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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE INDIAN LEGISLATIVE COUNCIL ASSEMBLED UNDER
THE PROVISIONS OF THE GOVERNMENT OF INDIA ACT, 1915.
(5 & 6 Geo. V, Ch. 61.)

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on
Wednesday, the 19th March, 1919.

PRESENT:

His Excellency BARON CHELMSFORD, P.C., G.M.S.I., G.M.L.E., G.O.M.G., G.O.B.E.,
Viceroy and Governor General, *presiding*, and 54 Members, of whom 46
were additional Members.

QUESTIONS AND ANSWERS.

The Hon'ble Mr. Malcolm Hogg asked :—

11 A.M.

1. "(a) Have Government received since the signing of the Armistice with Germany any representations from Chambers of Commerce or other commercial associations on the delay in the transmission of commercial and private cables between England and India?" Delay in transmission of commercial and private cables between England and India.

"(b) Have Government issued during the same period any special instructions to all Government officers, Military and Civil, who are entitled to send cables on Government account, enjoining strict economy in the use of the cables in view of the present congestion?"

"(c) If the answer to (b) is in the negative, will Government consider the advisability of taking some such action?"

"(d) Have Press cables been received in India during the same period relating to (1) the death of and inquest on an actress professionally known as Miss Billie Carleton, (2) the murder of Major Seton by Colonel Rutherford, and (3) other news, the dissemination of which is of little public importance?"

"(e) Have Government communicated with the Secretary of State as to the possibility of taking steps to relieve the cable system from the transmission of unnecessary and unimportant press news until such time as a normal public service can be restored?"

[*Sir Thomas Holland; Mr. Malcolm Hogg; Sir William Vincent.*] [19TH MARCH, 1919.]

The Hon'ble Sir Thomas Holland replied :—

"The answer to the first two parts of the question is in the affirmative, and the third part consequently does not arise.

"With regard to the last two parts of the question, press cables were received in India relating to—

"(i) the death of, and inquest on, an actress professionally known as Miss Billie Carleton ; and

"(ii) the murder of Major Seton,

and there may have been other instances, in which news has been disseminated which may be thought of little public importance. It must be remembered, however, that the news is disseminated by a news agency which is in the best position to judge what is news of general public interest, and that one of the principal tests of public interest is the amount of attention devoted to an incident in the public press. In the case of the two particular items referred to, the news agency was doubtless influenced by the fact that the incidents in question occupied numerous columns of the daily press in England. Much of the press is circular world press, copies of which are dropped in India in course of transit to Australia and to other countries ; and this is arranged to avoid duplication of traffic. Government have been in communication with the Secretary of State in regard to relieving the cable system generally, but they do not consider that any useful purposes would be served by asking the Secretary of State to curtail press messages. The concurrence of the Governments of other countries to such a step would have to be obtained. The amount of press traffic is very small compared with commercial telegrams, and does not affect the delay appreciably."

The Hon'ble Mr. Malcolm Hogg asked :—

Repatriation of interned aliens.

2. "(a) Have Government seen a leaderette in the "Times of India" of 21st February under the heading "Interned Aliens?"

"(b) Are Government prepared to allow enemy subjects, now interned in India, to be released and remain at large in India? If so, will Government state their reasons for doing so?

"(c) Is it a fact that two steamers have been requisitioned for the repatriation of German subjects from Shanghai?

"(d) Do Government propose similarly to requisition ships for the repatriation of enemy subjects?

"(e) Will Government make a statement regarding the steps they propose to take for the repatriation of interned enemy subjects?"

The Hon'ble Sir William Vincent replied :—

"Part (a).—The answer is in the affirmative.

"Part (b).—The policy to be followed in repatriating enemy subjects now interned in India must obviously conform to the policy to be followed throughout the Empire as a whole ; but as at present advised the intention of the Government of India is that all enemy subjects now interned in India should be repatriated, save in a few exceptional cases where such action would be impracticable or cruel.

"Part (c).—The Government of India have no knowledge on this point beyond what has been published in the newspapers.

"Part (d).—The intention of the Government of India is that allied or neutral shipping should not be used for repatriating enemy subjects until the demands of British and allied subjects on such shipping have been completely satisfied.

"Part (e).—Non-Turk prisoners of war domiciled in the occupied territories in Mesopotamia are now being repatriated to Mesopotamia.

"German and Austrian civilian prisoners of war interned in India will be repatriated as soon as possible, subject to the considerations as regards shipping

[19TH MARCH, 1919.]

[*Sir William Vincent; Mir Asad Ali, Khan Bahadur; Sir Arthur Anderson; Mr. Srinivasa Sastri; Rai Sita Nath Ray Bahadur; Sir Claude Hill.*]

mentioned in the answer to part (d) above. All other prisoners of war will probably remain interned until peace is signed and will then be repatriated as soon as shipping is available."

The Hon'ble Mir Asad Ali, Khan Bahadur asked :—

3. "(a) Do the Great Indian Peninsula Railway authorities contemplate remodelling the railway stations between Bhopal and Delhi, and if so, do they propose to include in their plan a waiting room for purdah ladies at each important station, such as Manmad?"

Waiting rooms for purdah ladies and a Musalman refreshment stall at Victoria Terminus station.

(b) Do Government propose to suggest to the railway authorities the advisability of opening a Musalman refreshment stall at the Victoria Terminus station at Bombay?"

The Hon'ble Sir Arthur Anderson replied :—

"(a) It has been ascertained that the Great Indian Peninsula Railway authorities only contemplate remodelling Jhansi station at present. In carrying out the alterations at Jhansi, they propose to provide separate waiting rooms for Indian gentlemen and Indian ladies.

(b) Government have not received any representation as regards the necessity for opening a Musalman refreshment stall at the Victoria Terminus station, Bombay. It is understood that the Railway authorities do not consider it necessary."

The Hon'ble Mr. Srinivasa Sastri asked :—

4. "Will Government be pleased to lay on the table a statement showing by provinces (a) the number of additions made to 'listed posts' since the date of the Jelington Commission, and (b) the number of posts created and thrown open to the Indian Civil Service during the same period?"

Listed posts and the Indian Civil Service.

The Hon'ble Sir William Vincent replied :—

"A statement * giving the information is laid on the table."

The Hon'ble Rai Sita Nath Ray Bahadur asked :—

5. "What steps, if any, have been taken by Government to give effect to the recommendations made by Messrs. A. Maxwell-Lefroy and Ansoerge regarding the Silk Industry in India, especially to their recommendation relating to the establishment of a Silk Institute in India?"

Establishment of a silk institute in India.

The Hon'ble Sir Claude Hill replied :—

"I would refer the Hon'ble Member to my speech of the 9th instant introducing the budget heads of the Revenue and Agriculture and Public Works Departments."

The Hon'ble Rai Sita Nath Ray Bahadur asked :—

6. "(a) In reply to a question asked by me in February 1918, regarding the glass industry in India, was the Hon'ble Sir George Barnes pleased to observe :—

Glass industry in India.

(i) that he hoped that, as the result of measures taken, the industry would be firmly established in the United Provinces before the end of the war, and

(ii) that the general question of the policy regarding steps to be taken to encourage the establishment of the industry in India must await the report of the Indian Industrial Commission?"

* Vide Appendix A.

[*Rai Sita Nath Ray Bahadur ; Sir Thomas Holland ; [19TH MARCH, 1919.]
Sir William Vincent ; Mr. V. J. Patel.]*

(b) Will Government be pleased to state—

- (i) if the industry has been firmly established in the United Provinces, and in what way;
(ii) what steps, if any, Government propose to take in the matter generally? ”

The Hon'ble Sir Thomas Holland replied :—

“ (a) The answer is in the affirmative.

(b) (1) The Hon'ble Member's attention is drawn to paragraph 5 of the Resolution of the Government of the United Provinces issued on the 24th February, 1919, on a Report of the Director of Industries in those Provinces. The Resolution and the Report were published in the United Provinces Gazette of March 1st, 1919. Copy of these papers * is laid on the table.

(b) (2) It will be clear from Appendix E of the Industrial Commission's Report that a great deal of expert investigation into various problems will have to be undertaken before the prospects and best methods of developing the glass industry in this country can be fairly estimated. A number of specialists, including a chemist, will be required to deal effectively and in a practical way with all phases of the industry; but the first step is to get a clear idea of what our requirements are, and it is necessary for this purpose to obtain the advice of an expert, who, though he may not be a practical experienced worker in more than one branch of the subject, may have at the same time sufficient technical knowledge, experience and breadth of outlook to be able to indicate generally the steps which must be taken to establish the industry on a firm footing. In this view, the Government of India last November moved the Secretary of State to select the best available expert for employment under Government. It is hoped that it may be possible to obtain a technical specialist, who, by long association with glass factories, will be able to advise on the more general problems which beset the industry.”

The Hon'ble Rai Sita Nath Ray Bahadur asked :—

Continuance
of publica-
tion of the
War
Journal.

7. “ (a) Has the attention of Government been drawn to the decision of the United Provinces Publicity Committee to continue the publication of the ‘ War Journal ’ on a reduced scale until a new journal on educational lines is started? ”

(b) Will the proposed journal be financed by the Government of India? ”

The Hon'ble Sir William Vincent replied :—

“ The answer to the first part of the question is in the affirmative. As regards the second part, no expenditure on the journal will be met from Imperial funds after the 31st January, 1919.”

The Hon'ble Mr. V. J. Patel asked :—

Ill-treat-
ment of
Indians in
South
Africa.

8. “ (a) Has the attention of Government been drawn to the copy of the cable from the Chairman of the Transvaal British Indian Association to Mr. M. K. Gandhi and the letter under the heading ‘ Ill-treatment of Indians in South Africa ’ published in the issue of the ‘ Bombay Chronicle ’, dated February 27th, 1919, and will Government be pleased to state whether they have taken or propose to take any action to avert the danger which it is alleged threatens to overwhelm the Transvaal Indians? ”

(b) Do Government propose to consider favourably the suggestion regarding the immediate despatch to South Africa of a mission consisting of a distinguished civilian and an equally distinguished Indian publicist? ”

QUESTIONS AND ANSWERS; TERMINATION OF THE PRE- 1235
SENT WAR (DEFINITION) BILL.

[19TH MARCH, 1919.] [Sir Thomas Holland; Maharaja Sir Manindra
Chandra Nandi; Sir James Meston; Sir
George Lowndes.]

The Hon'ble Sir Thomas Holland replied :—

"(a) In a letter dated 24th February, addressed by name to Sir George Barnes, Mr. Gandhi forwarded a copy of a cable received by him from Johannesburg. I wrote to him myself on the 1st March to let him know that Government were cabling to the Secretary of State, and on the same day his cable was repeated, with the request that Government might be supplied with full information. At the same time, the Chairman of the British India Association at Johannesburg was informed of the action which Government had taken.

(b) Until further information is received, Government are not in a position to consider whether the circumstances require the despatch of a mission to South Africa, such as is proposed by Mr. Gandhi."

The Hon'ble Maharaja Sir Manindra Chandra Nandi asked :—

9. "(a) Will Government be pleased to state the Civil Departments to which increased allowances have been granted for higher cost of living ?

Grant of allowances for increased cost of living.

(b) Are the increased allowances granted on a definite scale to include Indian and European officers alike ?

(c) Are Government prepared to state the exact amount of these allowances which will go towards the benefit of the European and the Indian officers, respectively, under the Government of India and the Provincial Governments ?"

The Hon'ble Sir James Meston replied :—

"(a) A statement giving the required information will be laid on the table.

(b) Yes. Special separation allowances are, however, given to the wives and families of European employes of State and Companies' Railways.

(c) In view of the answer given to clause (b) of the question, the Hon'ble Member will doubtless not press for the information for which he asks in clause (c). This information could not be collected without an extraordinary amount of labour in the various account offices throughout India."

TERMINATION OF THE PRESENT WAR (DEFINITION) BILL.

The Hon'ble Sir George Lowndes :—“ My Lord, I beg to move 11-9 A.M.
that the Bill to make provision to determine the date of the termination of the present war and for purposes connected therewith be taken into consideration. The Bill was published in the Gazette of India of the 22nd of February last, and we have had no comments upon it. It is a Bill which, I think, requires no further explanation to the Council.”

The motion was put and agreed to.

The Hon'ble Sir George Lowndes :—“ My Lord, I beg to move that the Bill be passed.”

The motion was put and agreed to.

1236 INDIAN OATHS (AMENDMENT) BILL; INDIAN DEFENCE FORCE (AMENDMENT) BILL.

[*Sir William Vincent; His Excellency the Commander-in-Chief; Mr. W. A. Ironside.*] [19TH MARCH, 1919.]

INDIAN OATHS (AMENDMENT) BILL.

11-11 A.M.

The Hon'ble Sir William Vincent:—"My Lord, I beg to move that the Bill further to amend the Indian Oaths Act, 1878, be taken into consideration. The position in relation to this Bill is exactly the same as in regard to the Bill on which my Hon'ble colleague has just addressed Council. The Bill has been published in the Gazette and no criticism has been received."

The motion was put and agreed to.

The Hon'ble Sir William Vincent:—"My Lord, I move that the Bill be passed."

The motion was put and agreed to.

INDIAN DEFENCE FORCE (AMENDMENT) BILL.

11-12 A.M.

His Excellency the Commander-in-Chief:—"My Lord, I beg to move that the Bill to extend the operation of the Indian Defence Force Act, 1917, be taken into consideration."

11-13 A.M.

The Hon'ble Mr. W. A. Ironside:—"My Lord, at the risk of my views being misconstrued, I desire to offer respectful protest and opposition to the proposals for the future obligations in regard to military training of the European community as embodied in the extension of the Indian Defence Force Act outlined by His Excellency the Commander-in-Chief in the Bill which is now before the Council.

"The European community has always been ready to respond to any calls made upon it and will do so provided of course the demands be those of necessity and emergency within their local areas, but in the present case I do not think that any such necessity for further training exists, and I may add that this view is held by my community throughout India.

"His Excellency the Commander-in-Chief has outlined the duties of the force, namely, that we are Civilians first and Soldiers afterwards, and I fully appreciate, and I know that every one else appreciates the recent assurances that he gave us last week when introducing the measure. The original Indian Defence Force Act in the main aimed at at our being trained soldiers in the midst of our civil responsibilities, it was a question of emergency and necessity, and to the best of our power the call was met and a well trained force exists to-day.

"I do not wish to go into the question at length, but I hold that the extreme urgency and necessity for the measure have disappeared, and the momentum which has been imparted into the military knowledge and military training during the past four years and that portion of our lives and the state of efficiency attained should, I think, suffice to carry us on for at least another 12 months and render an even modified continuance of the present training or of a modified system of training a superfluity.

"Military duties do not fit in well with civil and industrial occupations, workers commencing early and ending late in the plains day after day have little time for being soldiers and it cannot be expected of them. If soldiers be necessary we must employ them, and the general body of tax-payers for whose benefit they exist should pay for them at the recognised market rate, and I hold that one commercial community should not be utilised to keep law and order to enable others to escape.

"The commercial community in Calcutta is a fair representation of the whole, and I feel bound to say that we are tired out—our work still continues

[19TH MARCH, 1919.] [Mr. W. A. Ironside; His Excellency the
Commander-in-Chief.]

despite weather conditions. Few of us ever get a respite to the Hills. We are expected to create wealth, but surely, we must be allowed freedom in order to do so; 70 per cent. of our available man-power of military value joined the army—the remainder principally crooks and veterans have carried on, I may say, for the past four years in the plains, with the result that last year we were faced, time after time, week after week, with sick men lying awaiting admission to congested hospitals. I had three men of my own firm at one time awaiting admission for treatment. Recently in anticipation of the return of men from military service, the urgent cases of ill-health have been sent away, and we are waiting the return of men, but these men are returning very slowly, disappointingly slowly in some instances. In the case of my own firm 19 men went away, but only 2 have returned, I do not blame any one in India, because I know that the Army has to be carried on. The position is apparently the same at Home, and we cannot get over facts. The following extracts from a letter which I have just received from a man on service in Egypt, are practically the same as we get from men in India. It reads:—‘It seems really too bad that the 1914 officers and men should be kept hanging about while the 1917 and 1918 men should be allowed to get Home. The greatest farce was the student class who got away in December, some of them up to 40 years of age.’ My Lord, it is a very serious matter. We shall be relatively, in the coming hot weather, worse off than we were last year. We have allowed men to go and their places have not been filled up. If wealth is to be created intensified production is the only chance of doing so, and the British European commercial community must be allowed freedom to make a fresh start on level terms.

“I have stated my case, my Lord, with a sincere desire to avoid exaggeration, but knowing and appreciating our friend His Excellency the Commander-in-Chief, I feel sure that His Excellency will appreciate our position and do something to still further reduce the suggested training that was outlined in his opening speech last week.

“I need not assure him that no one will fail him or Government at any time of emergency or necessity. Of course we sincerely trust that no such event will arise, and there seems no chance of it at the present time. But for the next 12 months I do feel convinced that little harm will arise if military training is practically to all intents and purposes shelved. We feel that we already possess sufficient training for any duty we may be called upon to perform at least for 12 months. I desire to shirk nothing, but feel that I am only making a sound economic proposition.”

His Excellency the Commander-in-Chief:—“My Lord, so far as I can understand the Hon’ble Member, he puts forward a request for a further reduction in the period of training during the next 12 months, and he represents in very cogent language the degree of overwork which those who are engaged in business in Calcutta have been suffering from. He says they are tired out from overwork and stand in need of rest, and further that the relief of men from military service has not proceeded as rapidly as it was anticipated it would. The Government of India are in sympathy with the observations of the Hon’ble Member and are prepared to sanction the following further reductions in the hours of work proposed for the Indian Defence Force during the transition period, and it is hoped that these will meet the representation which the Hon’ble Member has made. They propose, in the first place, that all training, except actual musketry training, should be voluntary in the case of men over 41, and, secondly, that as men of the Indian Defence Force are sometimes required to take part in military work, drills and so forth during the hot weather, which imposes a very great strain on their physical powers, the Government are willing that I should send round a general direction to General Officers Commanding that drills during the hot weather in the plains should be the exception, and that such drills should be reserved for members who happen to be residing in the hills during that period. I conceive that these two concessions will meet the representation which the Hon’ble Member has

11-22 A.M.

1238 INDIAN DEFENCE FORCE (AMENDMENT) BILL; NEGOTIABLE INSTRUMENTS (AMENDMENT) BILL; EXCESS DUTY BILL.

[*His Excellency the Commander-in-Chief; Mr. V. J. Patel; Sir George Lowndes; Sir James Meston.*] [19TH MARCH, 1919.]

put forward. If not, I suggest that he should come and see me in my office and discuss any further details which he may care to suggest, which I have not met in these few observations which I have made."

The motion was put and agreed to.

His Excellency the Commander-in-Chief;—" My Lord, I beg to move that the Bill be now passed."

The motion was put and agreed to.

NEGOTIABLE INSTRUMENTS (AMENDMENT) BILL.

11-25 A.M. **The Hon'ble Mr. V. J. Patel;—**" My Lord, I beg to move that the Bill further to amend the Negotiable Instruments Act, 1881, be taken into consideration. The Council will remember that on the 25th of February last when I introduced this Bill, I gave my reasons at some length as to the necessity for it. The Bill has been published in the Gazette of India since and no objections have been received. The only communication that I have received is a copy of the letter addressed to the Secretary, Legislative Department, from the Bombay Native Piece-goods Merchants' Association. That letter says:—

'The Bombay Native Piece-goods Merchants' Association accord their hearty support to the Bill further to amend the Negotiable Instruments Act, 1881, introduced by the Hon'ble Mr. Patel and hope that it will be passed this Session, as it will remove much confusion and inconvenience in commercial and banking circles which has resulted from the recent High Court judgment, and will validate a long-standing custom of trade.'

"With these few words I move that the Bill be taken into consideration."

11-27 A.M. **The Hon'ble Sir George Lowndes;—**" My Lord, I only desire to congratulate my Hon'ble friend Mr. Patel on a very useful piece of legislation."

The motion was put and agreed to.

The Hon'ble Mr. V. J. Patel;—" I beg to move, my Lord, that the Bill be passed."

The motion was put and agreed to.

EXCESS PROFITS DUTY BILL.

11-28 A.M. **The Hon'ble Sir James Meston;—**" My Lord, I beg to move that the Report of the Select Committee on the Bill to impose a duty on excess profits arising out of certain businesses be taken into consideration.

" My Lord, this Bill sets out to secure a net sum of £6 millions to pay part of the contribution to the cost of the war which was decided upon by this Council last September. The Bill in its original form followed the lines of the similar, but very much more drastic, measure now in force in England. In its passage through the Select Committee it has been materially modified in several important details and in numerous points of mechanism, although the main structure of the law remains identical with what was accepted by the Council when the measure was first introduced.

[19TH MARCH, 1919.] [Sir James Meston.]

"I shall first describe the broad lines upon which the amendments of the Select Committee are based, then touch upon a few detailed changes of major importance; and in the course of the narrative I may have to indicate certain matters of policy and procedure which we undertook to observe in the administration of the Act, although we have not found it necessary to include provision for them in the actual wording of the Bill.

"The purpose of the Bill, my Lord, is to obtain for Government a one-half share in profits which accrued during 1918 or thereabouts, in excess of the profits of a more normal period. The main issue for decision therefore has been the ascertainment, first, of the typical profits to-day, and second, of the more normal profits with which they have to be compared. We have thus to determine, and determine as far as we can with equity, two different periods, one of which is the 'accounting period' for the profits of to-day, and the other of which is the standard period for the profits of a less abnormal character. It was obviously upon getting a fair definition of these two particular periods that the deliberations of the Select Committee mostly concentrated. If this tax had been imposed earlier, or if it were likely to remain in force for a prolonged period, the precise ascertainment of those two periods would have been attended with much less difficulty; for the simple reason that inequalities in one year could have been adjusted in the next. In our circumstances, however, the greatest care was obviously necessary in arriving at a basis of comparison which would be fair, not only to trade and commerce generally, but would also reduce, as far as possible, the number of exceptional or hard cases for which special treatment could equitably be claimed from our assessing officers. To any one who has studied the fluctuations of commercial activity in different parts of India in the last few years, it will at once be obvious that a system of assessment which may be fair to one great industry would probably hit its neighbour very hard; and the only remedy which we could devise for this state of affairs, the only expedient which we could invent to secure a relatively parallel system of treatment in classes of business of which the conditions vary both among themselves and from year to year, was a high degree of elasticity in defining the periods upon which we are to assess. Even here there was a danger, my Lord, for if the choice of period is made too elastic, it would almost certainly be found that one class of business would be able to secure for itself a method of assessment which would not only suit it better than any of the other options, but would also enable it to get off with the payment of a smaller percentage of its return, a smaller relative share of its return, as compared with the incidence of the tax under any available option upon some other neighbouring class of business. The jute and cotton trades are prominent examples of what I mean. To take one year or one set of years for cotton would probably hit it much harder than an assessment upon the same basis, the same year or the same set of years, would hit the jute trade; and yet to offer both trades the same variety of options would probably result in the jute industry securing a method of assessment which would be much more favourable to it, relatively, than any of the same alternative methods would be to cotton.

"In these circumstances, the Select Committee was naturally guided to a very large extent by the advice of its commercial members, and more particularly of those gentlemen who represent the main staple industries of Calcutta and Bombay. Well, my Lord, that advice was freely placed at our disposal; and on behalf of the Select Committee, and I am sure of the Council also, I wish to express our sincere indebtedness for the invaluable assistance which we have received in this and every other detail of the Bill, particularly from the Hon'ble Mr. Hogg and the Hon'ble Mr. Ironside, with the assistance of the Hon'ble Sir Fazulbhoy Ourrimbhoy. It is a matter of congratulation that in all the essential features of the Bill, we have been able to arrive at provisions which these gentlemen accept on behalf of the commercial communities which they represent as broadly fair and equitable; for the Council will observe that in the short minute of dissent which is attached by four of the members of the Select Committee, no objection is taken to any important point of principle in the Bill.

"Now, my Lord, let me turn from the general to the concrete. The first question of importance to be decided was the year for which we should accept the accounts of businesses which are being assessed to the duty—the accounting period. The Bill originally provided that that period should be the business year of the company or firm, up to the end of March 1919, or to such other date in the course of the last twelve months as was the end of the company's usual business year. To this arrangement considerable objection was taken in Committee. It was pointed out in particular that a company which closed its books last June might be returning a much larger scale of profits than a company which closed its accounts in the current month; the former had 12 uninterrupted months of what we may call war prosperity, while the latter showed only five or six months of really good business and a number of months of comparative reaction after the Armistice was signed in November last. This of course is not the only type of inequality which results (and we were satisfied that inequality does result) from the rigidity of our original clause. It has also been taken as a serious objection to our original clause that the valuation of stocks outstanding on the books of companies which closed several months ago may probably have been very much higher than subsequent circumstances showed to be reasonable. It was pressed upon us that, if we assess upon the valuation of stocks which appear in the accounts of several months ago, we ought in fairness to allow for whatever depreciation has occurred since then; and the argument was pressed to the point that it might be necessary to leave the valuation altogether an open question for some considerable period in order to correct it by the prices at which the stocks are ultimately disposed of. To meet these and similar difficulties a number of suggestions were made. From Cawnpore we had a suggestion that the accounting period should be taken as the year 1917, and from Bombay there came a suggestion that we should average up the whole of the five years since the starting of the war. These proposals were obviously open to the objection of the very exaggerated degree of retrospective effect which we would be giving to the measure. In the end we determined to accept a suggestion of the Hon'ble Mr. Ironside, and this now forms the accounting period as defined in clause 2 of the Bill. Now, clause 2 has to be read with the provisions of clause 5 (b), and, taken together, they certainly look a little complicated. But all that they mean is this. If the accounts of a business are not closed in the ordinary course of that business at the end of March, the business in question will have the option of taking its ordinary account year and of adding to that the whole of the transactions between the end of the account year and the end of the current month, *i.e.*, the end of this March. If the period which thus comes to be handled should happen to be 15 months, as it would if the company closed in December, we then take twelve-fifteenths of the profits of the whole period. If the company close in July and exercised the option of running on to March, we should take twelve-twentieths of the aggregate profits of the whole period, and so on. The business has thus the option of standing by its own regular year, or of adding to that year the subsequent months up to the end of March 1919 and thus getting the benefit, in many cases, of a period of slacker trade and diminishing values. We believe that this will allow of an equitable assessment, and ought to relieve materially the number of relatively hard cases. It would also permit concerns which wish to take advantage of the option sufficient intimation to allow them to have a proper stock-taking at reasonable prices at the end of the current month, upon data which our assessing officers can easily check and get easily justified.

"The next cardinal feature in the Bill is the determination of the standard period, that is the period the profits of which are taken in comparison with the profits of to-day. The original proposal in the Bill as it came before the Council was to take the average profits of four specified years, two immediately before the war, and the other two after the commencement of hostilities. These four years were chosen in all good faith and, as we believed, in the interests of the assessee. The idea was to base the standard profits on a period which would not be altogether a period of low profits, but would include also some years of higher returns; and it was hoped that in this way we should keep the excess of the current year

[19TH MARCH, 1919.] [*Sir James Meston.*]

over the standard within as reasonable limits as possible. Our attempt to secure moderation in this manner has not been altogether a success. Apparently with some businesses the profits assessed after the declaration of war were really lower than those that they had been earning before hostilities began; and with some businesses the assessment year 1916 covered profits which would have been earned in a twelve-month period which covered the outbreak of the war and the unsettlement of trade which immediately followed it. Other concerns again had had one bad year out of the four which we enumerated; they had probably not been assessed to income-tax in that year, and consequently, under the only alternative which was open to them in the original Bill, had to go to what is known as the percentage assessment, that is to say, they would have had to get their standard profits taken on an assumed figure of 10 per cent. upon their capital. All these were cases of more or less hardship, and in order to meet these and other hardships, we have, after much anxious discussion, provided for a wide range of options, which will be found tabulated in the new clause 6 of the Bill. As the Bill now stands, a business may claim to have its standard profits calculated at 10 per cent. on its capital, if that suits it best. If its profits were low before the war, it can claim that the average on which it paid income-tax in 1913 and 1914 be taken as the standard. If it prefers the standard we originally suggested, it can abide by the income-tax assessment made in 1913 and 1914 and in any two out of the three years 1915, 1916 and 1917. There are more minute features in this rather elaborate section, but this, broadly speaking, is the range of options among which an assessee may choose that which makes his assessment the easiest for him. But having made his choice, if he still feels that he has a hard case, he may when sending in his return—but not later—apply to the Collector for special treatment on a large variety of grounds enumerated in clause 7 of the Bill, which the Council will observe from the italics in it has also been substantially altered in the course of the discussion in Select Committee. To the hard cases which were originally set out there, we have added several others. We provide, for example, for obsolescence and the heavy cost of any replacements that may be necessary in the accounting period. We allow also, in clause 7 (e) and (f), for the not infrequent case of one company deriving income from shares in another company which has paid excess profits duty already, either in India or in England. A general recipe for hard cases will also lie in the prescription which allows the ordinary rate of ten per cent. on capital for the calculation of standard profits to be raised in the case of special businesses. And finally there is a very elaborate system of appeal for assesses who are discontented with the finding of the Collector. They may go in the first instance to the Chief Revenue-authority of the province (clause 8), and from him they may claim either that he should hear their appeal, or that he should refer it to a Board of Referees. If they elect the latter alternative, a Board will be constituted of either 3 or 4 members according to the importance of the case (still clause 8); in either case, not less than two of the members will be non-officials with adequate business experience, though not necessarily—as was apprehended in some quarters from the terms of the original Bill—business rivals. One other special provision is of great importance. An entirely new provision for hard cases is embodied in a new clause 9, which permits the Government of India to appoint a Board of special Referees to advise it upon any particular class of business upon which it is said that the ordinary provisions of the law would press severely. Among such cases we contemplate that new businesses might be dealt with, as well as controlled businesses. The treatment of the latter would of course vary according to the nature of the control; for example, in some cases there might be complete and entire control of the whole output, while in others there might be only a limited control extending to a partial fixation of the price of the output. In these and all other cases of alleged hardship, instructions will be issued that Boards of Referees should form their decisions in accord, as far as possible, with the general principles of the law and regulations obtaining in the United Kingdom. On these points

[*Sir James Meston.*] [19TH MARCH, 1919.]

of course we hope to obtain very special advice and help from Mr. Watkins of the Board of Trade, who is now on his way out to India and ought to arrive during the course of the current month.

“ When introducing the Bill I made on behalf of the Government a promise that no assessee would be made liable to both super-tax and excess profits duty on the profits of the same business, and that income-tax would not be levied upon that part of his profits which is commandeered by Government. Effect to that promise had been given in clauses 19 and 20 of the Bill. In their note of dissent, four of my colleagues in Select Committee have expressed regret that the opportunity is not taken to abolish the super-tax altogether in the case of companies or firms. I tried to explain, when introducing the Bill, that we are not particularly proud of the super-tax as at present worked, and that we hope to reconstruct our whole system of taxation upon incomes as soon as the excess profits duty ceases to be levied. Until then it would hardly be practicable to abolish the super-tax in the partial manner now proposed; and I am afraid that such a measure would be resented by companies which come under the operation of this Bill. It would mean relief to their neighbours which are domiciled in the United Kingdom at a time when they themselves are becoming amenable to this higher duty. It would also have the effect of enabling the British Treasury to assess Indian companies domiciled in England at a higher rate of profits, because the super-tax now levied in India is treated as a set-off in England before the excess profits duty is taken there. This would mean a very substantial transfer of revenue from India to England. I am sure that Hon'ble Members who signed the minute of dissent will realise the difficulties which the Government feels in meeting this particular proposition.

“ My Lord, I think that I have now dealt, though in a somewhat popular and non-technical manner, with the outstanding features of the Bill as amended in Select Committee. I turn now to a few matters of detail of minor importance in regard to which a word of explanation seems necessary. I have been asked to explain what is meant by the term ‘ person ’ wherever it occurs in the Bill. It is used in its legal sense as defined in the General Clauses Act, and covers a company, firm or business assessed under this Act. I have also been asked to make clear what is meant by the profits assessed in a particular year, say 1918, in the standard period. The expression refers to the assessment made in the financial year beginning in this particular case on the 1st of April 1918, and that assessment would, under the old Income-tax Act, mean the assessment upon the income of the previous year. This explanation of course does not apply to the accounting period, which is assessed under the terms of the new Income-tax Act. All this was clearly explained in a Press Communiqué last December. Questions have been asked as to the meaning of the words in the latter half of clause 7 (g). The intention here was to allow for elasticity in the case, for example, of a company which closes its accounts in June and would thus be assessed in 1916 for the year stretching from the 1st July 1914 to the 30th June 1915 and thus covering a period of disturbed trade conditions. In clause 7(c) the exceptional depreciation of assets will not exclude the specially considerate treatment of securities if they form assets employed in the business. Then again, we were pressed in regard to our intentions about foreign firms. I readily accept—we all readily accept—the high desirability of bringing them into our net. This point has been specially impressed upon our income-tax authorities, and we trust that they will be required to pay their fair share of the duty which is now being imposed. In clause 18 the question has been raised as to the nature of the instalments in which the tax will be levied. We have undertaken to issue general executive instructions on this subject with three objects—first, that reasonable time should be given for payment; second, that the instalments should be as far as possible uniform throughout India; and third, that the whole of the duty should be levied before the 31st of March 1920.

“ Coming to clause 18, we have been pressed to publish for previous criticism any rules that may be made under the Act. As far as practicable

[10TH MARCH, 1919.] [*Sir James Meston ; Mr. Malcolm Hogg.*]

we shall be glad to publish any rules which are not of an emergent character, or, if that is preferred, to refer them to the criticism of committees of commercial bodies in the more important centres. Rules, however, will often have to be made in circumstances of considerable urgency and we find ourselves unable to accept the suggestion that previous publication in all cases should be prescribed in the Act.

"Another matter which has met with considerable attention is a proposal that we should accept war bonds in payment of the tax. Whether we shall be in a position or not to comply with this suggestion depends entirely upon the general financial results of the year. If our ordinary revenues should turn out to be substantially in excess of our estimate, we shall be glad indeed to take the opportunity of retiring short-term bonds that may be offered in payment of excess profits duty. It is, however, obviously quite impossible to make any promise at this stage.

"There is no other question, I think, of general importance which requires special mention here. The Bill as revised contains a number of minor amendments and improvements which will no doubt be appreciated by assesses who have to study its provisions. I do not know, however, that the Council would be greatly interested in any exposition of these in detail, and I shall accordingly move now that the Report of the Select Committee be taken into consideration. On the agenda paper it will be observed that there stand several Government amendments, which I shall ask your Excellency to allow Mr. Howard to move on behalf of Government; and if I have not in these remarks made any special reference to the first paragraph of the minute of dissent attached to the Report of the Select Committee, it is because I shall have the opportunity of dealing with that in reply to an amendment which the Hon'ble Mr. Hogg has placed on the agenda paper."

The Hon'ble Mr. Malcolm Hogg:—My Lord, I must first acknowledge the very generous terms in which the Finance Member was good enough to refer to such assistance as I was able to give during the proceedings in the Select Committee. In moving that the Select Committee's report be taken into consideration, Sir James Meston has dealt very fully with most of the changes that have been made in the Bill, and I do not wish to cover the same ground again as far as I can avoid doing so; but there are a few points which have been brought to my notice at different times by the commercial public, which it may be of interest and value to mention. One point that has occasioned a certain amount of misunderstanding and which is referred to in the Report of the Select Committee is the duration of the Bill. Well, as is pointed out in the Report of the Select Committee, it is quite plain that the Bill itself cannot continue for more than one year, and that this duty cannot be renewed without further legislation. But, I think, the point really is that the commercial public would like an assurance from Government that they recognise that this tax is a special tax, suitable only to war conditions, and that whatever taxation may or may not be necessary next year they have no intention of introducing legislation to prolong the excess profits duty. That is really what, I think, is at the back of the minds of those who have been asking for some assurance that the Bill does not mean more than one year's taxation of excess profits. 11-55 A.M.

"Another point that was referred to briefly by the Hon'ble the Finance Member was the question of securities. But I think I might just point out to the Council its significance a little more fully. There are certain classes of businesses, such as banks, insurance companies and the like, which have to invest a considerable portion of their resources in Government and other trust securities. These securities have depreciated very considerably in value through circumstances arising out of the war. For income-tax purposes that depreciation is not allowed to be taken into account. Well, my Lord, this is not the time for me to argue whether that is or is not an equitable ruling. But while it is arguable that such depreciation is not a proper charge on income-tax which is a continuing tax from year to year, it cannot, I think, be denied that there is a strong case for such depreciation being taken into account when you are dealing with a tax imposed for one year only

[*Mr. Malcolm Hogg.*] [19TH MARCH, 1919.]

on excess profits made during a certain restricted period. I therefore welcome the assurance of the Hon'ble the Finance Member that Government will give instructions that the term 'assets' in clause 7 (c) will include securities, provided that those securities do in fact comply with the other provisions of that sub-clause.

" I then wish to refer briefly to the question of the abolition of super-tax. The super-tax in the United Kingdom is a tax on individual incomes only. When it was imposed in India, it was extended in a partial degree to the incomes of firms and companies, that is to say, it was extended to the undivided profits. The reason for doing that was that at that time Government did not consider that an excess profits tax was practicable in this country. They desired to find some means of tapping the commercial and industrial profits which were being made, and for want of a better method they extended the super-tax to the undivided profits of firms and companies. Well, my Lord, ever since that tax was imposed it has been very generally criticized as thoroughly unsound and uneconomic. Now that the excess profits tax is being imposed the only excuse for the extension of the super-tax to the incomes of firms and companies is gone, and it seems to me that the proper, the logical and the just course to take is to remove the super-tax from the incomes of firms and companies and confine it to its proper sphere of individual incomes. It is quite true that the effect of that would be in certain cases remission of taxation. There are two classes of cases; one is the case of companies which have enjoyed for some years steady prosperity, which have not made more money in 1918 than in previous years or not much more, and therefore would hardly be liable to excess profits tax and would profit by the abolition of the super-tax from the incomes of companies. Similarly, there is the case of English companies who are liable to English excess profits tax and are exempted from the excess profits tax here. They would undoubtedly benefit if they did not have to pay Indian super-tax. The Hon'ble the Finance Member has suggested that that might be resented. Well, in so far as the English cases are concerned, I really do not think that anybody can possibly resent it. For what is the position? They at present pay Indian income-tax, Indian super-tax, English income-tax and English excess profits tax. I really do not think anyone would grudge it if they happened to get a remission in respect of the Indian super-tax.

" Be that as it may, I submit that in any case it is not a sound argument. You impose an excess profits tax and there is no doubt that a certain number of people will be hard hit, but the fact that a certain number of people will be hard hit is not accepted as a valid reason for not imposing it. Similarly, I submit that the fact that a certain number of people would benefit is not a valid reason for refusing to remit a tax, when its remission is sound and just. I hope, my Lord, that the Hon'ble the Finance Member will at least be able to give us an assurance that the whole question of income-tax and super-tax in this country will be taken into consideration next year, and that it will be put on a sounder and more satisfactory basis. I do not think I need say much on the provisions which relate to the accounting period and the standard period, for the Hon'ble the Financial Member has explained them very clearly. But I should like to make a few observations on the changes made in respect of standard profits. The object of these changes was to reduce the number of hard cases, the number of cases that will require individual adjudication. It has got to be remembered that the machinery for dealing with such cases is inadequate. It will be difficult to get the non-officials required for Boards of Referees, for you have not got the large supply of expert accountants, etc., that you have in England. Also your official income-tax machinery is already sufficiently burdened with income-tax collections and you do not want to add to their work unnecessarily. We therefore thought in the Select Committee that it was desirable to make the provisions of the Bill as elastic as possible in order to reduce the number of hard cases. We recognise however that it is not possible to remove them altogether, and that there must be a good many. In order to cover them we have made clause 7 fairly wide. There again it was felt that if we started to try and legislate for all possible hard cases—I may say that I have

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rather a substantial file of correspondence dealing with various cases that may arise—if we attempted to put all these into the Bill we should have been sitting in Select Committee till next X'mas and would have produced a Bill as lengthy and complicated as the English Act. That of course was not desirable, especially as it was only intended that the Bill should be in force for one year. We accordingly made the provisions as wide as possible, under which hard cases can come up. In this connection I understand that the Hon'ble the Finance Member will be able to assure us that in dealing with hard cases Boards of Referees and executive officers will be instructed to observe the provisions of the English Act as far as they are applicable to the circumstances in this country. That assurance will be very much valued because, naturally, anybody who considers that he has a grievance under this Act will wish to know more or less on what lines his particular case will be dealt with. Another point that seems to have given rise to misapprehension is the provision for the ascertainment of capital under Schedule II. Well, I admit that this definition is rather formidable and not easy to understand at first reading. There seems to be an idea that Schedule II is limited to block capital. As I understand it this is not so. The Schedule is copied almost verbatim from the English Act, and includes any capital that is included in the United Kingdom. I think before I sit down I should like to say a word about the case of those companies which close their accounts on the 30th of June. Undoubtedly even under the standard period as we have amended it they have some grievance. As has been pointed out by the Hon'ble the Finance Member when you talk in this Bill of the year 1915, for the 30th June companies that means 1st July 1913 to 30th June 1914. That is to say in giving the 30th June companies the option of taking 4 years out of the 5 years 1913-14-15-16-17, you are not offering them the same option as you offer to those that close on the 31st December. Those that close on the 31st December have the option of taking two specified pre-war years and two out of three war years. In the case of the 30th June companies the operation of this option is different; they can take, firstly 1913 and 1914, that is two pre-war years and secondly, they can combine with that any two of the three years 1915, 1916 and 1917. For the reason previously explained this means to them that they can take three pre-war years and one war year, or two pre-war years and one war year, and the year in which the war broke out, they do not get exactly the same choice of including two full war years as the 31st December companies get. Personally I should have liked to have given the 30th June companies the option of the further year 1918 (in the sense defined in the Bill), but the Hon'ble the Finance Member was not in a position to accept that. The only remaining remedy was that if the facts justify it any 30th June company can come up as a hard case. It was for that reason that the amendment to which the Hon'ble the Finance Member has already referred, the addition to clause 7 (g) was made. Another point which has given rise to a good deal of criticism is the rate of percentage of 50 per cent., but as that will be dealt with by several amendments, I will say nothing at present about it."

The Hon'ble Sir Fazulbhoj Currimbhoj:—"My Lord, I do not think it would be appropriate for me to speak at this stage on the provisions of the Bill. I have fully and clearly expressed the views of the commercial community in India against the principle of the Bill, when the Bill was introduced. The Bill was then sent to the Select Committee, and the principle was accepted by this Council. In the Select Committee, we suggested several modifications and the Hon'ble the Finance Member has just expressed to us what modifications have been made. I take this opportunity of thanking the Hon'ble Sir James Meston for having considered our suggestions in a most sympathetic manner and for having accepted some of the most important ones. I do not wish to take up the time of this Council. I agree with the Hon'ble Mr. Hogg in the views he has expressed. With these words I support the motion." 12-9 P.M.

The Hon'ble Sir Dinshaw Wacha:—"No doubt when the Bill was first introduced so far as Bombay was concerned, there was a good deal of 12-10 P.M.

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panic. I know that the hon Finance Member had got telegrams on the subject to the effect that it would ruin Bombay and the investors. Of course when once a cry of this character is raised it is taken up and the parrot cry is repeated. I am glad to find however that since then a great deal of the misapprehension and of the panic, whether promoted by investors or gamblers and speculators, has been allayed. I am glad also that there has been a great improvement on the original Bill as introduced judging from the explanatory statement of the Hon'ble the Finance Member. From that it appears to me that there is nothing in the Excess Profits Bill so far as equity is concerned, to complain of. I think, my Lord, that people generally make no difference between what is called a war taxation and a loan. A war taxation is only meant for war purposes, and the moment, I suppose, the exigencies of the war are over, there is an end to that taxation. The loans stand in a different category. Loans are raised the expiration of which extends sometimes to 20 years or 30 years, while war taxation does not burden posterity. I do not see why taxation for war purposes which can only at most fall on the present generation should be so indefinitely prolonged as to burden posterity. That, my Lord, is a point for very careful consideration by this Council. I am glad that it was fully considered by the Government itself from the very beginning, though the public did not see it quite in that light, namely, that war taxation is different from raising a loan. I quite agree with my Hon'ble friend Mr. Hogg, that the Finance Minister should give an assurance to those who are pessimistic that the tax now to be imposed is of short duration. Otherwise profiteers would try to gobble away their profits. Their complaint is that the Government is determined to sweep away their profits. At the same time it has to be borne in mind that after all, what the Government is about to take from them, say, even 50 per cent., cannot be considered as burdensome. The tax-payers of all India have paid into the Government Treasury a certain sum of money by way of general taxes. The Government, on account of war and other kindred purposes, have paid out from those very taxes a considerable amount to business firms and other large traders and contractors. It is this very money which, of course, is now excoised by Government for purposes of war taxation. I mean the colossal profits in excess of the normal. What earthly reason is there for these profiteers to complain of? Practically speaking, the Government is partially recouping its Treasury for the benefit of the original body of tax-payers. That is the way I look at this process of levying the Excess Profits tax. I do not think that the Government is doing anything wrong financially or economically. But my Bombay friends seem to think otherwise. However, I do sincerely hope that when this Bill is published as an Act, and when the proceedings of to-day's meeting are made generally known, all this panic and alarm, needlessly and ingeniously raised by gamblers and speculators on the stock exchanges, will be greatly allayed. The only thing I should like to suggest is this: that the rules and regulations which are to be framed under the Act by the Finance Minister will be translated into the principal vernaculars of Bombay and Bengal, because a large number of those who will be assessed to the excess profits duty will be, of course, people who do not understand English; and because they do not understand English it will be a profitable business of certain designing persons who trade on popular ignorance and credulity to misrepresent and misinterpret the true meaning of the rules and regulations which the Government will frame. It would be a very good thing were the Government themselves to translate these rules and regulations so that none may question the correctness of the translation, copies of which may be distributed broadcast, and every business firm or other person who has to deal with excess profits tax may be enabled to thoroughly understand them. This will prevent not only needless complaints but all interested agitation. As far as this Bill is concerned, I am also glad to learn that we are to have an Advisory Board. For what was formerly the case? The tax-payers were a body quite apart, while the tax-gatherers were a body also apart. The latter kept the former at arm's length. Well, that procedure is going to be abolished, and the tax-payers and the tax-gatherers are to be brought together, the lion and the lamb will drink water at the same fountain, and of course, in that way there will be a good deal of harmony and peace. That is exactly what is wanted in financial

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matters of this character, where a large amount of money is to be taken from the pockets of people who do not like to pay any taxes excepting those that are needful. Therefore, I think this establishment of an Advisory Board is a very good provision that has been enacted. But I do sincerely hope that this Bill will now be accepted by the general public. Our thanks are due in this case to the Select Committee, and especially to our friends here, Sir Fazulbhoy Currimbhoy, Mr. Hogg and Mr. Ironside. I think also we may as well thank our friends the Secretary and Treasurer of the Bank of Bombay and other gentlemen, whom the Government of India had invited for consultation and advice. I also hope that the bogey of the failure of the loans which Government are going to raise in July or August next will be laid low. There are not wanting those who raise the cry that the needed capital will not be forthcoming, because the excess profits tax will take away all the profits which are partially capital. Such economic nonsense, I hope, will not be circulated. I do not at all apprehend that any large industry will be crippled, and the Finance Minister will be fully able to raise the loans that he wishes during next July or August. With these few words I take my seat."

The Hon'ble Mr. W. A. Ironside:—"My Lord, the question ^{12-16 P.M.} before us has been so fully dealt with by my Hon'ble friends Mr. Hogg, Sir Fazulbhoy Currimbhoy and Sir Dinshaw Wacha that I have no intention to go into the matter at any length. The disappointment to me is the fact that the super-tax has not disappeared from the Statute-book. It is a matter I talked for the past two years and consequently I am not going to talk any more now, besides I know Sir James Meston's views on the matter. I am strongly in favour of Mr. Hogg's proposal in regard to the English firms who pay British income-tax being absolved from paying Indian super-tax. It is a question of fairness, these firms have paid to such an extent in the past that they are to-day less able to meet the future than we are.

"There is just one small point that I would like to bring before the Hon'ble the Finance Minister. Firms paying excess profits duties are allowed to take such payments as a charge on their business when paying income-tax. A few firms will pay super-tax instead of the excess profits duty. Under the Super-tax Act they are not allowed to take this in as a charge on their business. I should like, if possible, some easement be allowed to them, that is to say, the people who pay super-tax on the same lines but in place of excess profits tax should be allowed to take it as a charge on their business.

"Another point is that the machinery of collection, I know, it is totally inadequate, it has been inadequate for years even for the purposes of income-tax, and it must be, and I hope Government will see to it, that the collection of this larger sum of money cannot be undertaken by one or two men on quite inadequate salaries. The fact that the machinery has been inadequate has allowed a great number of people to escape in past years who should, and I daresay would, have been brought to book if it were adequate.

"It has been no pleasure to me to support a Bill which I knew would affect the commercial community so seriously. I have gone into the question very fully and accepted it as the least of other evils, as the best of a bad job, but I take this opportunity of stating that the best has been made of the bad job by our Hon'ble friend the Finance Minister, and with him I should also like to associate Sir George Lowndes as well. In the Select Committee we did our best to press for bargains; probably they thought us rather hard bargainers at times, but at any rate a hard bargainer has that benefit. He appreciates the qualities of the other side. In regard to Sir James Meston and Sir George Lowndes I wish to express myself in these terms."

The Hon'ble Sir James Meston:—"My Lord, I should like to ^{12-20 P.M.} touch very briefly in turn upon each of the speeches that have been made. What I tried to say in my opening remarks in regard to the future treatment of the super-tax will, I think, cover exactly what Mr. Hogg and Mr. Ironside have expressed as being what they desire.

[*Sir James Meston; Sir Dinshaw Wacha; Mr. H. F. Howard.*] [19TH MARCH, 1919.]

"What we do intend to do is to have a complete review and, if possible, re-arrangement of the whole system of our taxation upon incomes as soon as the excess profits duty ceases to be levied. I think that must also be my answer to Mr. Ironside's suggestions for what may be called an *ad interim* adjustment as between the present super-tax and income-tax in the case of concerns which are not going to pay this excess profits duty. I am afraid also it must be the only answer that I can give at the moment to Mr. Hogg's very natural appeal that Government should bind itself not to re-enact this Bill next year. Frankly it is quite impossible for Government to make a definite promise in a matter of this sort. It would be a very unprecedented, and I venture to say, a very dangerous, proceeding on the part of Government to commit itself as to the future of its taxation programme. Most of us have in mind the classic instance of Mr. Gladstone's expressed hopes in regard to the income-tax when it was first put into the English Statute-book. There is the position for Hon'ble Members to judge for themselves. We have made the Bill a one-year Bill, and we do hope next year to put the whole of our levy upon incomes on a more equitable, more consistent, more logical basis than the form that these levies assume at present.

"Then, my Lord, in reference to what fell from Mr. Hogg, I said before, and I gladly repeat it, that our assessing authorities and our Boards of Referees will be given instructions, definite instructions, to work, so far as is consistent with Indian conditions in accord with the law and the subsidiary rules under which the excess profits duty is now assessed and levied in the United Kingdom.

"I have to thank the Hon'ble Sir Fazulbhoj Currimbhoj for his friendly remarks on a subject on which I know he feels rather strongly. And our gratitude is due to Sir Dinshaw Wacha for the blessing that he has conferred upon the Bill

The Hon'ble Sir Dinshaw Wacha :—"The Newspapers will curse me."

The Hon'ble Sir James Meston :—"He never came to curse, he came to bless; and a blessing of that sort comes with very special weight from a veteran authority like him. I thank him also for his good wishes for the future loan. I wish to assure him also that the rules made under the Bill will be translated into the vernacular when published in the provincial gazettes of Bombay and Bengal.

"I was very glad indeed to hear what the Hon'ble Mr. Ironside said in regard to our colleague the Law Member. I had intended in my opening remarks to say, and stupidly omitted it, that any obligations that Hon'ble Members feel or have expressed for the treatment of this measure in Select Committee are almost entirely due to the Hon'ble the Law Member for his handling of this very complicated measure."

The motion was put and agreed to.

12-25 P.M.

The Hon'ble Mr. H. F. Howard :—"My Lord, I beg to move that in clause 2 after the definition of 'business' the following definition be inserted, namely :—

"Chief Revenue-authority' means the Board of Revenue or the Financial Commissioner in provinces where those authorities exist, and in any other case such authority as the Local Government may declare to be the Chief Revenue-authority for the purposes of this Act."

"This definition, my Lord, merely repeats the definition of 'Chief Revenue-authority' which appears in the Income-tax Act. We may possibly be asked why this repetition is necessary in view of the further provision in the Bill that 'all expressions used or embodied by reference in this Act which are not hereinbefore defined, shall have the same meaning as is attributed to them by the

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Indian Income-tax Act'. The position is briefly that unless this definition is separately inserted in our Bill, the words 'Chief Revenue-authority' would necessarily have the same meaning as they have in the Income-tax Act. This might not always be quite convenient in every case. It would be quite suitable in provinces in which there is a Board of Revenue or a Financial Commissioner, but in cases where these authorities do not exist, it may occasionally happen that the Local Government in the Revenue Department is the Chief Revenue-authority for purposes of the Income-tax Act. Now that arrangement is very suitable under the Income-tax Act, where the functions of the Chief Revenue-authority are mainly revisional, but the same would not necessarily be the case under this Bill, where the Chief Revenue-authority has much more personal functions, and it is in order to enable the Local Government to have some latitude in appointing the Chief Revenue-authority that we ask the Council to accept this small amendment."

The motion was put and agreed to.

The Hon'ble Rai Sita Nath Ray Bahadur :—" My Lord, before moving my amendment, I beg most respectfully to thank the Hon'ble Sir James Meston for the numerous changes that he was good enough to make in the Bill in the Select Committee. But though several important changes have been made, the main features of the Bill have not been touched at all, I may as well remark here that originally it was understood, when the subject was mooted at the Delhi Conference last year that the excess profits tax would be imposed only on those who had made excess profits from the war. However, that principle has now been pushed aside and the net has been cast so that every fly may be caught in it. 12-29 P.M.

" From the amendment which the Hon'ble Mr. Hogg is going to move and from what I heard in the Select Committee, it is evident that it is anticipated that a much larger sum will be realised than the £6 million or 11 crores of rupees. I understand—of course I have no authority for saying so—that a very large sum, three-fourths of the amount required to be raised from the excess profits tax, will be realised from Calcutta alone. It is therefore possible that a much larger sum than £6 millions will be raised. In that case there might be a necessity to give effect to the amendment to be moved by the Hon'ble Mr. Hogg, but that would be a very irksome, troublesome way of doing the thing. Instead of that, the Government have got the machinery, they have got the returns filed by different firms and individuals, from that they can now easily ascertain whether R6 crores or R11 crores, or R12 crores would be realised. Therefore instead of levying the tax at the rate of 50 per cent., my amendment is that it might be levied at the rate of 33 per cent.

" But I would like to move another amendment, namely, that instead of fixing any definite amount now, it might be left to the discretion of the Government of India or the Governor General in Council to fix the rate at which the tax should be levied after ascertaining from the Collectors the amount that may be realised. The tax would be mostly realised from Bombay and Calcutta, and it would be very easy to ascertain from the Collectors of those two places what amount would be realisable from the Excess Profits Duty. Therefore, I would like that it might be left to the discretion of the Governor General in Council to fix by notification the rate of the amount to be realised from the different firms, mills or parties affected. I would like either to move that, instead of 50 per cent., 33 per cent. should be substituted, or else that the rate at which the duty is to be levied might be left to the discretion of the Governor General in Council who would be entitled by a notification to fix it

His Excellency the President :—" The Hon'ble Member must make up his own mind as to which alternative he is going to put before this Council."

[*Rai Sita Nath Ray Bahadur* ; *The President* ; [19TH MARCH, 1919.]
Sir Dinshaw Wacha ; *Sir Gangadhar Chitnavis* .]

The Hon'ble Rai Sita Nath Ray Bahadur :—" I would like 33 per cent., but if that is considered low, I would beg to suggest as an alternative proposal that it might be left to the discretion of the Governor General in Council to fix by notification the rate at which the duty is to be levied. In that case the Governor General in Council would be entitled, according to his requirements, to fix the rate either at 33 per cent. or 40 per cent. or 45 per cent. or even 50 per cent.

His Excellency the President :—" I must really ask the Hon'ble Member to move the amendment which he has got on the paper ; I really cannot put an alternative amendment to this Council. He must have one or the other."

The Hon'ble Rai Sita Nath Ray Bahadur :—" Very good, my Lord. I move that in Clause 4, for the words ' fifty per cent.' the words ' thirty-three per cent.' be substituted. That is my first amendment

His Excellency the President :—" You have got two portions."

The Hon'ble Rai Sita Nath Ray Bahadur :—" And for the words ' thirty thousand ' in the proviso ' fifty thousand ' be substituted. These are the two amendments that I beg leave to move

The Hon'ble Sir Dinshaw Wacha :—" I rise to a point of order. I should like to know whether, if one amendment is moved and lost, the Hon'ble Rai Sitanath Ray Bahadur will be allowed to put a second amendment as an alternative."

The Hon'ble Rai Sita Nath Ray Bahadur :—" I have given up the alternative although it would have been more convenient to have it. However, I move that instead of the words ' fifty per cent.' the words ' thirty-three per cent.' be substituted, and that the words ' fifty thousand ' be substituted for the words ' thirty thousand ' in clause 4."

12-36 P.M.

The Hon'ble Sir Gangadhar Chitnavis :—" My Lord, I beg to support the amendment.

" While I am in complete agreement with the generally expressed opinion of the country, both official and non-official, that such taxation is unjustifiable after the war, I find that the amendments made by the Select Committee and the one proposed by the Hon'ble Rai Sitanath Ray Bahadur are likely to bring some relief to the people who will be affected by this measure. Both the Hon'ble Rai Sitanath Ray Bahadur and myself suggested to the Select Committee these changes, but I am sorry to say they were not accepted by the majority in the Select Committee. I therefore again associate myself with him in the motion he now brings forward in the Council this morning, as I think this would be a more convenient method of keeping industries in an industrially backward country like India, and especially because men with smaller profits will be able to invest more money in small industries. Capital, my Lord, has always been shy in this country, and I am sure this measure is likely to make it more so, especially at a time when India will have to compete with countries of an advanced type in the matter of industrial development. Capital which has to be conserved for this purpose is likely to be dissipated. There is also some danger that instead of giving any impetus to nascent industries, it may perhaps create distrust among the more nervous and encourage the declining habit of hoarding which both Government and the people who wish the prosperity and the advancement of this country so much deplore. My Lord, India is at the present moment pre-eminently in need of encouragement in the matter of small industries than it was ever before, and it is to be regretted that

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[*Sir Gangadhar Chitnavis; Maharaja Sir Manindra Chandra Nandi.*]

at a time when she is in a position to do so and to make some advance in that direction, at that very time she should be even to some small extent handicapped by a measure like this. There are already signs of coming troubles in the industrial and economic life of the country. The high prices that are now ruling all over the country and the denial they bring to the people not only of comforts but even of the bare necessities of life more than ever necessitate the urgency of opening of new and extensive spheres for the employment of our rapidly increasing population, and that also of a more remunerative character by making it possible for capital to thrive and prosper, and thus enable labour to largely share in those profits. Reference has been made in the Finance Member's speech to the fact that the law in England on this subject is much more drastic than the measure now contemplated. My Lord, it is true England may have had to pay much heavier taxation than India in connection with this war. My Lord, it is also true that the necessities of the State have to be duly and primarily considered, and, that being so, it behoves people both there and here ungrudgingly to bear the burdens which the necessities of the situation demand. But, my Lord, there are at the same time many differentiating circumstances between England and India which have to be duly weighed and considered. Fiscal autonomy and all its advantages are here denied to us. It has also to be remembered that what is possible in England is not possible in India, when the average income of individuals and the accumulated experience of centuries in this matter of industrial development in that country are considered. In the second place, it has to be borne in mind that this high rate of taxation at a time like this, even though it may be on profits made in the war, will be like killing the goose that lays the golden eggs. Industries are not so far advanced in this country as they are in England. India is moreover an agricultural country, and all possible efforts are now being made both by Government and the people to improve its industrial condition and to make the country more dependent on industries other than agriculture. It is therefore, as far as this country is concerned, not proper that taxation at such a heavy rate should be placed on industries more especially after the war at a time of reconstruction like this. It would be more desirable if a larger portion of these profits could be employed in the fructification of new industries and the development of old ones, so that Government would be able to take away from these industries much more money in the shape of taxation in the long run than what the present tax will bring. My Lord, such heavy rate especially on small industries will not only give a set-back to the growth and promotion of indigenous industries, but also may have the effect of preventing the importation of foreign capital which is so very necessary at the present moment to find remunerative employment for our vast population in a manner that it should remain and work above want. The development of industries and the country generally will depend upon the start that will be given at the present moment of reconstruction and on the creation of a belief that India is a home for good investment. It is also necessary that the substantial Indian public both in the presidency-towns and the mofussil should acquire the joint stock habit and associate themselves with sound commercial enterprises outside their own narrow ideas to make them useful citizens of the world. What I mean to say is, that a smaller levy, proportioned to the capacity and circumstances of the people affected thereby, coupled with the exemption from this heavy duty of profits below Rs50,000, will have the above desirable effect, and it is because this amendment reserving to Government the power to increase, when essentially necessary if accepted is sure to have that effect, that I beg to give it my cordial support."

The Hon'ble Maharaja Sir Manindra Chandra Nandi:— 12-40 P.M.

"My Lord, while accordng my whole-hearted support to the principle of this Bill—by which I understand that, if the revenue of the State has got to be raised by taxation to meet urgent liabilities, the burden should fall on the shoulders of the well-to-do—I think it is just fair that the incidence of taxation should not be heavy on their shoulders either. A levy of 50 per cent. upon the excess

[*Maharaja Sir Manindra Chandra Nandi*; Sir [19TH MARCH, 1919.]
Fazulbhoj Currimbhoj; Sir *James Meston*.]

profits of a company seems to me rather too heavy, and, in view of the fact that a similar tax has just been remitted in England, I would beg of you, my Lord, to consider the amendment of my friend, Rai Bahadur Sitanath Ray, and allow it to be incorporated in the Bill under discussion. I have also very great pleasure in supporting the second portion of my friend's amendment, which runs to the effect that the amount of this duty shall not exceed such sum as would reduce the profits of any company, in the accounting period, below Rs50,000. This, I am quite sure, my Lord, will keep some little margin in the hands of all companies to face the dark days of struggle and competition which are before them. I have no doubt, my Lord, that, in your attempt to raise revenue, the Government of India do not desire to paralyse existing or nascent industries, which, in many countries of the world, are fed up and supported by State bounties. I hope, my Lord, in view of the above fact and the industrial renaissance to which we are all looking forward with such confidence, the Council will see its way to agree to the reduction in the terms of my friend's amendment."

12-43 P.M.

The Hon'ble Sir Fazulbhoj Currimbhoj :—" My Lord, as far as I understand my friend the Hon'ble Rai Sitanath Ray Bahadur; he is not objecting to giving the required amount—6 million sterling; yet the method he suggests is this, that the percentage should be reduced to 33 per cent; and later on if the amount falls short of the required 6 millions, then the Government should again raise the percentage. My Lord, I think this is a very objectionable method, and it will mislead the commercial public into believing that the tax has been reduced to 33 per cent. I think the better course is to accept the Hon'ble Mr. Hogg's amendment, which is next coming before Council; and therefore, I think, it would be better if my Hon'ble friend Rai Sitanath Ray Bahadur withdrew the first part of his amendment."

12-44 P.M.

The Hon'ble Sir James Meston :—" My Lord, the difficulty about accepting the first amendment moved by the Hon'ble Rai Sitanath Bahadur is frankly that we want £6 million sterling. Our estimates give us £6 million sterling, if we assess at 50 per cent. If we assess at 33 per cent., the tax will give us £4 million sterling, and £4 million sterling is not enough to let us balance our accounts. I quite agree with the Hon'ble Sir Fazulbhoj Currimbhoj that we should be in an extraordinarily difficult and foolish position if we found, in the course of the year, that an assessment of 33 per cent., assuming that we accepted this amount—that an assessment of 33 per cent. gives us very much less than we wished and we have to come again before the Council and ask for an amendment in an upward direction. If the Hon'ble Mover had shown me any way of making good a deficiency of that sort without coming to the Council, one would have gladly looked at the matter in a different light. I must therefore, I am afraid, oppose the first part of his motion; and if it is any solace to him in regard to the alternative which your Excellency did not permit him to put forward, if it is any solace to him, I can assure him that the whole ground which he hoped to traverse will be effectively covered in dealing with the amendment which stands in the name of the Hon'ble Mr. Hogg.

"Coming to the second part of the Hon'ble Member's amendment, I wish to point out, my Lord, that this means in effect raising the exemption in the Schedule from Rs50,000 to Rs100,000, which the Hon'ble Member has not proposed. It is difficult to deal with this isolated proposition without referring to the Schedule. However, the matter is not really of very great importance. In England, there is no minimum figure of this sort. Incidentally I was surprised to hear from the Hon'ble Maharaja of Coosimbazar just now that in England the excess profits duty had been withdrawn. I was not aware of that. I knew it was proposed to some extent to reduce it, but I am not sure that there is any question of immediate withdrawal. In England, there is no minimum figure of the sort which is proposed in this Bill. All the profits in England which exceed the pre-war standard are liable to assessment except £200. Here we

[19TH MARCH, 1919.] [*Sir James Meeson; Rai Sita Nath Ray Bahadur; Mr. Malcolm Hogg.*]

took the arbitrary figure that we did in order to protect the small assessee and to keep small businesses from being harassed by the assessment and levy of this duty. The figure is avowedly an arbitrary one. There is no more virtue in ₹50,000 than in ₹30,000. But a business, I submit, which yields half a lakh of excess profits is, as Indian businesses go, not altogether regarded in the public mind as a petty concern which the tax-collector ought to neglect. If we had taken ₹50,000 as our figure, I expect the Hon'ble Member would have asked us to make it ₹75,000. However, the Hon'ble Member has not convinced me that there is any great hardship involved in inserting the figure we have proposed; and I am afraid that I must oppose the second part of his amendment also."

The Hon'ble Rai Sita Nath Ray Bahadur:—"My Lord, I made this suggestion for the reduction of the duty to 33 per cent. solely in the belief that a much larger amount would be realised than the amount required; but if the Hon'ble the Finance Member is sure that such a sum cannot be raised by fixing the rate at 33 per cent., then I do not wish to press it or to press the other part of my amendment, which requires that the profits should not be less than ₹50,000. Here again I had hoped that the amount realisable by this means would be much greater than the amount required by the Government. It was in that belief that I ventured to put forward this amendment; but if the Hon'ble Member's impression is that the effect of my amendment would be to reduce the amount which this Bill is introduced to bring in, then I would be the last person in the world to press it." 12-48 P.M.

The motion was put and negatived.

The Hon'ble Mr. Ayyangar's amendment that in clause 4 for the words 'fifty per cent.' the words 'thirty-five per cent.' be substituted was by leave withdrawn.

The Hon'ble Mr. Malcolm Hogg:—"My Lord, I beg to move that after the proviso to clause 4 the following further proviso be inserted:— 12-50 P.M.

'Provided further that if the total amount of duty charged, levied and paid under the provisions of this Act exceeds the sum of eleven crores of rupees, there shall be refunded to each person who has paid excess profits duty a sum which shall bear as nearly as may be the same proportion to the excess over eleven crores as the duty paid by the said person bears to the total amount of duty paid under the provisions of this Act.'

"The purpose of this amendment, my Lord, is, I think, perfectly plain and requires very little explanation. Undoubtedly, the provision which I suggest is an unusual one; but so is the tax. The tax is an unusual one levied under special circumstances, levied to meet certain special war expenditure and for that purpose only. Therefore I do not think that the fact that the proposal for refund is unusual is necessarily an argument which need rule that proposal out. The reply which the Hon'ble the Finance Member gave to the amendment moved just now by my friend the Hon'ble Rai Sita Nath Ray Bahadur has given me great hopes that he intends to accept my amendment, because my amendment is designed to meet the very difficulty which prevented the Hon'ble the Finance Member from accepting my Hon'ble friend's amendment. In fact, my Lord, I go further and I claim that the Hon'ble the Finance Member is really the father of my amendment far more than I am myself. I would refer to his speech on the introduction of this Bill. He said 'Another, and really the only other, suggestion of any value was that while standing by our proposals, we should be content with a smaller share of the current year's profits, say one-third instead of one-half. I can assure the Council that this proposal was very carefully examined, and that at one time we had hopes of being able to accept it, but since that time there has come upon us a large additional liability for the maintenance of our Army, which will add over £2 millions, probably £2½ millions, to next year's expenditure. A third of

[*Mr. Malcolm Hogg ; Mr. Srinivasa Sastri.*] [19TH MARCH, 1919.]

the assessable profits, if Hon'ble Members followed the brief calculation I tried to place before them a few minutes ago, would have given us £4 millions and that would not have been enough with a gap of very nearly £6 millions to fill; and I am afraid we have been driven by force of circumstances to fall back upon the full 50 per cent. Well, my Lord, that amounts to this, that the Hon'ble the Finance Member would have been very glad to have reduced the percentage from 50 per cent. if his estimates had enabled him to do so. And it, therefore, comes to a question of whether those estimates are correct or not. It is very generally thought, as far as I can ascertain, in commercial circles that the estimates are very much on the conservative side. I have received estimates from gentlemen of considerable position and commercial experience in Bombay giving estimates which are practically double those of the Finance Member. But the difficulty about the matter, my Lord, is that it is just as difficult for non-officials to prove the accuracy of their estimates as it is for the Hon'ble the Finance Member to prove the accuracy of his, and it is obvious that in a matter of this sort, a new tax with no experience to go upon, the estimates must be very largely a matter of guess work and may possibly be very considerably out. I, therefore, propose, in order to get over the difficulty which is felt by the Hon'ble the Finance Member, namely, that the estimates do not justify any reduction in the percentage, that if his estimates prove to be wrong, and if the yield of the tax is in excess of the amount which he desires to get, there should then be a proportionate refund to those people who have paid the tax. It seems to me a perfectly logical and simple way out of the difficulty.

"There is just one other point which requires explanation, and that is, why I have taken the figure of 11 crores. In the calculation which the Hon'ble the Finance Member gave us when introducing the Excess Profits Bill, he calculated that the profits assessable would be 22½ crores out of which Government would get 50 per cent., i.e., 11½ crores; he then proceeded to show that in order to get 6 millions (taking the exchange at 1s. 4d.) according to his calculation he required 7½ million gross yield to get 6 millions net. My Lord, I think that the Hon'ble the Finance Member's calculations are open to a little criticism. For instance, the Hon'ble Member reckons that he will lose about a million by super-tax. I do not know exactly how that is worked out; but it appears to me to be worked out on the assumption that practically the whole yield of the excess profits duty would have to pay super-tax, most of it at the maximum rate of 3 annas, if it was not paid in excess profits duty. That assumption I believe to be a fallacy. I believe a great proportion of this excess profits duty will come from public companies. We know that in one of the largest industries in the country, the jute industry, most of the companies in the recent times of prosperity have already put very large amounts to their various reserve and depreciation funds, and that if they did not have to pay excess profits duty this year, they would probably not put any substantial portion of that money to reserve, but would distribute the greater part of it in dividends. Naturally, therefore, a great deal of the money which will be paid in excess profits duty would, if it were not so paid, be distributed and therefore not liable to super-tax. I think therefore that the Hon'ble the Finance Member is taking rather a high figure in estimating one million. So that I think I may reasonably knock off that extra ½ crore which he says he requires.

"There is just one other point, and it is about the exchange which is taken at 1s. 4d. If any part of the expenditure to be met out of this excess profits is in sterling payments, there is a considerable gain up the sleeve, the capacious sleeve, of the Hon'ble the Finance Member. It is impossible for me to say how much of that expenditure is in sterling and how much of it in rupees. Therefore, I leave to the Finance Member the 1s. 4d. exchange; it merely strengthens my case that 11 crores is sufficient."

12-58 P.M. **The Hon'ble Mr. Srinivasa Sastri:**—"My Lord, I will ask for a little enlightenment on a question of principle. Does not the Hon'ble Mr. Hogg's amendment really amount to a measure for remission of taxation? If it is a measure for the remission of taxation, it appears to me it is very

[19TH MARCH, 1919.] [Mr. Srinivasa Sastri; Mr. W. A. Ironside;
Sir Fazulbhoj Currimbhoj; Sir Dinshaw
Wacha; Sir James Meston.]

unusual to make it part of a taxation measure. Suppose instead of this duty yielding more than 6 millions, suppose instead of that it happened that some one of our other taxes did not yield the amount that was expected of it and there was a general deficit, is it not a proper thing that the excess this taxation yields should be made to make up for that deficit? Is every piece of taxation to be considered responsible for so much of our revenue and the moment it yields more should there be a remission of taxation under that particular head? I have always understood that when taxes yielded much more than was expected of them, it was treated as a general surplus or excess, and the various interests of the country would be considered together as to which it was in whose case the necessity of remission was most urgent. I suppose the amount of 6 millions has been fixed somewhat arbitrarily. If we have anything more we could spread it over others; and I am not sure that if we came to consider at this time, when every part of India is hard pressed by one kind of difficulty or other of a financial nature, I am not sure if we came to consider the matter if we had a little more money to spare whether it would be the commercial community that would be most entitled to a remission of taxation. I want to know if this is or is not a measure for remission of taxation brought in under cover of an amendment."

The Hon'ble Mr. W. A. Ironside:—"My Lord, I have very little to say in support of the amendment moved by my friend Mr. Hogg who has stated the case fully and concisely. As to the point which has been made by the Hon'ble the Finance Member on the question of refund, the Hon'ble Member still has power to reduce the percentage of taxation, if it be not constitutional to make a refund. I think the only reply to the Hon'ble Mr. Sastri's point is that the tax is a special one, it was imposed for a definite and special purpose and has required special provisions for its enactment. Consequently I think that the people who pay the tax whether they be the commercial community or anybody else, should be protected from paying more than is absolutely necessary." 1 P.M.

The Hon'ble Sir Fazulbhoj Currimbhoj:—"My Lord, I beg to support the amendment moved by the Hon'ble Mr. Hogg. It is a very fair suggestion and I hope the Hon'ble the Finance Member will accept it. As regards the Hon'ble Mr. Sastri's difficulties that the Government cannot remit the taxes, and that the extra money they get must be spent in other ways. When the Resolution for £45 millions was accepted by the Council it was on an assurance that the extra money raised on account of this Resolution will be for the army and for pensions and for war purposes. I think therefore that it is not right that the commercial community should be over-taxed. I hope that the Hon'ble the Finance Member if he cannot remit taxation will reduce the percentage." 1-1 P.M.

The Hon'ble Sir Dinshaw Wacha:—"But supposing that the Hon'ble the Finance Member does not get his £6 millions, then what is to happen? If he only gets £4 millions? That is a dilemma which will have to be faced. I think the conservative estimate of the Hon'ble Sir James Meston may be accepted, and even supposing there is a remission of taxation this is a particular kind of taxation, which will need to be remitted under a certain contingency. It is not general taxation." 1-3 P.M.

The Hon'ble Sir James Meston:—"As the Hon'ble Sir Dinshaw Wacha has truly said, this raises the whole question of the accuracy of the estimates prepared by the Finance Department. If our critics are wrong and we accepted their proposals we should be left in 'Queer Street'. The Hon'ble Rai Sitanath Ray asked us for an assurance that we required the 50 per cent. in order to get £6 millions. The Finance Department does not profess to be a prophet. The budget is only a forecast, it is not a prophecy. The fact is that we do make the very best estimates that we can on the very uncertain factors that are 1-4 P.M.

[*Sir James Meston; Mr. Malcolm Hogg; The President.*] [19th MARCH, 1919.]

before us. I do not wish to explain in detail how we arrived at those estimates, it would be rather embarrassing and it might even be invidious and undesirable for the particular trades interested. But this I may say that we got through the courtesy of the Bengal Chamber of Commerce a statement of profits for the past year in the jute industry. We have been told that it is the jute industry that is going to bear the lion's share of taxation. I doubt whether the aggregate estimates are seriously wrong. Then take the case of cotton; there we have certainly not taken a high figure, but every allowance had to be made for the recent labour troubles and the slump in the price of cotton materials. Mr. Hogg has told us that from Bombay he has received advices which would double our estimates. I may say in confidence that the original Bombay estimates were doubled by ourselves. If this continues and we double the figure again, it will become a regular game of poker. The fact is that many elements in the forecast are uncertain; for jute we had actuals; for other trades, including cotton, we took a fair hypothetical figure; but we neglected no source of information that was available. On the whole I prefer at present to stand by our original estimates of 22 crores as being the aggregate on which we shall assess the Government share. Mr. Hogg has explained why 11 crores, the half of this figure, is equivalent to £6 millions for our present purposes. I shall not follow him over the criticisms to which he has exposed that estimate. I could have satisfied him if time had allowed, but I may incidentally say that the exchange gain which accrues on our ordinary transactions in England will not accrue in regard to the amounts to be devoted entirely to the payment of Indian troops. Mr. Hogg's proposal comes to this that, if we are in earnest in our desire to get only £6 millions net, we ought to demonstrate the sincerity of our intentions by agreeing to refund anything in excess of that sum which our actual assessments may bring in. The Hon'ble Mr. Sastri has said that this would be a very unusual expedient in taxation procedure and I agree. When one looks to the future as well as to the present it might create a very embarrassing precedent. I fear that it is impossible for Government to accept the amendment in the form in which it stands. We are however in earnest in our desire not to take more than £6 millions net and not to employ the proceeds of this tax for any purposes except the redemption of the obligation which we undertook last September. I must ask the Council to be content with this assurance and with the further undertaking that, if Mr. Hogg is right and we are wrong, we shall consider the whole position again later in the year when the actual assessments are known, and we shall see whether it is possible to bring the position into accord with our present intentions. The collection of the instalments of duty will be regulated with a view to making such review of the situation capable of being effective. I am afraid I cannot say more than that. I must oppose the motion."

1-8 P.M.

The Hon'ble Mr. Malcolm Hogg :—"My Lord, in view of the assurance given by the Hon'ble the Finance Member that though he cannot accept my motion he will attempt to apply the spirit of it, if necessary, later in the year. I beg leave to withdraw my motion."

The motion was by leave withdrawn.

His Excellency the President :—"The next item on the List of Business is an amendment to clause 7 to be moved by the Hon'ble Sir James Meston. As I understand it, that would be consequential on the amendment which is to be moved to clause 11. I think, therefore, that Council will agree that it should be postponed until the amendment to clause 11 has been disposed of. Is not that so?"

The Hon'ble Sir James Meston :—"Yes, my Lord."

1-9 P.M.

The Hon'ble Mr. Malcolm Hogg :—"My Lord, I beg to move that in clause 7 (f) for the words 'any liability' the words 'the liability of any part' be substituted."

[19TH MARCH, 1919.] [Mr. Malcolm Hogg; Sir James Meston; Mr. H. F. Howard.]

"This is a small amendment merely intended to make the intention clearer, but it is perhaps necessary to explain the intention of this clause to the Council. In Schedule I the Bill excepts any business which is likely to pay in respect of the accounting period an excess profits duty in the United Kingdom. It was pointed out in the course of our discussions that there were some businesses which though really on the same footing would not come within the provisions of the exception. I refer to businesses of the nature—but perhaps the easiest way is to give a simple illustration. I believe they are not uncommon. You have a firm of the name of Jones and Co. in London, with three partners and you have a firm of the name of Jones and Co. in Calcutta with the same three partners and perhaps two additional local partners. The greater part of the profits from Calcutta go into the firm in London and there they are assessable to excess profits duty in the United Kingdom although the actual firm in Calcutta is not so assessable. It is to cover such cases that this sub-clause is proposed. I propose to amend it by substituting for the words 'any liability' the words 'the liability of any part.' As it stands it might have been interpreted to mean that a firm could only claim remission under this sub-clause if the whole of its profits were subject to some kind of liability. The intention is that if any part of the profits are liable to English excess profits duty the relief should be claimed. It is to make this intention quite clear that I move the amendment."

The Hon'ble Sir James Meston :—"My Lord, the Government 1-11 P.M.
accepts this amendment."

The motion was put and agreed to.

[At this stage the Council adjourned for Lunch till 2-15 P.M.]

The Hon'ble Mr. H. F. Howard :—"My Lord, Sir James Meston 2-16 P.M.
has asked me, if you have no objection, to move this and one or two other amendments that stand in his name. I beg to move that in sub-clause (1) of clause 9 after the words 'on the application' the words 'made before the 30th June 1919' be inserted. The position is that clause 9, which was inserted by the Select Committee, is intended to cover cases of hardship extending over classes of business. Well, it is obviously desirable that the principles governing the assessment of such classes of businesses should be decided at as early a date as possible, so that they may afterwards be applied to individual cases. Two such classes of business, as Sir James Meston explained, would be the cases of new companies and of controlled companies. We have mentioned the 30th of June in order to give people plenty of time, but of course we shall be only too glad if those interested will send in their applications at an earlier date, if possible."

The motion was put and agreed to.

The Hon'ble Mr. H. F. Howard :—"My Lord, I beg to move that clause 11 be re-numbered as sub-clause (1) of clause 11; and that to sub-clause (1) of clause 11 as re-numbered, the following sub-clauses be added, namely :—

(2) At the time of furnishing such particulars such person shall—

(a) state the method which he desires to be adopted for the purpose of—

(i) ascertaining the profits of the business in the accounting period under section 5, and

(ii) determining the standard profits under section 6, and

(b) make any application which he desires to make under section 7 for an allowance in the calculation of the amount of the excess profits duty.

(3) Where any person fails, without reasonable cause or excuse, to comply with the provisions of clause (a) of sub-section (2), the Collector shall proceed to ascertain the profits of the accounting period and to determine the standard profits by such method, provided in this Act, as he thinks fit."

[*Mr. H. F. Howard; Mr. Malcolm Hogg; Sir James Meston; Mr. K. V. Rangaswamy Ayyangar; Sir George Lowndes.*] [19TH MARCH, 1919.]

“This amendment also is mainly consequential on the amendments introduced in Select Committee. We have given new options both as regards the accounting period and as regards the method by which standard profits should be determined. We have, therefore, thought it reasonable to ask the Council to add a clause requiring the assessee to put in, with his return, his claim to exercise any of the options which we have now given. That is to say we desire that he shall ordinarily put in any claim of the kind when he furnishes his income-tax returns with the further particulars which the Collector may ask for. The assessee should by that time be in a position to know which of these options suits him best.”

The motion was put and agreed to.

The Hon'ble Mr. H. F. Howard:—“My Lord, I move that in clause 7 after the words ‘on the application’ the words ‘(made in accordance with the provisions of clause (b) of sub-section (2) of section 11)’ be inserted. This amendment is merely consequential on the amendment to clause 11, to which the Council has just agreed, and I do not think any further explanation is required.”

The motion was put and agreed to.

2-22 P.M. **The Hon'ble Mr. Malcolm Hogg:**—“My Lord, I beg to move that in clause 18 (2) (c), after the word ‘ownership’ the words ‘during any period which can be selected for the purpose of ascertaining standard profits, or during any subsequent period prior to the commencement of this Act’ be inserted.

This amendment is merely intended, my Lord, to make the intention clearer. Clause 18 is a rule-making power and rules will be required to govern not only cases where there has been a change of ownership during the accounting period, but also cases where there has been a change of ownership during any period subsequent to the earliest date which can be taken for the standard period. As the clause stands at present, I think it might be limited by inference by clause 14, because clause 14 is the only other place in the Bill where a change of ownership is mentioned; and that clause, dealing only with the person liable to be assessed refers to change of ownership only during the accounting period. I think, therefore, to make the intention of clause 18 quite plain, these words should be added so that there will be no danger of misunderstanding.”

2-23 P.M. **The Hon'ble Sir James Meston:**—“My Lord, there is no objection on the part of Government to accepting this amendment.”

The motion was put and agreed to.

The Hon'ble Mr. K. V. Rangaswamy Ayyangar:—“My Lord, I beg to withdraw my amendment that in Schedule I, after item 5, the following item be added:—

‘6. Any business the income of which is derived from banking or money-lending’.

The amendment was by leave withdrawn.

2-24 P.M. **The Hon'ble Sir George Lowndes:**—“My Lord, I only desire to call the attention of the Council to certain drafting alterations that have been made in the Bill. They are all of a small character, and, if Hon'ble Members will follow me, I will read them out.

‘Clause 6.—In sub-section (2) for the words ‘sub-section (1) (b)’ the words ‘clause (b) of sub-section (1)’ have been substituted. In the proviso to the same clause for the word ‘ascertaining’ the word ‘determining’ has been substituted,

EXCESS PROFITS DUTY BILL; PUNJAB COURTS (SUPPLEMENTING) BILL. 1259

[19TH MARCH, 1919.] [Sir George Lowndes; Sir James Meston; Mr. Malcolm Hogg; Sir George Lowndes; Khan Bahadur Mian Muhammad Shafi.]

“*Clause 8* :—(a) In sub-section (1) for the word ‘their’ the word ‘its’ has been substituted.

“(b) In sub-section (5) for the word ‘them’ the word ‘it’ has been substituted.

“*Clause 9* :—In sub-section (1) after the words ‘excess profits’ the word ‘duty’ has been inserted.

“*Clause 13* :—For the word ‘time’ the word ‘times’ has been substituted.

“*Clause 15* :—After the words ‘instead of’ in line 9 the word ‘to’ has been inserted.

“*Clause 18* :—In clause (a) of sub-section (2) for the words ‘section 6 (1) (a)’ the words ‘clause (a) of sub-section (1) of section 6’ have been substituted.

“*Clause 20* :—Before the words ‘Income-tax Act, 1918’ the word ‘Indian’ has been inserted.”

The marginal notes to clauses 8, 10, 15 and 20 have been slightly altered.”

The Hon'ble Sir James Meston :—“My Lord, I beg to move 2-25 P.M. that the Bill, as amended, be passed.”

The Hon'ble Mr. Malcolm Hogg :—“My Lord, before this Bill is finally passed, I should like to take this opportunity of associating myself with what was said by the Hon'ble Mr. Ironside about the patience which the Hon'ble Member for Finance and the Hon'ble the Law Member have displayed in dealing with our various contentions and amendments in the proceedings of the Select Committee, and the very fair and reasonable spirit in which they met us.”

The motion was put and agreed to.

PUNJAB COURTS (SUPPLEMENTING) BILL.

The Hon'ble Sir George Lowndes :—“My Lord, I have great pleasure in moving for leave to introduce a Bill to supplement the Punjab Courts Act, 1918. 2-26 P.M.

“Coming events cast their shadows before them and I hope that the Chief Court of the Punjab will be replaced by a High Court very shortly. The necessary local legislation has been very recently undertaken by the Punjab Council to provide for the change, but it is necessary for this Council also to legislate to confer jurisdiction on the new High Court to deal with cases pending in the Chief Court. Sub-clause (2) of clause 1 provides that the legislation passed shall only come into force on such date as may be notified, and the intention is to notify it as soon as the High Court is formally constituted.

“I should like to add that I have seen this morning an unauthenticated copy of a memorial which purports to have been submitted to His Excellency the Viceroy, asking that certain provisions for a Circuit Court at Delhi should be inserted in this Bill. In the circumstances it has been, of course, obviously impossible to undertake anything of the kind.

“I am sure that all the Members of this Council will join me in congratulating our friends in the Punjab upon the very near realisation of such an important step in their civic history.”

The Hon'ble Khan Bahadur Mian Muhammad Shafi :— 2-28 P.M.
“My Lord, while offering my cordial support to the motion now before the Council, I desire to voice the deep sense of satisfaction with which the people of my province have received the announcement that, at last, their Chief Court is about to be raised to the status of a High Court—a belated reform which has been long overdue—and to express, on their behalf, the hope that in future the

[*Khan Bahadur Mian Muhammad Shafi*; *Sir George Lowndes*; *The President*.] [19TH MARCH, 1919.]

Punjab will, in matters of constitutional and administrative reforms, be treated equally with the other provinces of India."

The motion was put and agreed to.

2-29 P.M.

The Hon'ble Sir George Lowndes :—"My Lord, I beg to introduce the Bill, and to move your Excellency to suspend the Rules of Business to admit of the Bill being taken into consideration."

His Excellency the President :—"I suspend the Rules of Business."

The Hon'ble Sir George Lowndes :—"My Lord, I move that the Bill be taken into consideration."

The motion was put and agreed to.

The Hon'ble Sir George Lowndes :—"My Lord, I beg to move that the Bill be passed."

The motion was put and agreed to.

The Council then adjourned to Friday, the 21st instant, at 11 o'clock.

H. M. SMITH,

*Offg. Secretary to the Government of India,
Legislative Department.*

DELHI;

Dated the 3rd April, 1919. }