger revenue. I oppose the amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta): Does the Honourable Member want the Chair to put this amendment?

Sir Syed Raza Ali: Yes, certainly.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is—it is very difficult to put it—the question is:

“That in clause 4 of the Bill, for the words ‘50 per cent.’, the following be substituted.”

—I need not read the percentages again—

The question is:

“That that amendment be made.”

The motion was negatived.

Mr. Deputy President (Mr. Akhil Chandra Datta): Dr. Sir Ziauddin Ahmad.

Dr. Sir Ziauddin Ahmad: I do not like to move this amendment about the protected industries; I will move it on another occasion.

Mr. Deputy President (Mr. Akhil Chandra Datta): No. 14, in Supplementary List No. 1 to Consolidated List.

Babu Baijnath Bajoria: Sir, I move:

“That in the proviso to clause 4 of the Bill, for the words ‘of life insurance’ the words ‘which have no relations to the conditions prevailing due to the present hostilities’ be substituted.”

Sir, the effect of my amendment will be to exempt all businesses which have got no relations to the conditions prevailing due to the present hostilities from the operation of this measure. This is an amendment on principle, and if it is accepted, it will give us a proof of the consistency which has been claimed by the Honourable the Finance Member. Sir, the preamble of this Bill reads:

“Whereas it is expedient to impose a tax on excess profits arising out of certain businesses in the conditions prevailing during the present hostilities :”

This means that this Bill wants to tax those businesses only which have benefited as a result of the conditions prevailing owing to the present hostilities. I have been very particular to express my amendment in the words contained in the preamble to the Bill. Now, if the preamble is accepted, I think my amendment also should be accepted; if on the other hand, the Government do not accept the preamble, my amendment also

cannot be accepted. As I stated in my speech when the motion for sending this Bill to the Select Committee was made, the question is what is the thing that the Government is after to tax? Do they want to tax the war profits or all excess profits made during the chargeable accounting period. It may be that excess profits may be made during this period, and this period may coincide with the period of the present hostilities; but the excess profits may not have any connection with the present hostilities. Is that the only ground for imposing this tax or there is some other ground? This is the main point in my amendment, and if the Honourable the Finance Member is consistent, I do not think he can object to my amendment.

Then, Sir, the principle underlying my amendment has already been accepted, inasmuch as insurance companies have been exempted. Now, if insurance companies can be exempted, why should not banks also be exempted, why not Investment companies which do not make any special profits due to war, why not building societies and several other similar concerns which can never be expected to make excess profits as a result of the prevailing war conditions, but whose income may, in the course of their business operations, increase? Sir, I commend this amendment for the acceptance of this House. Sir, I move.

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

"That in the proviso to clause 4 of the Bill, for the words 'of life insurance' the words 'which have no relations to the conditions prevailing due to the present hostilities' be substituted."

Pandit Krishna Kanta Malaviya: Sir, I rise to support this amendment moved by my friend, Mr. Bajoria. This is a very fair and just demand. We know that there are businesses which will not profit merely on account of the war conditions or owing to the conditions prevailing during the present hostilities here or outside. My Honourable friend, Sir Homi Mody yesterday referred to the cinema industry. There is banking business, insurance business and very many other businesses which will not profit by war conditions. I, therefore, hope that the Honourable the Finance Member will kindly grant the request that has been made by my friend, Mr. Bajoria.

The Honourable Sir Jeremy Raisman: I spoke on this very point at some length in my reply to yesterday's debate. I do not believe that there are any businesses which can possibly remain entirely isolated from the powerful economic influence of the war but even if theoretically there were such I believe that it would in practice be impossible to demonstrate the fact and that it would make the administration of this measure absolutely impossible if any attempt were made to embody a criterion of that kind. I also indicated yesterday that even if theoretically such a business did exist, no very serious injustice will be done because it would be a business which was making excess profits during war time when other members of the community are worse off as a result of the war and in accordance with the principle of the Bill, there is nothing unreasonable in such a business being asked to make a prior contribution to the State. Sir, I oppose the amendment.

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

“That in the proviso to clause 4 of the Bill, for the words ‘of life insurance’ the words ‘which have no relations to the conditions prevailing due to the present hostilities’ be substituted.”

The motion was negatived.

Mr. Deputy President (Mr. Akhil Chandra Datta): Then we go on to No. 15 on Supplementary List No. 1 and No. 17 of the main list.

Babu Baijnath Bajoria: The amendment which stands in your name, No. 17, on the main list, has priority.

Mr. Deputy President (Mr. Akhil Chandra Datta): So far as No. 17 is concerned, it has been postponed. So far as the Honourable Member's amendment No. 15 is concerned, it is for him to move it, or not to move it.

Babu Baijnath Bajoria: I do not move it.

Sardar Sant Singh: I am not moving No. 18 or the next one. I shall propose an amendment in connection with clause 26 of the Bill.

Mr. Husenbhai Abdullabhai Laljee: Sir, I move:

“That to clause 4 of the Bill the following further proviso be added :

‘Provided further that profits of business accruing or arising without British India shall be totally exempt from excess profits tax under this Act.’”

Sir, when I was opposing the Bill, I think I was able to make out a very good case, but I must admit that my appeal has fallen on deaf ears.

Babu Baijnath Bajoria: If you have got a bad case, you may succeed.

Mr. Husenbhai Abdullabhai Laljee: I will still try my level best to persuade my friends to consider the position of the people, Indians, outside British India. Sir, a lot of discussion has taken place and a lot of literature has been circulated amongst Members to explain the condition of the Indians overseas. Even last time when this accrual basis was adopted and when the Indians overseas were included, although there was a strong case that they should not be brought in, the Finance Member roped them in and he gave a good many and a good deal of assurances. Now, it is a well known fact that in many of the countries it is very difficult to get money. In fact, strict embargo has been placed in many of the countries. Then, Sir, there is also the exchange question. Then, Sir, it is difficult to find out what the actual profits are or have accrued in those countries. He will be a bold man who can possibly make out the profits in certain countries where at present the exchange is so unstable and in those circumstances we shall only be doing the right thing if we exclude them altogether. In fact, as I have always said, we have done nothing for those people and we are not, it appears, still serious to do anything for them, and at the present moment their condition is pitiable. Even the remittance for the goods that they sent there, they have not been able to get. This goes on even in places which are under the protection of the British Empire and the conditions are worse in places like Italy, Japan, Iraq, Iran and also to some extent in Java. In those circumstances, is it fair that we should

now call upon these people on a basis which is not at all reliable and which is difficult to ascertain to pay such a heavy tax. In section 45 of the Income-tax Act, some relief has been given and some provision has been made with regard to the exchange and depreciation. I do not know how far that could be extended under this Bill. There are lot of difficulties. After all is said and done, you must realise these difficulties from the illustrations which have been given by certain persons who are really very hard hit. I will give an illustration:

Suppose an Indian trader in Japan makes an excess profit of yens 50,000. At the rate of exchange prevailing at the last day of the year which is about Rs. 80 equal to 100 yens, the excess profits are computed at Rs. 40,000 on which Excess Profits Tax of Rs. 20,000 is assessed. As embargo on currencies is in force in Japan, tax is not collected and is allowed to remain in arrears. Now, suppose when the embargo is lifted, the rate of exchange has depreciated to say Rs. 40 equivalent to Yens 100 and 50,000 yens, the so-called excess profits of today, will then be worth only Rs. 20,000, while the tax collected at that time will also be Rs. 20,000 and thus the entire remittance of excess profits is to be given away as an excess profits tax.

Now, take a Sindwork merchant in Italy:

He has a standard profit of 100,000 liras. At the rate of exchange prevailing during the standard period, say, 720 liras equivalent to Rs. 100, the standard profits are Rs. 13,787. In the chargeable accounting year, the assessee has made a profit of 90,000 liras only, that is, even 10,000 liras less than the standard profits but owing to the recent depreciation of the sterling the rate of exchange being about 560 liras to Rs. 100, present profit works out at Rs. 16,072. Thus a fictitious figure of Rs. 2,195 is obtained as an excess profit one half of which is taken away by way of excess profits tax, while from the point of view of the taxpayer he has not only made no excess profit but has on the contrary earned 10,000 liras less than what he earned in the standard period.

The man loses in this way much more than he is assessed. In these circumstances, I hope that the Honourable the Finance Member will kindly accede to my proposal so far as the Indians trading overseas are concerned, for whom we are not able to do anything to improve their miserable condition. The amount that they would get would be very very small, hardly five or ten lakhs. I do not know whether I am right. Therefore, in proportion to the amount that we are getting already, from the experience that we have had during the last few years' working, I am sure that while my friend puts down three crores for the whole of India, he will not have three lakhs from Indians trading overseas. Under these circumstances, at least show some regard, some mercy to the poor Indians overseas—people for whom you have done nothing, and release them from this duty. With these words, Sir, I move.

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

“That to clause 4 of the Bill the following further proviso be added:

‘Provided further that profits of business accruing or arising without British India shall be totally exempt from excess profits tax under this Act.’”

Mr. Lalchand Navalrai: Sir, I support this amendment. The question of these Indians overseas has been debated in this House at the time of the general discussion. Deputations have also waited upon the Members of

[Mr. Lalchand Navalrai.]

the Central Board of Revenue and perhaps on the Honourable the Finance Member also. Their case has been put quite plainly and their case is so very clear that I do not think it needs any repetition. Sir, it is so well-known now that the position of these Indians abroad is that they make business outside, they trade outside, they live outside, they are under a handicap in the places where they live, they are suffering from difficulties by reason of their living there, and they have also further difficulties, in that they cannot bring out their money from the foreign countries. I am, therefore, asking on what ground this excess profits tax is being demanded from them? Is it on account of any economic call or it is only because they owe a political allegiance? If it is only on account of the political allegiance as it is, then the State is not able to help them in their difficulties there in the matter of their bringing their money over here and so forth and I submit that only on that ground alone they should not be charged any excess profits tax. Now, in connection with these difficulties that are before them, first of all, it may be mentioned that during the last few years say 1935 to 1937, in Spain, Africa, China and Japan they had lean years, nay, they had heavy losses. This can be found out very easily because those days were such that they could have only losses rather than any profit. Thus if they were to make any profit now in the chargeable accounting period, then that would only go to compensate them for the losses that they had previously sustained, and it cannot also be said that their profit now is normal, and that being so, how are you going to call their profits excess profits and charge them accordingly?

Then, with regard to the exchange fluctuation. The money they had at the time of the standard profit period was at a particular exchange at that time; now when they bring the money out, the exchange will be different at that time, so even if they are allowed to bring their money, it may be that it will be no profit at all to them, but according to the present system, if the same procedure as the income-tax procedure, is applied then they shall have to be charged at the exchange rate prevailing now.

Sir H. P. Mody: Not immediately—when it is brought out.

Mr. Lalchand Navalrai: In the case of income-tax they are assessed now and they don't wait to assess at the time of remittance.

An Honourable Member: No.

Mr. Lalchand Navalrai: Then, of course, that is a different question altogether. Have the same procedure put down here?

The Honourable Sir Jeremy Raisman: Yes, yes.

Mr. S. P. Chambers: It is in the Bill.

Mr. Lalchand Navalrai: They will suffer then

An Honourable Member: How can they?

Mr. Lalchand Navalrai: The point is that on account of the different exchanges at different times they will suffer. Then, coming to the question

of prohibitions also they have suffered up to now and I submit that there are other amendments for that and I hope the Honourable Member will consider them. Under the present amendment they want the whole exemption, but there are other amendments also under which they want certain concessions and exemptions. Now, in the first place, justice requires that they should be exempted and that they who have made money, if at all, outside and which they cannot bring in here, are suffering under a great hardship; therefore I would request the Honourable the Finance Member to consider their case as an exceptional one, distinguishing them from those Indians that are making profits here and whom Government also helps in making profits. The Government, on the contrary, is not able to give the former any help; so I say they should not be charged this excess profits tax. Sir, I support the motion.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I rise to support the amendment and I think the subject is not at all such as requires an explanation at a very great length. We had a full-dress debate on this question when the Income-tax Bill was introduced and when for the first time the world income of people of this country was taxed. This is going to be an additional burden of taxation on those people who have already been hit to a very great extent by the recent legislation of taxing the world income. Sir, the only point I want to make is this, viz., that their excess profits might be only nominal and might remain on paper alone for all times. Sir, I want to place before the House a concrete case. Because of the depreciation in the value of sterling there has been inflated value for currency in other countries. Take liras of Italy the usual exchange of which was 750 to Rs. 100, by reason of inflated currency and depreciation in sterling which is linked with Rupee at 1-6d. the amount today is at about 500 liras for Rs. 100. In the case of a merchant who is doing business in Italy and has been able to earn 130,000 liras, with the normal exchange of 750 would have shown his profit at only about Rs. 17,300 and which would now at present exchange amount to about Rs. 26,000, that particular merchant's position would be that this amount of about Rupees nine thousand which is the difference between Rs. 17,000 and Rs. 26,000 would be considered excess profits. The estimates will be made of that figure calculated at today's rate of 500 liras to 100. At the same time, the difficulty is obvious that he will not be able to bring back the money because of the embargo in Italy and might be able to bring back the money when the exchange value of lira might go down again to 800 or 900 to Rs. 100 when sterling improves. Automatically, therefore, the profit on paper as estimated will be reduced from Rs. 26,000 to about Rs. 12,000 or Rs. 11,000, but the estimates had been made on the inflated currency and that merchant will be compelled to pay the amount on that rate of exchange which prevailed at the time of estimate by Government. There is no provision that he will pay to the Government of India in liras. If there was a clause to the effect that he will pay in foreign currency, then probably the position would not have been what I am explaining. I will be very glad to hear from the Honourable the Finance Member how he explains this difficulty and how he is prepared to solve the hardships of the particular class of merchants who for no fault of theirs and to no material gain to them will be estimated at a higher rate because of the exchange rate at the moment and will have to pay a far bigger sum than they should be in all equity made to pay. It is only for this reason that I

[Mr. Muhammad Nauman.]

want that their case should be treated with special care and some sort of provision should be made and some solution should be found out, so that there may not remain this hardship to that class of foreign merchants. Government should provide same clause as a solution so that the Government can say that they will get a relief to that extent or the estimates of profits will be made at the time when they will bring back the money. Something on those lines should be done. It is for this reason that I support this amendment and I hope the Government of India will explain what they propose to do.

Dr. Sir Ziauddin Ahmad: Sir, I have some sympathy with the Honourable Members who have spoken on the amendment. They have, unfortunately, tapped the wrong place and they have now provided a window for the Allies but actually we will find that more Russians and Germans will pass through this window than the Allies themselves. He has entirely forgotten that according to the definition in the Bill, the Indian States are outside British India, and, therefore, all the income derived from Indian States will be exempt altogether from the excess profits tax. The result will be that all the industries in British India will shift to the Indian States. If any person has a factory, say, in Muradabad, he will be liable to this tax, but if he shifts his business to Rampur, then, according to this amendment, he will be exempt altogether from the excess profits tax. Therefore, although I sympathise with the previous speakers, I do believe that this is not the right place and right way of achieving that object.

An Honourable Member: Which is the right way then?

Dr. Sir Ziauddin Ahmad: It is not for me to say what is the right way. The only thing that I wish to point out is that this is not the right way of doing it. If we accept this amendment, then we are opening a very dangerous door, through which all our industries will be shifted with rapidity to the Indian States and British India will lose heavily in this way. There are already a number of Indian States who have got no income-tax and there are some Indian States who have got no excess profits tax either. If we accept this amendment, our labour will suffer and the question of unemployment will become more acute in British India than it is at present. I hope the House will consider all these things. I am sure nobody wants that all our industries should be shifted from British India to the Indian States which will be the inevitable result of this particular amendment. Sir, I oppose it.

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

Mr. S. P. Chambers: Sir; the motion before the House is No. 20 on the main consolidated List, and I must say that I admire the Sindhi merchants for their zeal, not only in extending their business to all parts of the world, but extending their amendments to all parts of this Bill. There are some amendments which appear to be quite reasonable and they come along later on. This amendment, however, goes, as my Honourable friend has just said, a good deal further probably than the Mover himself intended. I would like, first of all, to refer to my Honourable friend, Mr. Laljee, who

made a very eloquent speech. He said that he wanted to put the case of the Indians outside India. He said that their condition was miserable and I think my Honourable friend, Mr. Lalchand Navalrai, expressed similar sentiments. Now, first of all, I would like to point out that Indians outside British India are not liable to excess profits tax. That is the first point. Let us make quite sure that we understand what we are talking about. Indians trading outside India, who are not resident in India, are not liable to excess profits tax. I will go a step further. There are some who, although they trade outside India, come back to this country and under the definition of "residence" in the Income-tax Act, are residents in India and are, therefore, liable to Indian income-tax, although most of them will be not ordinarily resident in British India. In fact, an amendment in section 4 of the Indian Income-tax Act was specially designed to exclude from a certain basis, the so-called residence basis, Indians who were trading abroad and who came back to this country and who would be caught by the normal definition of residence. It was, therefore, provided that such persons, though resident, should not pay income-tax on the basis of the amounts arising abroad but only on the amounts brought into British India. That disposed, for the main part, of a number of difficulties with regard to exchange on the income-tax side. When we come to the excess profits tax, if Honourable Members have looked carefully at clause 5, they will have seen that the scope of the excess profits tax is not so wide as the scope of the income-tax. All profits which are assessable on the basis of the amount brought into British India are excluded from the scope of the excess profits tax. So, even this group of Sindhi merchants are also outside the scope of the excess profits tax. We are, therefore, left not with the Indians who are trading abroad, whose conditions are miserable, but with a few who are both resident and ordinarily resident in this country and who satisfy all the conditions of residence and all the conditions of ordinary residence but who are also trading abroad. Now, their number, again, is very small. I mean the number of those who make Rs. 30,000 and who under this Bill will be liable to excess profits tax. Their number, as far as I can gather,—and this information I have got from some of my Sindhi merchant friends—may be two or three or it may be a few more even than that. That is to say the number of Sindhi merchants who are resident and ordinarily resident in British India and who are trading abroad and who are likely to make excess profits and, therefore, come within the scope of this tax is so small that their alleged hardships could almost have been neglected.

An Honourable Member: They are not the only people.

Mr. S. P. Chambers: I am just talking about the people on whose behalf the amendment was moved, a mere handful of people. Let me read the exact words:

"Provided further that profits of business accruing or arising without British India shall be totally exempt from excess profits tax under this Act "

For that handful of people it is proposed to exempt from tax the profits of large trading corporations where those profits or part of those profits arise abroad. I am not concerned with the difference between India and British India in this connection although my Honourable friend has pointed out that there might be an undesirable effect. There might be a transfer of the industry from British India to Indian States. I am not concerned

[Mr. S. P. Chambers.]

with that. What I am saying is that large trading and manufacturing concerns would be entirely exempt from tax on profits arising outside British India by this amendment so that for the sake of a handful of people we are asked to exempt from tax the profits of very large corporations.

Mr. Lalchand Navalrai: So far as Hyderabad is concerned, I may inform my Honourable friend that they are not only two or three. There are very many. I do not know from what information my Honourable friend says they are only two or three.

Mr. S. P. Chambers: I understand that the Honourable Member comes from Sind and his friends gave me that information. However the matter is perhaps not of importance. For this purpose I admit there may be two or three or perhaps 20 or 30. It does not matter. We might have argued that when a provision of an Act operates fairly for the majority of persons, but somewhat unfairly for a few, we might have argued that hard cases make bad law. We do not propose to do that even in respect of the handful of persons who are concerned. As I have said a number of other amendments have been tabled and they relate to later clauses and no opposition need be expected from Government in respect at least of two. One of them is No. 58 in the consolidated list and that refers to foreign taxation; the other amendment is No. 69 which is connected with the question of exchange which is one of the most difficult questions. At this stage we need not discuss those points in detail. The proper time will be when we reach those amendments on those clauses. All I wish to say is this: where these two amendments seek first of all to provide for a deduction when computing income-tax for foreign taxes paid abroad in respect of profits arising abroad whether within the British Empire or outside, where an amendment seeks to do that, it will not be opposed by Government. Secondly, in so far as exchange restrictions are concerned, it has already been pointed out that no excess profits tax would be collected on profits which cannot yet be brought into this country. Amendment No. 69 goes further and the intention there is that some relief should be given as and when profits are brought into this country and the intention there is to relate the relief back to the earlier year when profits were made. The special point which is being made by my Honourable friend is this that when profits are made possibly excess profits tax is chargeable but when the profits are brought into British India and the exchange losses incurred the Excess Profits Tax Act might have disappeared, so that there will be no benefit for the loss then allowable. The intention of amendment No. 69 is to see that the allowances should be given in respect of earlier year when the profits were made. I suggest, Sir, that in proposing to provide for the specific relief which is required in respect of these few cases, we are proposing to do all that we can reasonably do and this amendment which goes much too far should be opposed.

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

'That to clause 4 of the Bill the following further proviso be added:

'Provided further that profits of business accruing or arising without British India shall be totally exempt from excess profits tax under this Act.'

The motion was negatived.

Mr. Akhil Chandra Datta: Sir, I beg to move:

"That in the proviso to clause 4 of the Bill, after the word 'insurance' the words 'or banks' be inserted."

Sir, the grounds on which I claim exemption for Banks are these. Banking in the modern sense of the term, as it is understood in western countries, is a new institution in India, and, except in Bombay, where there are big banks, I do not know there are any really big banks in any other part of India. Therefore, it is a new institution and an institution which is vitally necessary for industrial improvement and development and also for purpose of commerce and trade. Therefore, my submission is that nothing should be done which might in any way hurt this growing institution. That is my first ground.

My second ground is that banks, instead of being benefited by the war, are likely to be damaged by the war. (Interruption.) I find my Honourable friend, Sir Jeremy Raisman, nods his head. Perhaps this argument is not acceptable to him. Let me tell him this. Not to speak of private banks, even post office savings banks were affected by war conditions. During the last war, there was a regular run on the postal savings banks. Immediately after the declaration of the present war, my information is—I cannot quote the exact figures,—there was a run on the post office savings banks, at least in my part of the country. There were heavy withdrawals from the post office savings banks, so that the result of war, so far as banks are concerned, is not beneficial. Of course, banks depend upon deposits. As regards deposits, the effect of the war is always to obstruct the flow of deposits, because war leads to panic, and panic stands in the way of deposits being obtained by the banks. The fact is, the people, rightly or wrongly, are very careful about their money and would rather conceal it in the earth than put it in banks because of the uncertainty caused by war conditions. Therefore, they are not benefited, but rather adversely affected by the war.

The principle of not assessing all business to this tax has been accepted and exception has been made in the case of insurance companies. I may point out that, up to a certain point, the functions of insurance companies and banks are identical, the only difference being that in banks it is short term deposits that are made, whereas in the other case the insurance money is paid after death or after a term of years. Subject to this difference, the functions of the two businesses are identical. So I submit that on these grounds banks like insurance should be exempted from the operation of this Act.

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

"That in the proviso to clause 4 of the Bill, after the word 'insurance' the words 'or banks' be inserted."

Babu Baijnath Bajoria: Sir, I rise to support this amendment. As stated by the Deputy President, banks stand on the same footing as insurance companies and they deserve special consideration. Due to war conditions banks cannot make money quickly and there is no reason why they should come within the purview of this Act. I hope the Finance Member will concede this request.

Sir Abdul Halim Ghuznavi (Dacca cum Mymensingh: Muhammadan Rural): Sir, I support this amendment. We have often been told that

[Sir Abdul Halim Ghuznavi.]

this tax will apply to profits arising out of the war. How are banks going to make such profits?

An Honourable Member: Lending money at a higher rate of interest.

Sir Abdul Halim Ghuznavi: The rate of interest is fixed,—fixed not from generation to generation but from time to time.

Mr. Akhil Chandra Datta: For all practical purposes.

Sir Abdul Halim Ghuznavi: Quite right. Therefore, as the Honourable the Finance Member has conceded it to insurance companies he should exempt banks also. Take a concrete case. There are Indian banks,—my Honourable friend, Mr. Aikman, laughs; anything Indian makes him laugh. But Indian banks are in their infancy and every true Indian must support this industry.

An Honourable Member: Why not Europeans?

Sir Abdul Halim Ghuznavi: They will not, for obvious reasons.

Mr. A. Aikman: They do.

Sir Abdul Halim Ghuznavi: This is the way they do it. As soon as I begin to support the amendment my Honourable friend, Mr. Aikman, starts laughing at the proposal. My Honourable friend, Sir Ziauddin, calculated the loss to be incurred by adopting the amendments approved by the Select Committee, and if he were here I would have asked him to estimate the loss to be incurred by giving this concession. I am sure the loss will be very small and that might induce the Honourable the Finance Member to accept this proposal. After all banks will not pay this tax because they will make no profits. I know with empty Benches on that side it is no use forcing this amendment to a division. There is only one method left and that is to appeal to the Honourable the Finance Member to accept this suggestion. Sir, I support the amendment.

Mr. A. Aikman: Sir, I had no intention of intervening in this discussion, but as I have been accused of laughing at this suggestion, perhaps I might put forward one or two points.

Mr. M. S. Aney: To justify your laughing?

Mr. A. Aikman: Yes. If the banks like life insurance companies do not make any excess profits they will not be taxed. But on the other hand if we are going to have that expansion of industry in this country which is quite possible and if we are going to export agricultural products and other indigenous produce we are going to draw bills in respect of these on the firms to whom we export and these will be passed through the banks; and the banks will derive very considerable extra profit.

An Honourable Member: Due to war.

Mr. A. Aikman: Not only that. There is a great deal of mention in this Bill about increase of capital which certain businesses are going to effect, and I can say that that capital is going to be supplied by the banks, and they in their turn will make profits. So there is no reason why they should not pay their share of the Excess Profits Tax which will accrue from any expansion of industry.

Mr. Muhammad Nauman: Sir, I oppose the amendment. As Mr. Aikman said, if the banks do not make any profit, no exemption is necessary and there should have been no anxiety about it. My Honourable friend, the Deputy President, quoted the analogy of insurance companies, but I do not think the analogy applies. Insurance companies may advance money like banks but the insurance companies stand to lose more than to gain on account of the war where the risks of lives covered by policies have increased. They run greater risks and the exemption should apply to them only during war.

Mr. Aikman, the Leader of the Europeans, has also pointed out that banks will get profits out of bills of exchange and on account of fluctuating rates of currencies and their outstanding holdings to cover the amounts drawn here and there on them through bills of exchange, which they buy and sell. But probably my friend, Sir Abdul Halim Ghuznavi, had in mind the ordinary Indian banks which are not exchange banks and which only advance money to individuals and to industries here. I fully sympathise with them; but they have no fixed rates of interest and I know in Calcutta and other places their rates differ with the integrity of their clients: to some they advance money at 12 per cent. and to others at 18 per cent: and if they make profits because of a speedy and big turn over there is no reason why they should claim exemption. The Indian banks which my friend, Mr. Akhil Chandra Datta, has in his mind, speculate in the cotton, jute and other share markets and there is no reason why they should claim relief if they make excess profits through such speculations in the market. This amendment, therefore, is futile. As a matter of fact there may not be many banks at all which will make excess profits. I think, therefore, this amendment is absolutely out of place and I oppose it.

The Honourable Sir Jeremy Raisman: Sir, excellent reasons have been adduced by the last two speakers why this amendment should not be accepted, and I agree with them. In fact, I have never been able to understand—and I have seen this claim brought forward from the time the Bill was first published—what vestige of a case there is for the exemption of banks. It seems to me that the attempt to draw an analogy with life insurance business is due to a misconception of the reasons why life insurance has been exempted from the scope of the tax. The primary reason was that it was impossible to determine the profits of a life insurance business for a single year. Those profits can usually only be determined by a quinquennial or at least a triennial valuation; and once you realise that position, it is obvious that you cannot apply the provisions of this Act. If we had attempted to bring the life insurance business within the scope of this Act we should have given both the life insurance companies and ourselves an infinite amount of trouble. Well, then, we said to ourselves "Is there any likelihood that if we do not give ourselves this trouble, we shall lose any appreciable amount of revenue?" Obviously there is not. That is where the arguer comes in that life insurance business will not make

[Sir Jeremy Raisman.]

profits during the war. It only comes in in order to reassure ourselves that we are not discriminating in favour of a particular business merely on the ground of the extreme difficulty of assessing it. The extreme difficulty is undoubted; but we are confirmed in our decision to exclude it by a strong presumption that life insurance would not make special profits during the war. In the case of banks where the profits can be ascertained from year to year the answer is obvious that if they make no special profits during the war they will pay no tax: and if they do make special profits, excess profits, during the war, then as I have already said I entirely fail to understand why they should be treated differently from other businesses. Sir, I oppose the amendment.

Mr. Akhil Chandra Datta: May I ask the Honourable the Finance Member one thing? The reason now given by him is absolutely different from the reason given in the Select Committee Report as to why insurance companies have been exempted. The report says:

"There is a reasonable presumption that life insurance will not make additional profits in conditions arising out of the war."

That was the only reason given.

The Honourable Sir Jeremy Raisman: The Honourable Member has not read the whole of the sentence. He has merely mentioned the observation which the Committee made and which confirmed it in its desire to exempt life insurance companies, but the main reason is given first— "These (i.e., the profits) are usually the subject of triennial or quinquennial valuation and cannot be determined annually". That is the basis.

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

"That in the proviso to clause 4 of the Bill, after the word 'insurance' the words 'or banks' be inserted."

The motion was negatived.

Mr. Akhil Chandra Datta: Sir, I move:

"That to clause 4 of the Bill the following further proviso be added:

'Provided further that all normal profits not influenced by war conditions shall be totally exempt from excess profits tax under this Act'."

Mr. F. E. James (Madras: European): On a point of order, Sir, surely this is barred. We have already discussed it on amendment

4 P.M. No. 14 in supplementary list No. 1. It raises precisely the same issue.

Mr. President (The Honourable Sir Abdur Rahim): That was negatived?

Mr. F. E. James: Yes.

Mr. Akhil Chandra Datta: That was an amendment in the body of the clause itself: this is to add a proviso.

Mr. President (The Honourable Sir Abdur Rahim): That does not matter. The proposition proposed has been negatived by the House. Therefore it is barred.

Pandit Krishna Kant Malaviya: Sir, I move :

“That to clause 4 of the Bill the following further proviso be added :

‘Provided further that in the case of profits accruing or arising without British India the excess profits tax shall be equal to twenty-five per cent. of that excess.’”

We have been pressing for the acceptance of this principle and pleaded for the exemption and we have seen that we have not succeeded so far. It was moved while we were discussing clause 4, but in view of the speech recently made by my Honourable friend, Mr. Chambers, that only a few merchants will be affected, I think only a few merchants will be able to pay taxes to the tune of 50 per cent. if the Bill is allowed to stand as it is. Whereas if this amendment is carried, the difference will be that instead of getting 50 per cent. from a few merchants, my friend will get only 25 per cent. from them. The case of our traders trading outside India, the difficulties under which they labour, the hardships they undergo and the risks they face are all known to us. I therefore, Sir, plead that this concession should be allowed to them that instead of their being taxed at 50 per cent., they should be taxed at a reduced rate of 25 per cent. After all, the loss to the revenues will be only a small one, but it will afford considerable relief to those traders who trade abroad and who undergo such hardships.

Mr. S. P. Chambers: Sir, almost exactly the same arguments apply to this amendment as to the other amendment which was moved a short time ago and was rejected, but unfortunately one of those arguments appears to have been completely misunderstood by the Honourable Member. I explained, I think, that this amendment was put on behalf of only a few persons, but as worded, it affected not only those persons, but a large number of persons, and also the effect was to exempt from the excess profits tax the foreign income of all corporations, however large or however small; so that the suggestion that if we accepted this amendment, it would mean only a small cost because a few merchants will pay at 25 per cent. instead of at 50 per cent. is completely wrong.

As to the rest, I am afraid I cannot see that there is any justification for applying a lower rate to these persons who, as I explained before, are resident and ordinarily resident in British India and carry on business either here or abroad or abroad only, and I cannot see why they should be specially treated. To the extent to which they are entitled to special consideration owing to their special difficulties, I have already stated the Government is prepared to meet their case. Sir, I oppose the amendment.

Pandit Krishna Kant Malaviya: May I explain . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has already had his say. If he wishes to withdraw the amendment he can do so.

Pandit Krishna Kant Malaviya: Yes, Sir; I will withdraw it.

The President (The Honourable Sir Abdur Rahim): Has the Honourable Member the leave of the House to withdraw his amendment?

Several Honourable Members: Yes, yes.

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

Mr. Lalchand Navalrai: Sir, I move:

“That to clause 4 of the Bill the following further proviso be added :

‘Provided further that in the case of profits accruing or arising out of British India so much of the excess of profits as does not exceed rupees ten thousand shall be exempt from excess profits under this Act’.”

Sir, I am thankful to Mr. Chambers for giving us some hope, though the Honourable Member restricted his sympathies by saying that some of the amendments that will come hereafter will be accepted. Sir, this amendment is on the lines of the Income-tax Act. Under the provisions of the Income-tax Act, all foreign incomes which are not remitted to British India are exempted from income-tax to the extent of Rs. 4,500, and by this amendment I want that foreign incomes which are not remitted to British India should also be exempted from payment of income-tax to the extent of Rs. 10,000 instead of Rs. 4,500. The reasons for this demand are practically the same as those which were advanced in regard to exempting Rs. 4,500 from the income-tax, and that demand was accepted. Therefore, there is no reason why, when the procedure and policy of that Act are being applied to this measure also, my request should not be considered favourably. The Excess Profits Tax is a larger tax, and, therefore, the income-tax exemption should be also double. I do not think I need say much on this point. The other points have already been put to the House, and by this amendment I want that some facilities should be given to traders trading in foreign countries and their hardships also should be removed. Under the Income-tax Act the justification for the exemption of Rs. 4,500 has been accepted, and so there is every justification in this case also for giving them the concession I ask for by my amendment. I hope, Sir, the House will accept my amendment.

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

“That to clause 4 of the Bill the following further proviso be added :

‘Provided further that in the case of profits accruing or arising out of British India so much of the excess of profits as does not exceed rupees ten thousand shall be exempt from excess profits under this Act’.”

Mr. S. P. Chambers: Sir, I am sorry to have to again oppose one of the amendments of my friends, though perhaps we may at a later stage look with a more kindly eye on some of their later amendments

Mr. Lalchand Navalrai: Your kindness should begin here.

Mr. S. P. Chambers: I am afraid, Sir, my Honourable friend's arguments are not very sound, nor is his logic. First of all, he says that there is a deduction of Rs. 4,500 from income-tax, and that as the excess profits tax is at a higher rate, therefore, we should exempt a larger slab of income from excess profits tax. To my mind, Sir, that is round backwards. If the rate of tax is higher, then we ought to allow a smaller slab to get at a similar amount of relief. That is on the question of quantity.

Then, again, as to the reason for giving a deduction of Rs. 4,500 in respect of foreign income coming to British India, Honourable Members will recollect that in the discussion on the Income-tax Bill it was pointed out that there were a large number of persons, many thousands of persons, with small incomes arising abroad, and that it was deemed desirable to exempt them from the scope of the Income-tax Act altogether. The difficulty of determining their exact profits had to be considered, and there was also the difficulty of remitting their income to British India to be taken into account and the House came to the conclusion as part of the general settlement, that these small cases should be exempted entirely and a deduction of Rs. 4,500 was, therefore, made from all foreign income before assessing it to income-tax. The position here is entirely different. Here we have an exemption limit for excess profits tax of Rs. 30,000, and the position, therefore, of the excess profits tax is by no means comparable. We are concerned with cases, therefore, of persons making incomes in excess of Rs. 30,000 and, after them, we are only concerned with the cases of those who make excess profits. The Honourable Member suggests that from the excess profits there should be a deduction of Rs. 10,000. To my mind, there is no justification whatever for it. I must again remind the Honourable Member that we are dealing with cases of comparatively large merchants who are resident and ordinarily resident in this country and who derive income from abroad. They are not suffering from the personal difficulties of those resident abroad. They are not small traders, and I can see no reason why they should be specially treated.

Mr. Huseinbhai Abdullahai Laljee: I had really expected some sympathy to be shown. However, let us consider the arguments that have been put forward by my Honourable friend, Mr. Chambers. He says, "We are not going to look into the cases of those Indian people who are making large sums of money". In other words, he said that thousands of people were trading outside India whose income was small and, therefore, they made that allowance of Rs. 4,500. But may I ask him that those people who are trading both in India and outside India—are they trading in the same position as my Honourable European friends here who are trading outside and in India? Have our Government been able to make any kind of provision for those Indians who are trading outside India in order that their interests may be protected, that their business may be protected, and in order that they may be encouraged, as is done in the case of my Honourable friends, the Europeans here who have in this very House nearly thirteen Members representing the business and trade of Great Britain? Nothing of the kind. Why should my Honourable friend say that the Indian larger business people, the larger concerns who are trading outside India do not require any sympathy? I should be satisfied if my business outside was protected, as the business of my Honourable friends the Europeans here is being protected in India. Having not been able to do anything for Indians those who do larger business outside India without any protection and undertaking a lot of risk,—and in these times their difficulty is much more—if we do not help them, at least sympathise with them and give them some more consideration. You are giving an exemption of Rs. 30,000 to all the great men in India including the Britishers with all that protection. Why do you want to tax those Indians who are doing business outside India without any protection, without any Government, without any Treasury Bench to support them or to help them or to put us down. (Interruption by Dr. P. N. Banerjea): This is not a fair comparison at all. You give us

[Mr. Husenbhai Abdullabhai Laljee.]

the same facilities and we won't ask you. In fact, I say we do not want to pay anything because you do not give us anything. Give us all the protection that you can give and we are prepared to pay the taxes. It is not all for our country but also for services which you do not render. The pain is all the greater when you talk of the big Indian interests. The big interests do take a lot of risk. The big interests in England have got even the military, the army and the navy to protect them. This is the duty which is being performed for the big interests in England, but nothing of the sort is being done here. I submit that all the arguments which we put forward on the occasion of the Income-tax Act stand good today. In fact, in the present state of affairs, when there is war going on and when there is no protection whatever given to big business or small business outside, you should show some regard and respect. If the Honourable the Commerce Member were here I should have asked him to come forward and tell us how he is going to encourage us. Are big Indian interests going to be treated outside India exactly as the Europeans sitting in our House and having their chambers here with representatives here? When Rs. 4,500 was allowed that was the real consideration, not that the Indians outside did not deserve it. I do not wish to repeat all those arguments, but I do feel that business which is done outside India without any protection, without any help requires consideration. With these words I support the amendment.

Dr. Sir Ziauddin Ahmad: May I draw the attention of the Honourable the Mover of the amendment and his supporter to sub-clause (4) of clause 6 of the Bill? There provision is made for an exemption of Rs. 30,000 for all,—not only for profits accruing outside India but for all kinds of profit,—and there is no proposal or amendment to reduce this limit. In fact, there are certain amendments to increase this particular limit, and I do not understand exactly the force of the present amendment to exempt foreign profits to the extent of Rs. 10,000. Does my Honourable friend want to have Rs. 30,000 for the profits accruing in British India and Rs. 10,000 more for the profits that accrue outside British India?

Mr. Husenbhai Abdullabhai Laljee: That is so,—that portion which accrues outside India.

Dr. Sir Ziauddin Ahmad: Instead of coming by the backdoor, I should have liked my Honourable friend to come by the front door and move an amendment to sub-clause (4) of clause 6 of the Bill in order to have the limit extended from Rs. 30,000 to Rs. 40,000 and give benefit to everybody. That would have been a better course, but this asking for relief by the backdoor is not justified.

An Honourable Member: Conditions are different.

Dr. Sir Ziauddin Ahmad: My Honourable friend says conditions are different. May I remind him of what I said last time, that he is now making a window through which very few foreign business men will pass but through which a large number of those persons whom he would not like to pass would pass. That is my difficulty. I think the amendment

proposed really takes away the force of what is provided already in sub-clause (4) of clause 6 of the Bill, and the object which my Honourable friend has in mind will not be achieved by the amendment which he has tabled. I oppose the amendment.

Mr. M. S. Aney: My Honourable friend, Dr. Sir Ziauddin Ahmad, did not attempt to meet the arguments which were advanced by my Honourable friend, Mr. Husenbhai Laljee. The main consideration in the case of those firms which are carrying on business outside British India and in foreign lands is this. The grounds on which a State is entitled to tax anybody do not hold good in the case of these persons. It has been frequently asserted on the floor of this House that, so far as our businessmen in foreign lands are concerned, particularly those who are engaged in small business, get practically no protection whatsoever at the hands of the Government of India. Now, that is a fact which is not seriously contradicted, and which I am sure they are not in a position to contradict also, in view of our knowledge of their conditions in those countries. The Government have really no moral claim to get anything by way of taxation from them. That was the ground on which we tried to fight this issue when the Income-tax Bill was under consideration on the floor of this House. Anyhow, a compromise was arrived at then, that over and above the basis of taxation for other firms in this country, something was to be left out as a margin in the case of persons carrying on business in foreign lands and the income above that margin should be taxed. That was the compromise then arrived at. I believe that the present amendment which my Honourable friend, Mr. Lalchand Navalrai, has moved is also based on a similar principle. He does not want complete exemption from taxation in this amendment. He says that in the case of persons making profits outside British India the basis of taxation of those profits should be different from that which is in vogue in the case of those persons who carry on business in this country. The principle which has been recognised in the case of the Income-tax Act should be extended now in case of the excess profits tax also.

I have listened to the speech of my friend, Mr. Chambers. If there was some good reason for the recognition of that principle in the Income-tax Act, I do not see that there is any valid reason for him not to extend that principle here. If he thinks that 10,000 is too much, he may suggest some smaller limit. Anyhow there should be some recognition of the principle but he wants to reject the whole suggestion. I, therefore, think he is not doing justice and not carrying out the principles which he thought deserved consideration at the time when the Income-tax Bill was under consideration and when the principles, which he was the first man to enunciate and initiate in legislation on the floor of this House, were being discussed by this House. I, therefore, support this amendment.

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

“That to clause 4 of the Bill the following further proviso be added:

‘Provided further that in the case of profits accruing or arising out of British India so much of the excess of profits as does not exceed rupees ten thousand shall be exempt from excess profits under this Act.’”

The motion was negatived.

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

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

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

"That clause 5 stand part of the Bill."

Mr. S. P. Chambers: Sir, I move:

"That in the second proviso to clause 5 of the Bill, after the word 'where' the words 'the profits of' be inserted and the words 'of the profits', occurring after the word 'only', be omitted, and for the words 'accrues or arises in British India or is deemed' the words 'accrue or arise in British India or are deemed' be substituted."

This is really a verbal amendment which makes it clearer that we are referring to the profits of a part of a business and not to a part of the profits of a business. This is merely a matter of clarification and I think there will be no objection to it. I move.

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

"That in the second proviso to clause 5 of the Bill, after the word 'where' the words 'the profits of' be inserted and the words 'of the profits', occurring after the word 'only', be omitted, and for the words 'accrues or arises in British India or is deemed' the words 'accrue or arise in British India or are deemed' be substituted."

The motion was adopted.

Dr. P. N. Banerjee: Sir, I move:

"That to clause 5 of the Bill the following further proviso be added:

'Provided further that this Act shall not apply to a business the profits of which accrue or arise without British India in a country the laws of which prohibit or restrict the remittance of money to British India.'

Sir, this amendment does not ask for any general exemption of profits arising outside British India. It demands only exemption in those cases where by reason of the laws which exist in certain countries the profits cannot be brought to this country. Is it right or equitable, I ask to tax profits which cannot be brought to this country? It may be said that in the Income-tax Act a provision is made by which the profits may be carried over if the profits cannot be brought into this country. We also remember that Sir James Grigg gave an assurance when the Income-tax Bill was being considered that losses would also be allowed to be carried over. Now, we should understand the distinction between the Income-tax Act and the Excess Profits Tax. The former is a permanent Act, and if certain incomes under this Act cannot be brought into this country now, they can be brought after four or five or ten years. Therefore, the assessee would not suffer any loss. But the Excess Profits Tax is a temporary tax. Its operation is for the present only up to the 31st March, 1941. It may be extended, but it is sure to end as soon as the War ends. Therefore, the relief which is available in the case of income-tax is not available in the case of the Excess Profits Tax. That is why I urge that an exemption be made in favour of those profits which accrue in countries where the laws prohibit or restrict the remittance of money. Several Honourable Members have already spoken about currency fluctuations and exchange restrictions. Even if it is possible to carry over the losses to future years and

the profits also to future years, many difficulties may arise in this connection. This Act being a temporary Act, the tax will be paid now and the relief will never come. This is an undesirable and unjust state of affairs and I hope the Government will see their way to accept this amendment.

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

“That to clause 5 of the Bill the following further proviso be added :

‘Provided further that this Act shall not apply to a business the profits of which accrue or arise without British India in a country the laws of which prohibit or restrict the remittance of money to British India.’”

Mr. S. P. Chambers: May I first say that I am surprised that this amendment comes from my Honourable friend, Dr. Banerjea. I should have expected it to come from my Honourable friend, Mr. Aikman, or a Member of the European Group.

Dr. P. N. Banerjea: That does not matter. I am very friendly with the European Group.

Mr. S. P. Chambers: I wish merely to point out that the principal country, at least as far as I am concerned, the laws of which prohibit or restrict the remittance of money is the United Kingdom and it seems to me that the effect of this proviso would be to exempt profits arising in the United Kingdom. However, Dr. Banerjea may be doing his Honourable friends a good turn. It is immaterial which Honourable Member moves the amendment, although I do suspect that that was not what this Honourable Member intended. However, in so far as he aims at giving relief, I have already explained that the amendment which we are prepared to accept gives that relief and that the intention is that it should give relief in the right year, that is to say, in the year in which the profits arise. Perhaps I had better explain in somewhat greater detail how that relief would be given.

If the profits are made during the year 1941-42 and they are made in a country where there are these restrictions, so that the profits may not be remitted to British India, then as the provisions of section 45 of the Income tax Act are applied to this Act, the excess profits tax in respect of those profits will not be collected until the profits are brought into British India. Then, we have gone further by this amendment—or rather the Honourable Member who has tabled the amendment has gone further,—and has provided that there should be a special relief by way of a deduction from the profits to be assessed. If these profits could not be brought until 1950, then, when they are brought in, if a loss is incurred, the profits of 1941 will be correspondingly reduced before the tax is collected in 1950. I suggest that that amendment does all that the Honourable Member already intends but this amendment goes very much further and exempts all kinds of profits where there may be restrictions which do not affect the particular assessee concerned or where the assessee himself may not wish to bring the profits into the country or where he may find that by the time he brings the profits into the country the exchange may have so turned that he makes a still greater profit. Obviously, there is no case whatsoever for the exemption of all these profits. This relief is provided elsewhere and it is quite unnecessary here. Sir, I oppose the amendment.

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

“That to clause 5 of the Bill the following further proviso be added:

‘Provided further that this Act shall not apply to a business the profits of which accrue or arise without British India in a country the laws of which prohibit or restrict the remittance of money to British India.’”

The motion was negatived.

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

“That clause 5, as amended, stand part of the Bill.”

The motion was adopted.

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

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

“That clause 6 stand part of the Bill.”

Mr. Akhil Chandra Datta: Sir, I move:

“That in the second proviso to sub-clause (1) of clause 6 of the Bill, the words ‘in the case of a business which was not in existence before the 31st day of March, 1936’ be omitted.”

Sir, the second proviso to clause 6 (1) gives the option between “the standard profits” or the statutory percentage. That option is given to new businesses which were not in existence before the 31st March, 1936. I want that those qualifying words be omitted. In other words, the result will be that the option will be given, not merely to new business, but also to old business. Now, Sir, this is a novel proposition; this was not in the corresponding Act of 1919. That was the option given there. That option is now sought to be taken away by this Bill. Therefore, Sir, I move that that option should be extended to all businesses. . Sir, I move.

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

“That in the second proviso to sub-clause (1) of clause 6 of the Bill, the words ‘in the case of a business which was not in existence before the 31st day of March, 1936’ be omitted.”

Babu Baijnath Bajoria: Sir, I rise to support this amendment. After all, what this amendment wants is that all businesses, new or old, should be given the benefit of the two options either of taking any of the standard periods or of the statutory percentage as provided in another clause. This statutory percentage allows only eight per cent. in the case of companies and ten per cent. in the case of any other business. Sir, as was pointed out yesterday by my friend, Mr. Deputy President, even if any business makes a profit of say four per cent. on its capital of ten lakhs of rupees and he makes Rs. 40,000, then if this option is not allowed to that business, then only Rs. 30,000 will be deducted and out of the excess profits of Rs. 10,000, five thousand will be taken. Sir, this is not fair. After all, an eight per cent. profit is not such as can be called an excess profit and I hope the Honourable the Finance Member will concede this point. Of course, I know he has got a resolute pair of backs behind him, Mr. Chambers and Mr. Sheehy, and it is very difficult to score goals against him but I hope that in this case he will agree and accept the amendment.

Dr. Sir Ziauddin Ahmad: Sir, this amendment aims at one important point that is, they should be given the option of choosing either one of these four alternatives given in the succeeding sub-clause or the statutory percentage. You cannot have all the sweet mangoes for yourself and throw out all the sour mangoes to the small taxpayers. Now I have tabled an amendment which will come later on, viz., No. 32.

An Honourable Member: Is that a sweet mango?

Dr. Sir Ziauddin Ahmad: I will find out during discussion. But there I have put a restriction, that either you take the average of the profits of the last four years, or the statutory profit whichever is higher, but not this thing that you have profits for each year separately and in addition to that the statutory profit as well. So I think if my friends will agree that they would like to have the average of the last four years or the statutory profit whichever is greater. I would welcome that, but at the same time, having all these four alternatives here and in addition to that, having the eight and ten per cent. statutory percentage,—that I think is not desirable. If you want to bring it in, bring it in under sub-clause (3) and then we will be able to judge for ourselves as to which is really the best thing. To have one kind of concession in one particular manner and a different concession in a different manner is not very desirable. Therefore, if you want a statutory percentage, then bring it in please in the next clause as suggested and this is not the place to put it in. With these words, I oppose the motion.

The Honourable Sir Jeremy Raisman: Sir, I regret that this apparently simple amendment must be opposed. It is a point on which there was considerable discussion in the Select Committee and the position is this. The companies which have the option of a standard period and which can choose a favourable period will naturally choose that. Then you will have a certain number of companies of this kind,—companies which started probably a long time ago with a large capital and which have never been able to earn, or have not for many years been able to earn, a reasonable percentage on that capital. I regard those companies as companies which have lost a good deal of their capital before the standard periods begin. Now those companies may still have a large subscribed capital on their books, say Rs. 50 lakhs, and having lost 30 lakhs or 40 lakhs of this money years ago, they would now come forward to take this option and claim that before they should be considered to have made any excess profits out of the war, they should earn a percentage of eight per cent. on the whole of the capital still standing on the books. That, Sir, it seems to me, is not a fair proposition. For a company which has lost a large amount of its capital and which has not been able to earn eight per cent. during any of the optional periods which are provided by the Act, for such a company to claim that its normal standard of income is eight per cent. and that it should not be deemed to have made any excess profits until it makes over eight per cent. during the war period is, in my opinion, unsustainable. There is also the objection that in following out the financial history of these older companies we should experience considerable administrative difficulty. It would be precisely in cases of the kind I have mentioned that the option of the standard profits would be chosen and we should have to determine precisely what the capital employed

[Sir Jeremy Raisman.]

in the business was. It is true that in the proviso to this clause we have embodied the criterion of the statutory percentage of capital employed in the business, but in that proviso it only comes in as an incidental and limiting consideration and we feel that it will not be necessary actually to make that calculation in any appreciable number of cases. But if the option of standard profits were given to all businesses, then this calculation would have to be made in a larger number of cases and would occasion considerably administrative difficulty. The option of adopting a standard percentage had to be extended to new companies for the simple reason that there is not sufficient actual experience of their normal income on which to go; but when you have companies which have been in existence for a long time, then it is perfectly easy to determine from their actual trading record what their normal income should be taken to be. And having given them a considerable number of options, it is fair to say that anything earned in excess of the most favourable of these periods constitutes excess profits. Sir, I oppose the amendment.

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

"That in the second proviso to sub-clause (1) of clause 6 of the Bill, the words 'in the case of a business which was not in existence before the 31st day of March, 1936' be omitted."

The motion was negatived.

Babu Baijnath Bajoria: Sir, I move:

"That in the second proviso to sub-clause (1) of clause 6 of the Bill, for the figures '1936' the figures '1934' be substituted."

This is a very modest amendment. The proviso as it stands at present gives the benefit of the option of the standard period or of the statutory percentage in the case of new companies, and the definition of new companies is that they must come into existence after the 31st March, 1936. That is to say, those companies which have come into existence after March, 1936, are considered new companies for purposes of this Act and they have been given the option of standard period or of the statutory percentage.

Mr. M. S. Aney: They are sucking babies.

Babu Baijnath Bajoria: Yes, they are sucking babies of three years. What I want is that they should be given this option for their infant stage upto five years. In other words, those companies which have been started after March, 1934, should be given this option and I will give my reasons for that. When an industry is started, first of all it takes about two years or so to settle the preliminaries. When a company is registered, it comes into existence from that date, but two years have to elapse before it is able to put itself in a working condition. If a company is registered in 1936, it begins to work only in 1938. Of course, I am referring to industrial concerns. You cannot expect that in the very first year or the second year of its running, it will make sufficient profit. In fact, in the case of many industries, they make a loss in the first or second year of their existence. Now, if these companies make a profit after March, 1939, the

Finance Member will say under this Bill: "Oh, you have now made a profit of five per cent. which you could not make in the first or second year of your working and, therefore, I will not give you the advantage of the statutory percentage". I think that is very unfair. What I maintain is that if an industrial undertaking comes into existence in 1934, it begins working only in 1936. It will get a chance of completing three standard periods and it can choose the option of those standard periods or of the statutory percentage, otherwise it cannot avail itself of the option which is being intended for it. I hope, Sir, I have made my point clear.

Mr. M. S. Aney: No, we have not yet been able to follow your amendment. Kindly explain it further.

Babu Baijnath Bajoria: If my Leader has not properly understood it, I will try to explain it further. The new companies must take a sufficiently long time to secure their customers and to capture markets for their goods. After they have sufficiently established themselves, then and then alone they can be expected to make a reasonable profit on their investment, which they cannot do unless at least two or three years of working is allowed to them. With these few words, I commend my amendment to the House.

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

"That in the second proviso to sub-clause (1) of clause 6 of the Bill, for the figures '1936' the figures '1934' be substituted."

Mr. S. P. Chambers: Sir, I am sorry to have to oppose this amendment. The date '1936' was put in, not as a guess or as a random date, but it was put in in relation to the options which are given in sub-clause (2). I feel that my Honourable friend has taken this attitude. He looks at these various clauses and if we put in one date, he says 'let us try for one better.' That is what it comes to. We put in the date '31st March 1936' because all other businesses have the benefit of choosing any one of the options in sub-clause (2). There seems to be to my mind no reason why a business started earlier should be given that benefit. The Honourable Member said that perhaps with a business started just in 1935 or some date something like that, no profits may be made in 1936 or 1937. Therefore, the option given in sub-clause (2), he says, is not sufficient. I think perhaps he has overlooked sub-clause (3). These businesses under sub-clause (3) may make an application and come before the Board of Referees.

Babu Baijnath Bajoria: That is special relief.

Mr. S. P. Chambers: I will read out the relevant words:

"The excess profits tax officer shall refer the application to the Board of Referees, and if the Board is satisfied that during the standard period the profits of the business were less than might at the beginning of that period have been reasonably expected, it may direct that the standard profits shall be computed as if the profits during the standard period were such greater amount as it thinks just."

Then, there is a proviso relating to the statutory percentage. This means that in cases where there are special circumstances to show that during the standard period the profits made were not reasonable, it is

[Mr. S. P. Chambers.]

provided that, having regard to the nature of the business, the company or firm can come before the Board of Referees, but that is not all. If having gone to the Board of Referees, this company or firm is not satisfied that the Board of Referees has adequately considered their case or if perhaps it has given no relief at all, they can go to the Central Board of Revenue under clause 26 and here again this relief that may be given by the Central Board of Revenue may go down to the statutory percentage. It seems, Sir, that in clause 6 we have provided for adequate relief in the case of new businesses and that in the case of other business, the provisions of sub-clause (3) of clause 6 and of clause 26 are sufficient. Sir, I oppose.

Babu Baijnath Bajoria: What I want is that they should get a statutory right and they should not go begging from Board of Referees, then to Central Board of Revenue, and so on.

Dr. Sir Ziauddin Ahmad: Sir, although I do not agree with my Honourable friend, Babu Baijnath Bajoria, yet I have great sympathy with him, more sympathy than has been shown by the Treasury Benches on account of my own personal experience of such companies. There was a company in which myself and another was intimately associated. It took two or three years before the company could be actually got into existence and before the machinery could be purchased. The company in the meanwhile went into liquidation. Therefore, in such a case the question of extra profits does not arise. Therefore, the excess profits in the case of companies of the type which my Honourable friend, Babu Baijnath Bajoria, has in view will hardly arise. I would just point out that the case of this standard profit is an important one and I am very much in favour of it, but I would like to raise it in another clause of the Bill. With these words I oppose the motion.

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

"That in the second proviso to sub-clause (1) of clause 6 of the Bill, for the figures '1930' the figures '1934' be substituted."

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Monday, the 18th March, 1940.