

Thursday, 26th January, 1939

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THE
COUNCIL OF STATE DEBATES

VOLUME I, 1939

(23rd January to 18th April, 1939)

FIFTH SESSION

OF THE

FOURTH COUNCIL OF STATE, 1939

~~Unrecorded Fumigated~~ 18-12-73



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

1939.

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COUNCIL OF STATE.

Thursday, 26th January, 1939.

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

QUESTIONS AND ANSWERS.

RACIAL DISCRIMINATION AT KARACHI AIR PORT.

24. THE HONOURABLE MR. B. N. BIYANI: Will Government state :

(a) Whether some sort of racial discrimination exists at the Karachi Air Port and whether the restaurant situated in the New Administrative Building is not open to Indians ?

(b) Whether a high Indian officer was not admitted in the same restaurant ?

(c) If so, have Government asked the Air Port Officer to enquire into the matter ? If so, with what result ?

THE HONOURABLE MR. S. N. ROY: (a) and (b). No.

(c) Does not arise.

ATTITUDE OF PROVINCIAL GOVERNMENTS TOWARDS THE CONSTRUCTION OF RAILWAYS.

25. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Will Government state whether any representation has been made by any Provincial Government against the construction of any railway on the ground that it will enter into competition with road traffic which is a provincial subject ? If so, by whom and against which railway project and what is the attitude of Government in such a matter ?

THE HONOURABLE SIR GUTHRIE RUSSELL: No such cases are traceable in our records.

ISHURDI-PABNA RAILWAY PROJECT.

26. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Will Government state :

(a) What traffic surveys, if any, have been made with regard to the construction of the Ishurdi-Pabna Railway since 1925-26, and by whom, when and with what results ?

(b) Whether their attention has been drawn to the Notes on the Ishurdi-Pabna-Sadhuganj Railway project prepared by Babu Ashutosh Lahiri, retired District Engineer, Rungpur, stating that the line can be constructed at a cost of Rs. 40 lakhs ? If so, do Government propose to reconsider the matter ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) No traffic surveys as such have been carried out since 1925-26, but the following re-examinations of previous survey results were carried out by the Railway Administration in the years mentioned :—

- (i) a revision of the cost and the traffic prospects of the project, in 1928, and
- (ii) an estimate of the working expenses of the project, including depreciation, in 1930.

It was partly as a result of these that the project had to be given up as unremunerative.

(b) Yes. The matter is under examination.

RAILWAY CONNECTION BETWEEN INDIA AND BURMA.

27. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether they contemplate joining the railway system of India with that of Burma ? If so, by what route and when ?

THE HONOURABLE SIR GUTHRIE RUSSELL : There is no such proposal before Government at present.

RIVER HOOGHLY.

28. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : (a) What is the cost annually for the last ten years of maintaining the river Hooghly up to Calcutta in a navigable condition for sea-going vessels ?

(b) What is the cost annually for the last ten years of constructing and maintaining the steamer route to Calcutta from East Bengal ?

(c) Whether Chandpur, Barisal or any other place on the main flow of the Ganges is navigable for sea-going vessels ?

THE HONOURABLE MR. S. N. ROY : The information is being collected and will be laid on the table in due course.

REPRESENTATION BY THE INDIAN CHAMBER OF COMMERCE, BOMBAY, AGAINST THE EXCHANGE RATIO.

29. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether any representation and, if so, to what effect, has been made to Government by the Indian Chamber of Commerce at Bombay with regard to the exchange ratio ?

THE HONOURABLE MR. J. F. SHEEHY : No doubt the Honourable Member has seen the representation made to His Excellency the Governor General on the 23rd instant and also His Excellency's reply.

REPORT ON SERICULTURE BY THE TARIFF BOARD.

30. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether the Tariff Board has submitted their Report on Sericulture ? If so, when will it be published and what steps, if any, do Government propose to take on it.

THE HONOURABLE MR. N. R. PILLAI : The Tariff Board have submitted their Report. No decision as to the action to be taken on the Report has yet been reached by Government.

IMPROVEMENT OF COTTON CULTIVATION IN BENGAL.

31. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether their attention has been drawn to the measures adopted by the Bengal Government in conjunction with the cotton industry in Bengal for the improvement of cotton cultivation in Bengal. If so, what help, if any, do the Central Cotton Committee propose to render to such measures ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Yes. The Central Cotton Committee is awaiting revised proposals from the Director of Agriculture, Bengal, who intimated in November last that he wished to obtain the results of the current year's experiments before the matter was considered again.

ASIATIC PENETRATION OF EUROPEAN AREAS IN THE TRANSVAAL.

32. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether their attention has been drawn to the agitation, if any, that has recently been started against Asiatics taking up living quarters in European localities in the Transvaal. If so, what steps do they propose to take in the matter ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The question of alleged Asiatic penetration of European areas has been canvassed in the Transvaal. The Agent General for India in the Union of South Africa is already in communication with the Minister of the Union Government concerned on the subject.

NATIONAL PLANNING COMMITTEE.

33. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state what co-operation, if any, do the Central Government propose to render to the Industrial Planning Committee set up by the Provincial Governments and some of the Indian States under the auspices of the Indian National Congress ?

THE HONOURABLE MR. N. R. PILLAI : The Government of India have not been approached in the matter. I would in this connection remind the Honourable Member that the development of industries is primarily the concern of the Provincial Governments.

INDO-BRITISH TRADE NEGOTIATIONS.

34. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state when a trade agreement between Great Britain and India will be made and whether its terms will be placed before the Indian Legislature before being finally ratified by Government.

THE HONOURABLE MR. N. R. PILLAI : Government are not in a position to say whether, and if so when, a new Trade Agreement between India and the United Kingdom is likely to be concluded. In the event of any agreement being arrived at between the Government of India and His Majesty's Government for a new trade agreement to replace the Ottawa Trade Agreement, the new agreement will not be given effect before it has been placed before the Legislature for its opinion.

NUMBER OF RADIO STATIONS.

35. **THE HONOURABLE MR. B. N. BIYANI :** (a) Will Government state the number of radio stations in India ?

(b) Under what conditions do Government open a radio station in any part of the country ?

(c) Do Government propose to open one in the Central Provinces and Berar ? If not, why not ?

THE HONOURABLE MR. S. N. ROY : (a) There are twelve transmitters at seven stations at present. Two other stations are under construction.

(b) The location of these stations was decided upon in connection with Government's Broadcasting programme with reference to linguistic factors, density of population, and possibility of providing programmes, the object being to provide as good a service as can be given within the resources available to the greatest number of people.

(c) Not at present. It is not possible, within the funds available for broadcasting, to open a station in the Central Provinces and Berar. I may mention that the province receives a satisfactory service from the Delhi, Bombay, Calcutta and Madras short-wave stations.

DEVELOPMENT OF THIRD CLASS TRAFFIC ON RAILWAYS.

36. **THE HONOURABLE MR. B. N. BIYANI :** Will Government state :

(a) Whether they are contemplating the development of third class railway traffic ? If so, what measures do Government propose to adopt for its development ?

(b) Whether Government propose to provide any extra facilities to the third class passengers ? If so, what ?

THE HONOURABLE SIE GUTHRIE RUSSELL : (a) Railway Administrations have always under their consideration the possibilities of developing third class railway traffic. In reply to the second portion of this question, Railways continue steadily and systematically to pursue a policy of effecting improvements making for the comfort and convenience of third class passengers with a view to developing this traffic. The number of passengers originating on all Indian railways, excluding Burma, has increased from 483 millions in 1935-36 to 489 millions in 1936-37 and to 521 millions in 1937-38.

(b) Extra facilities are always being provided by many methods such as acceleration of train services, opening of additional booking offices and out-agencies, provision of waiting rooms and halls, etc., full details of these will be found in Chapter VII of the Report on Indian Railways for 1936-37, pages 94 to 107.

INDO-BRITISH TRADE NEGOTIATIONS.

37. **THE HONOURABLE MR. B. N. BIYANI :** Will Government state :

(a) Whether they are aware of the reply given by Mr. Oliver Stanley in the House of Commons in connection with the Anglo-Indian Trade negotiations ?

(b) How long will the question remain under consideration ?

(c) Whether Government have finished consideration of the report of the non-official advisers? If so, when do Government propose to resume their negotiations with the British Government?

(d) If the negotiations have already been resumed will Government acquaint the House with the developments?

THE HONOURABLE MR. N. R. PILLAI: (a) Government have seen the answer given by the President of the Board of Trade in the House of Commons on the 13th December, 1938, regarding the Indo-British Trade Negotiations.

(b) Every endeavour is being made to complete, without delay, the discussion of all outstanding questions.

(c) and (d). Yes, they have considered the report. There has been no break in the negotiations which are still proceeding.

SALT IMPORTS.

38. THE HONOURABLE MR. B. N. BIYANI: Will Government state:

(a) How many maunds of salt have been imported into India in the year 1937-38?

(b) Whether the salt import into India has been considerably increasing for the last two years? If so, what is the percentage of increase in the salt import in the year 1936-37 and 1937-38?

(c) What precaution do Government propose to take to protect the Indian salt industry from being ruined?

(d) What are the reasons for this increase in the salt import?

THE HONOURABLE MR. J. F. SHEEHY: (a) 9,442,572 maunds.

(b) No.

(c) and (d). Do not arise.

STATE PRISONERS DETAINED IN DELHI UNDER REGULATION III OF 1918.

39. THE HONOURABLE MR. B. N. BIYANI: Will Government state:

(a) How many political prisoners are there under Regulation of 1918 in the Province of Delhi?

(b) Whether Mr. Mohanlal Saksena had seen these prisoners recently in connection with their release?

(c) Whether Government propose to release them unconditionally?

(d) If not, why?

THE HONOURABLE MR. F. H. PUCKLE: (a), (c) and (d). There are three persons who are detained under the provisions of Bengal Regulation III of 1918 in the Province of Delhi. Government were recently prepared to release all of them subject to certain undertakings which they were asked to give. I lay a statement on the table giving their names, the dates from which they have been detained and the undertakings respectively required of them. The prisoners have declined to give the required undertakings, without which Government are not satisfied that they could be safely released.

(b) Yes.

State prisoners detained in the Province of Delhi under Regulation III of 1918.

Name.	Date from which detained.
1. Bhawani Sahai	25th April, 1932.
2. Vishwanath Rao Gangadhar Vaishampayan	16th August, 1933.
3. Jwala Parshad Sharma <i>alias</i> Bhagwan Das	23rd September, 1935.

The Government of India recently decided to release them on condition that each of them gave an undertaking in writing to the following effect :—

- (a) that he will not directly or indirectly associate himself with any violent method in politics or with any organization which has violence as its object, and
- (b) in the case of Bhawani Sahai that he will not enter the Punjab or Delhi Province ; in the case of Vaishampayan—that he will not enter the Punjab, Bombay Presidency or the Delhi Province ; in the case of Jwala Parshad—that he will not enter the Delhi Province ;

except in each case with the permission of the Provincial Government or of the Chief Commissioner concerned.

CEYLON DESTITUTE IMMIGRANTS ORDINANCE.

40. THE HONOURABLE MR. B. N. BIYANI : (a) Will Government please state :

(a) Whether the Destitute Immigrants Ordinance has been issued by the Ceylon Government only for Indians ?

(b) If so, have Government taken any steps to remove such discriminative measure against Indians ? If not, why not ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) No.

(b) Does not arise.

RAIDS ON THE NORTH-WEST FRONTIER.

41. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) What steps have been taken by Government to check the frequent raids by marauders from the tribal territory on the North-West Frontier and the atrocities committed on the Hindus and the Sikhs ?

(b) Have the Local Government confessed their inability to protect the lives and property of the defenceless victims, and issued orders to those living in villages to shift to big towns for safety ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) The Government are employing armed civil forces of all kinds in abnormal numbers and are bringing all possible pressure military, political and economic to bear on sections, who either offend themselves or harbour outlaws or others who take part in raids in the settled districts.

(b) The Government of India have no information.

RAIDS ON THE NORTH-WEST FRONTIER.

42. THE HONOURABLE MR. RAMADAS PANTULU (on behalf of the Honourable Mr. G. S. Motilal) : (a) How many raids or dacoities have been committed in the last 12 months at Bannu and other places in the North-West Frontier Province or tribal areas by trans-border or other men ?

(b) What steps do Government propose to take or have taken to prevent such raids ?

(c) How many Hindus and how many Muslims were the victims of such raids ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The information has been called for and will be furnished in due course.

ARREST AND DEPORTATION OF TWO INDIAN JOURNALISTS FROM PARIS.

43. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Were Mr. Sunder Kabadi, representing the *Bombay Chronicle* and the *Amrita Bazar Patrika*, and Mr. Feroze representing the *National Herald*, who arrived in Paris from London in the beginning of December, to report the general strike for their papers, immediately arrested and deported ?

(b) Will Government state the reasons for their deportation and do Government propose to take necessary steps to have this incident enquired into ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The Government of India made enquiries from His Majesty's Government immediately regarding this incident as reported in the Press. They have not, however, yet received any official information on the subject.

SUPERVISOR OF RAILWAY LABOUR.

44. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : (a) Who is the present Supervisor of Railway Labour in the Labour Department of the Government of India ? What are his qualifications and past services, if any ?

(b) How many complaints of ill-treatment have been made against him, if any, and what investigations, with what results, have been made about them ?

(c) How many Inspectors of Labour have been discharged during the last six months ?

(d) How many men have been demoted during the last six months from the Labour Department ?

(e) How many Inspectors of Labour have been warned or charge-sheeted during the last six months ?

(f) In how many cases has the Supervisor of Railway Labour stopped increment of the staff under him ?

(g) With what object in view, was the office of the Supervisor of Railway Labour transferred from the control of the Railway Department to that of the Labour Department ?

THE HONOURABLE MR. M. S. A. HYDARI : (a) Khan Bahadur Khwaja Mohammed Hassan. He is an officer of 18 years' service with experience of railway administration.

(b) Government have received no formal complaints.

(c) None.

(d) If the Honourable Member by "demoted" means reduced in grade, the reply is three. If he means demoted from one post to another, the reply is none.

(e) One Inspector of Labour has been warned, and eight charge-sheeted.

(f) Two during the last six months.

(g) As the functions of the Inspectorate are to secure observance of the Hours of Employment Regulations and Payment of Wages Act, the Inspectorate is more appropriately subordinate to the Labour Department than to the Railway Board.

INDO-AFGHAN TRADE AGREEMENT.

45. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Will Government state the main details of the trade agreement between India and Afghanistan, which has been concluded, or is about to be concluded ?

(b) Is it proposed to bring it up before the Central Legislature for ratification ?

THE HONOURABLE MR. N. R. PILLAI : (a) No trade agreement between India and Afghanistan has been concluded, or is likely to be concluded in the immediate future.

(b) Does not arise.

IMPORTATION OF UNLICENSED ARMS AND AMMUNITION ON THE NORTH-WEST FRONTIER.

46. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Is a considerable number of unlicensed weapons of European manufacture imported into the North-West Frontier and neighbouring areas, which ultimately find their way into the hands of desperate criminals and undesirable persons ? If so, what are the sources of such unauthorized import, and what steps, if any, have been taken to check it ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The Honourable Member is presumably referring to tribal areas in which the Arms Act does not run and no licenses are therefore necessary. The whole question of the sources of supplies both of arms and ammunition in these areas is under consideration by Government.

MOTION FOR ADJOURNMENT *RE* CONSTITUTION OF THE INDIAN SANDHURST COMMITTEE.

THE HONOURABLE THE PRESIDENT : Honourable Members, on the 23rd instant after the commencement of business the Honourable Mr. Ramadas Pantulu sent me a notice of an Adjournment Motion which I will read to Honourable Members :—

"I wish to move the Adjournment of the House on the 24th January"—we did not sit on the 24th—"to consider a matter of definite urgent public importance, namely, the disregard of the wishes of the Central Legislature in constituting the Indian Sandhurst Committee, the unsatisfactory nature of the terms of reference and the inadequacy of elected element in the personnel of the said Committee".

Of course any Adjournment Motion which is sent by Mr. Ramadas Pantulu is entitled to my serious consideration. At the same time I am afraid I am bound down by Rule 11 and Standing Orders 20 and 21 and unless I get a satisfactory explanation from the Honourable Mr. Pantulu, apart from other considerations to which I shall presently refer, I shall have to hold that the Motion is not in order. Can you tell me, Sir, why the Motion was not put in at the proper time before the commencement of the business? May I draw your attention to rule 11, clause (2), which distinctly states:

“ Notice of a Motion under sub-rule (1) shall be given before the commencement of the sitting on the day on which the Motion is proposed to be made both to the President and to the Member of the Government to whose department the Motion relates ”.

And Standing Order 20 says :

“ Leave to make a Motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance must be asked for after questions and before the list of business for the day is entered upon ”.

And Standing Order 21 says :

“ The Member asking for leave must, before the commencement of the sitting of the day, leave with the Secretary a written statement of the matter proposed to be discussed ”.

You see therefore that I am bound down by these Standing Orders and Rules.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhamadan) : May I submit, Sir, that the rules read by you contemplate that if I intended to move the Motion on the 23rd I should hand it to you before the commencement of the business, but I distinctly say that I intend to move the Adjournment of the House on the 24th, so that I wanted really to give it to you again on the 24th if necessary, but I thought if I gave it on the 23rd.

THE HONOURABLE THE PRESIDENT : The wording is very clear “ before the commencement ” of the business of the day.

THE HONOURABLE MR. RAMADAS PANTULU : Rule 11 says that notice should be given before the commencement of sitting of the day if I intended to move the adjournment of the House on the 23rd. Therefore I do not think I come within the mischief of the particular rule you refer to. I said I intended to make the Motion on the 24th.

THE HONOURABLE THE PRESIDENT : We were not sitting on the 24th. But you could have renewed the notice this morning again if you wanted to bring your case within the purview of these rules.

But apart from that, I may inform the Honourable Member that I am not at all satisfied that this is a definite matter of urgent public importance. You state in your letter that you disapprove the personnel appointed by Government on certain grounds. Mere expression of difference of opinion or disapproval does not make any subject a matter of urgent public importance. You may dislike the personnel, but I fail to see because you hold a different view to the Government who have appointed the Committee, how it makes it a matter of urgent public importance. Secondly, I sent for the Government Communique on the subject and I find that it is distinctly stated after the appointment of Honourable Members on the Committee that

“ Owing to the impending session of both Houses of the Legislature it has been decided to convene the Committee later in the year ”,

[Mr. President.]

that is, sometime in September or October. This of course distinctly shows that there is no urgency whatever to discuss now this question about the personnel. Then, on the merits of your Motion, you have got so far as this Council is concerned four or five Members. You have got also the Honourable Mr. Kalikar, a very enthusiastic Member, who actually during the last four years moved two or three resolutions on this subject in this House, and who can be better qualified to deal with this matter than the Honourable Mr. Kalikar? Then, there is the Leader of the Opposition and also military men on this Committee; but that is no consideration of mine. I am only referring to it by the way. I am not concerned with who are appointed on the Committee and whether they are proper persons. But I feel that this matter could be brought up by you by way of a Resolution if you are seriously inclined to discuss this matter. The Committee will not meet till the end of the year. I made enquiries in office and I find that even the first ballot has not yet taken place and it will take place on the 4th February. If any, or some of you, gentlemen, sign the Resolution and send it there is every prospect of the Resolution coming on for consideration early this session. I therefore do not see that there is any urgency about this matter. As I think that the Motion is barred by Standing Orders and as I consider it not in order, I disallow the Adjournment Motion.

THE HONOURABLE MR. RAMADAS PANTULU: With regard to the urgency of the matter, I wanted to give an opportunity to the Government to correct the thing as soon as possible, because we do not know when the Committee is going to meet. Therefore I wanted to give plenty of time to the Government to alter the terms of reference and improve the personnel. In that way I thought the matter was certainly urgent.

THE HONOURABLE THE PRESIDENT: But the Communique was issued on the 11th of January. It was said that the Committee would not meet till later in the year. However, you have got abundant opportunities if you wish to move a Resolution. I do not think this is a fit case for an Adjournment Motion.

STATEMENT LAID ON THE TABLE.

DRAFT CONVENTIONS AND RECOMMENDATIONS ADOPTED BY THE 21ST (MARITIME) SESSION OF THE INTERNATIONAL LABOUR CONFERENCE.

THE HONOURABLE MR. N. R. PILLAI (Nominated Official): Sir, I lay on the table a statement supplementing the information contained in the statement laid on the table of the Council on the 2nd October, 1937, in regard to the course which the Government propose to follow in respect of the Draft Conventions and Recommendations adopted by the 21st (Maritime) Session of the International Labour Conference.

STATEMENT.

The following statement supplements the information contained in the statement laid on the table of the Legislative Assembly/Council of State on the 1st/2nd October, 1937, in regard to the course which the Government propose to follow in respect of the Draft

Conventions and Recommendations adopted by the 21st (Maritime) Session of the International Labour Conference :—

I. *Draft Convention concerning the liability of the shipowner in case of sickness, injury or death of seamen.*—This Convention seeks to define the nature and extent of the liability of a shipowner to provide assistance to the seamen employed by him in case of sickness, injury, etc. A close examination of the Convention has revealed that the Indian Merchant Shipping law already provides for the principal requirements of the Convention, except in the case of Articles 4 and 5. The main difference, so far as Article 4 is concerned, is that whilst laying down the general principle that a shipowner is liable to provide medical assistance until the sick or injured seaman is cured or until the sickness or incapacity is declared to be of a permanent character, the Convention limits the duration of the shipowner's liability to a period of not less than 16 weeks from the date of commencement of the illness. The Indian Merchant Shipping Act, on the other hand, makes no reference to any specific period but makes the shipowner responsible for providing assistance as long as the seaman remains on board or is in a foreign country. After careful consideration of the relative merits of the two sets of provisions the Government of India are of the opinion that, on the whole, the existing law affords better protection to the seaman than the limited assistance provided in the Convention for a period of 16 weeks, at the end of which he may still find himself ill in a foreign country without any means of support. Similarly in regard to the shipowner's liability to pay wages to sick or injured seamen, dealt with in Article 5 of the Convention there are important differences between the provisions of the Indian Merchant Shipping Act, which are based on those of the British Merchant Shipping Acts, and the requirements of the Convention. The Government of India are in sympathy with the principle laid down in the Article, but cannot ignore the consideration that, in view of the decision of His Majesty's Government in the United Kingdom not to amend the relevant provisions of the British Acts, a modification of the Indian Merchant Shipping Act would only benefit a limited number of Indian seamen, the majority of whom are employed on ships registered in the United Kingdom. In these circumstances, the Government of India have come to the conclusion that the Convention cannot be ratified by India at present.

II. *Draft Convention concerning sickness insurance for seamen.*—This Convention is designed to introduce an extensive system of compulsory insurance for seamen, providing for cash benefits as well as benefits in kind. After an examination of the terms of the Convention the Government of India are of the opinion that the institution of a compulsory system of insurance in India applicable to all classes of seamen covered by the Convention and providing for the grant of the different forms of benefits contemplated therein cannot be undertaken except as part of a comprehensive scheme catering for all classes of labourers. Further, in view of the fact that a large number of Indian seamen are illiterate a compulsory system of insurance is not likely to receive general support, and the Government of India have accordingly come to the conclusion that the Convention cannot be ratified. They are, however, in full sympathy with the object underlying the Convention, and they propose to explore, in consultation with the interests concerned, the possibility of introducing, as an initial measure, a small scheme of health insurance providing for limited benefits to Indian seamen.

III. *Draft Convention concerning the minimum requirement of professional capacity for Masters and Officers on board merchant ships.*—The most important provision in this Convention is Article 3, which requires that all officers, both executive and engineer, in charge of a watch on board a merchant ship shall be certificated officers. The general principle underlying this Article is one which must command sympathy, but its practical application in India presents numerous difficulties. As any extension of the hours of work of certificated officers on board ship must clearly be avoided, effect can be given to the provisions of the Article only by means of an amendment of the Indian Merchant Shipping Act providing for an increase in the number of certificated officers to be carried in merchant vessels. Indian opinion, however, is opposed to any such increase, because of the scarcity of Indians in possession of certificates of competency. Further, there is a large number of ships registered in the United Kingdom which trade in Indian waters and the Convention will not apply to such ships unless His Majesty's Government in the United Kingdom choose to ratify it. The Government of India, however, understand that His Majesty's Government do not propose to ratify the Convention for the present, and in the circumstances, its adoption by India would result in setting up different conditions on board those ships and Indian registered ships operating in the same waters. The Government of India do not, therefore, propose to ratify the Convention or to take any action on its provisions.

IV. *Recommendation concerning the promotion of seamen's welfare in ports.*—The Government of India are in agreement with the principles underlying the various provisions of the Recommendation, but the views expressed by the Maritime Provincial

Governments, Port Authorities, shipping companies, etc., have led them to the conclusion that, in present circumstances, it is not practicable to give effect to all the suggestions contained in the Recommendation. They understand, however, that the requirements of paragraphs 3, 4, 5, 6, 8 and 10 (b) are already generally complied with at Indian ports, and they consider that no immediate or specific action on their part is necessary in respect of paragraphs 2 and 13. As regards paragraphs 1 and 9, there are at present several institutions under the charge of local bodies performing useful work at all important ports, and these receive annual grants from the Sunday Fees Fund. The Government of India are alive to the fact that these arrangements do not go far enough, but they are, for financial reasons, unable to take any further action in the direction indicated. Paragraphs 7, 11 and 12 call for administrative action in regard to the furthering of propaganda among seamen, but the Government of India consider that the necessary publicity work is more appropriately undertaken by private bodies interested in seamen's welfare than by them. As regards paragraph 10 (a), they are satisfied that there is at present no real demand from Indian seamen for the provision of a system of seamen's money orders, and they do not propose to take any action on the suggestion for the present.

GOVERNING BODY OF THE INDIAN RESEARCH FUND ASSOCIATION.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member) : Sir, I move :

“ That this Council do proceed to elect, in such manner as the Honourable the President may direct, one member to sit on the Governing Body of the Indian Research Fund Association, *vice* the late Honourable Sir Phiroze Sethna. ”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : With reference to the Motion which has just been adopted by the Council, I have to announce that nominations to the Governing Body will be received by the Secretary up to 11 A.M. on the 30th January, 1939, and the date of election, if necessary, will be announced later.

INDIAN TARIFF (AMENDMENT) BILL.

THE HONOURABLE MR. N. R. PILLAI (Nominated Official) : Sir, I beg to move :

“ That the Bill further to amend the Indian Tariff Act, 1934, as passed by the Legislative Assembly, be taken into consideration. ”

It is, Sir, a matter of very deep gratification to me that on the first occasion on which it has fallen to me to present, for the acceptance of this House, a proposal for the imposition of a protective duty, the proposal should be one designed to assist a large section of the agricultural population and one, therefore, for which, I feel confident, there will be nothing but warm approval from all sides of the House. An import duty on wheat is by no means a new impost. As Honourable Members will remember, in 1931, under pressure of world conditions, conditions, let me add, of exceptional difficulty to the wheat grower caused by low prices, bountiful harvests and abnormally heavy stocks, it was found necessary to impose a protective duty of Rs. 2 a cwt. on wheat and wheat flour imported into India for the purpose of securing the Indian market for Indian wheat. Limited in operation, in the first instance, to a period of one year, the duty was continued on a temporary basis from year to year until 1937, when, conditions having returned to normal, the duty was allowed to lapse. • • •

What, it may be asked, has happened since March, 1937 to justify the re-enactment of this emergency measure? The answer is simple: what has happened is that Nature's prodigality has once again resulted in a surfeit of world production. Under the influence of rising prices and of a series of crop failures, there has been a continuous expansion of the area under wheat in almost all producing countries of the world, and it has been estimated that in the season 1937-38 the total increase in area was as much as 10 per cent. of the average area during the period 1932 to 1936. The effect of this increase in acreage upon production was fortunately for some time obscured by subnormal yields over a succession of years, but it was scarcely to be expected that this state of affairs would continue indefinitely. The possibility of a normal, not to say, an abundant crop, was always present, and the tragedy of the present wheat position in India and elsewhere has arisen from the circumstances that what was regarded as a mere possibility became a realised fact in the season 1937-38. The harvest of that season was the biggest ever garnered. Production in all exporting and nearly all importing countries reached very high levels, the Canadian crop, for instance, being twice the size of the previous year's harvest. India was no exception. The final official estimate put the crop at the record figure of 10.78 million tons as against a normal crop of 9½ million tons. So great indeed was the increase in world production that it was apprehended that the world carry-over of stocks which stood at 105 million bushels in 1937-38 would by the end of the current season reach the very high levels registered during the depression, that is to say, figures of the magnitude of 500 to 600 million bushels.

It was inevitable that over-abundant supplies should have their effect on the course of prices. The prices of Australian wheat in London which had dropped to 34s. per quarter in April, 1938, from 47s. per quarter a year before, receded further to 30s. per quarter in July, and to 27s. in August. The prices of Indian wheat followed a similar downward course, but at about 29s. per quarter Indian prices and world prices parted company. India refused to sell below that figure which corresponded roughly to a price at Lyallpur of Rs. 1-15-3 per maund, a figure which is stated to be below the cost of production. Australian prices, however, continued to sag, and by the beginning of December they had dropped to 23s. 6d. per quarter. With the widening of the margin between Indian and Australian prices, Indian export business came to a complete standstill, and, what was of even more serious consequence, foreign wheat began to be imported into India in increasing quantities. By the beginning of December about 60,000 tons of wheat had been imported, and reliable estimates showed that a further quantity of 125,000 tons was on order for future delivery. The position then, in all its essentials, was distressingly reminiscent of the early days of 1931. There was the same combination of circumstances, low prices, bountiful harvests and exceptionally heavy stocks resulting in the same abnormal situation. As in 1931, therefore, Government felt that the time had come to impose a duty on wheat for the purpose of assisting the sale in India of Indian wheat.

The duty, Sir, has now been in force for a little under two months sufficiently long perhaps for it to be possible to make a fair estimate of its usefulness and effectiveness. Let us first see what it has done in the way of checking imports. During the period from the 8th December to the 15th of January 30,500 tons of wheat was imported into India, and of this quantity 6,500 tons was admitted free against contracts for the export of an equivalent quantity of wheat flour to destinations abroad. The balance of 24,000 tons is less than the total quantity which it was expected would be imported into India during this period in fulfilment of contracts placed before the introduction of the duty.

[Mr. N. R. Pillai.]

It is reasonable to presume that this quantity would have been imported however high the actual rate of duty might have been.

I shall turn next to the price aspect. As I mentioned before, at the beginning of December, the price at Lyallpur was Rs. 1-15-3 per maund. Today the price is about Rs. 2-8-0 per maund. I do not wish to suggest for a moment, Sir, that this recovery in prices has been due wholly or even mainly to the duty, for it is indisputable that unfavourable weather conditions have been a more potent factor in contributing to this result. But I do claim, Sir, that this gratifying recovery would not have been possible but for the shelter afforded by the duty. I venture to hope that the House will agree that the results obtained during the last two months fully substantiate the claim that the duty is not only necessary but has been completely effective. That, Sir, is all I need say on the subject of this Bill which I now commend to the House for consideration.

THE HONOURABLE THE PRESIDENT : Motion moved :

“ That the Bill further to amend the Indian Tariff Act, 1934, as passed by the Legislative Assembly, be taken into consideration.”

Question put and Motion adopted.

THE HONOURABLE THE PRESIDENT : Clause 2.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce) :
Sir, I move :

“ That after clause 1 of the Bill, the following new clause be inserted and the existing clause 2 be re-numbered as clause 3, namely :—

‘ 2. After section 11 of the Indian Tariff Act, 1934, the following new section shall be inserted, namely :—

“ 11A. The duties of customs imposed by or under this Act on wheat and wheat flour shall not be levied and collected on any consignment of wheat or wheat flour carried on any ship entered inwards at the port of landing in British India before the 31st day of December, 1938, or if it has been levied and collected shall be refunded. Provided that such shipments arrived in pursuance of contracts settled before the 7th December, and *provided further* that they were consignments originally intended for India ”.’ ”

Very little explanation is necessary for this amendment. I think everybody knows that it is impossible for people to cancel their contracts at such a stage. We are asking for a very short respite and I hope that my amendment will receive the support of the House.

THE HONOURABLE MR. H. G. STOKES (Bengal Chamber of Commerce) :
I rise to support the amendment which has been moved by my Honourable friend Mr. Parker. The quantity of wheat that is affected by this amendment is comparatively small and I put it round about 30,000 to 35,000 tons, that is just one-third of one per cent. of the total normal Indian crop of 10 million tons. In another place where an amendment similar to this was moved Government were prepared to give it their support, but the voting by which the Government agreed to abide went against the amendment. I feel, Sir, that a good deal of the opposition must have been due to a misapprehension, a feeling that such a quantity as 30,000 tons of wheat would unduly influence Indian prices. The object of this Bill, as the Honourable Mr. Pillai has said, is to benefit the grower of the wheat. I have every sympathy, as I am sure

we all have every sympathy, with that object, but I say, Sir, that the Bill in this present season that is now closing will not, it is found, benefit the agriculturist. I have flour milling interests in Calcutta and we in the course of our daily business have to keep in close touch—

THE HONOURABLE THE PRESIDENT : We are now on the amendment of the Honourable Mr. Parker and the speech which you are making would be all right at the consideration stage. If you would kindly reserve those remarks for the third stage it would be in the fitness of things, unless you wish to speak on the Honourable Mr. Parker's amendment.

THE HONOURABLE MR. H. G. STOKES : The point I was wishing to make was that there was no reason for fearing that the support of the House to this amendment would depress the prices in India or would inflict any hardship on the wheat grower. The point I wanted to make was that my information showed that when this Bill was published last November there was practically no wheat left in the hands of the wheat grower ; it had practically all passed to the custody of the *mahajans* and speculators. Sir, in view of the small quantity involved and also of the fact that the allowing in free of duty of consignments that would arrive before the 31st December would not affect the wheat prices, I hope that the amendment will be passed by the House.

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official) : Sir, I oppose the amendment. I wish the Honourable Mr. Parker had given us some reasons in order to support his case. Absolutely nothing was said here to convince us that there was any ground for moving this amendment except that the capitalists who were clever enough to make advance contracts wanted to profit at the expense of the agriculturists. This is perhaps one of the very few Bills that have come in protection of agricultural produce. Every protection given by the Government is in favour of the capitalists and industrialists, and not many items could be found by which the Government of India have done for the protection of agricultural produce.

THE HONOURABLE THE PRESIDENT : I do not think you are quite correct in making that allegation.

THE HONOURABLE SIR A. P. PATRO : It may be, I am speaking subject to correction, but I say that this is one of the very few Bills. I am not one of those who are for protection at all altogether, but anyhow the Mover of the amendment has not given us any reasons to show that this concession should be made. As has been said by the Honourable the Mover of the Bill, the prices are just now rising entirely due to the duty that has been imposed. I do not see why the capitalists who were in such a hurry to enter into these contracts during this interim period and dump in a large quantity—35,000 tons or so—just with a view to make profit at the expense of the agriculturist, should be helped, nor do I see any reason why the State should be deprived of the duty that would be due on these 35,000 tons. Therefore, for these reasons I oppose the amendment that has been moved.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhamadan) : I wish to make the position of my Party clear on this Motion. While our Party is whole-heartedly in favour of the Bill, our attitude towards the amendment will be one of neutrality. We wish neither to oppose the amendment nor to support it. This decision was arrived at in view of the

[Mr. Ramadas Pantulu.]

course which the amendment had taken in the Lower House. Government seems to have given an undertaking that they will abide by the verdict of the Assembly and I find that all members of the Congress Party in the Assembly have voted against the amendment. Nevertheless, we have decided neither to vote against the amendment nor to support it. Therefore we will remain neutral.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, I really congratulate the Government on bringing in this measure but I want them not to be harsh on the traders. I want that the traders should have fair treatment in this matter. I am not myself a trader but I am a grower of wheat and so far as my information goes, this measure affects, as has been stated by Mr. Parker and other speakers on the subject, a very small quantity of wheat and it also affects, I understand, the cargo that was afloat when the Bill was passed in the Lower House. So, from that point of view, I think the grievance that they want to be redressed is justified and I hope that the House will sympathetically deal with this matter, so that there should be no harsh or inequitable treatment to the traders concerned. I therefore support the amendment moved by my friend Mr. Parker.

THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA (Bihar : Non-Muhammadian) : Sir, I whole-heartedly support the amendment of Mr. Parker. It has been more amazing than refreshing to hear Sir A. P. Patro. I do not think Mr. Parker's amendment at all raises any question of profiting the capitalist at the expense of the agriculturist. It only aims at respecting the contracts that have been already entered into and the cargo that is already on the waters. I think this is a very modest and small request. It is extremely equitable and I think the House should accept this amendment. I, therefore, support Mr. Parker's amendment.

THE HONOURABLE MR. N. R. PILLAI : I rise to oppose this amendment on behalf of Government. It is true that speaking at another place the Honourable the Commerce Member expressed himself as satisfied that there was a case for the exemption of all cargoes afloat for India at the time of the introduction of this Bill in the Assembly. At the same time he gave an undertaking that Government would abide by the verdict of the Assembly which in the event proved to be adverse to the proposal contained in this amendment. In the circumstances Government have no option but to oppose the amendment.

THE HONOURABLE THE PRESIDENT : Amendment moved :

" That after clause 1 of the Bill, the following new clause be inserted and the existing clause 2 be re-numbered as clause 3, namely :—

' 2. After section 11 of the Indian Tariff Act, 1934, the following new section shall be inserted, namely :—

" 11A. The duties of customs imposed by or under this Act on wheat and wheat flour shall not be levied and collected on any consignment of wheat or wheat flour carried on any ship entered inwards at the port of landing in British India before the 31st day of December, 1938, or if it has been levied and collected shall be refunded. Provided that such shipments arrived in pursuance of contracts settled before the 7th December, and *provided further* that they were consignments originally intended for India " . . . "

Question put and Motion negatived.

THE HONOURABLE THE PRESIDENT : There is an amendment in the name of the Honourable Mr. M. N. Dalal which is absolutely identical with the Motion that has just now been negatived and I do not think there is any necessity to allow it to be moved.

Clause 1 was added to the Bill.

Clause 2 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. N. R. PILLAI : Sir, I move :

“ That the Bill, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

INDIAN INCOME-TAX (AMENDMENT) BILL.

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

“ That the Bill further to amend the Indian Income-tax Act, 1922, as passed by the Legislative Assembly, be taken into consideration.”

The general purpose of this Bill was to give effect to such of the recommendations of the Income-tax Inquiry Report of 1936 as were accepted by Government and if a comparison of those recommendations is made with the provisions in this Bill, it will be found, I think, that the recommendations have been retained almost in their entirety and in many cases there is hardly any change, notwithstanding the storm which has centred round one or two clauses. I mentioned that fact because for the detailed explanation of the Bill I think it is better to refer Honourable Members to that Report and to the Statement of Objects and Reasons appended to the Bill. However, the Bill is a long one and it is a very complex one. In all there are 90 clauses and 90 clauses in an amending Bill, as opposed to a consolidating Bill, is rather a large number. For that reason, I propose to sketch one or two of the main provisions of the Bill, with the indulgence of Honourable Members.

In the tangle of amendments and new sections, we can distinguish five main objects. The first is to check as far as is possible the fraudulent evasion of tax and also to stiffen up the penalties when we catch the tax-dodger. In this connection, perhaps the most important clause is clause 23. This clause provides for the making of returns even though the taxpayer has received no notice from the Income-tax Officer to make that return. The only effect of that is to take away from this person the excuse that he received no notice if he failed to disclose the fact that he had an income liable to assessment. In future public notices and notices in the press will be given but of course individual notices to assesses will continue to be given as in the past, that is to say, they will continue to be given to every person known to the Income-tax Officer to be liable to assessment. The importance of this provision is in the effect on the penalty provisions in that it does take away this excuse of not having been served with notice. Failure to make a return will under the Bill involve a penalty of a sum which may be as much as one and a half times the tax, that is to say, it can be one and a half times the tax in addition to the tax which is payable, but provision is made to restrict these penalties in certain circumstances. First of all, if the assessee, *bona fide*, did not know anything about income-tax, if he is a very ignorant person and had an income and knew nothing about income-tax or could show that he neither saw the

[Mr. S. P. Chambers.]

public notices nor could read them, then he would be exempt from penalties, although he would not be exempt from tax. Then again provision has been made for exemption from the penalty of assesseees with incomes below Rs. 3,500. The object of that is to prevent the Income-tax Officer over-estimating the income of a person who is only marginally liable, whose income only exceeds Rs. 2,000 by a small sum, and who keeps no books—such a person may genuinely think that his income is about Rs. 1,900 or Rs. 1,800 and may fail to make a return, but the Income-tax Officer may make a more generous estimate and call it Rs. 2,000 or Rs. 2,500. But for this exception, the assessee would have been liable to penalties. For that reason, this provision for making penalties payable where a person has not received an individual notice is restricted to those persons who have incomes above Rs. 3,500. The next clause, next in importance of those which deal with fraudulent evasion, in clause 39. This clause deals with the powers of the Income-tax Officer to re-open assessments for past years. Under the present law the Income-tax Officer can only go back one year. This Bill proposes to extend that to four years in the ordinary case, and to eight years where it can be shown that the under-assessment was due to deliberate concealments of income or to the furnishing of false information. Now this is going to be a very useful power to the Income-tax Officer, and although it may sound paradoxical it is likely in future to prove of benefit to the honest assesseees in this way. If the Income-tax Officer knows he can only go back twelve months, then, when he is dealing with the assessment in the current year he feels that what he misses now he misses for ever and therefore there is in some quarters a tendency to approach every assessment with an air of suspicion. In some cases the suspicion is quite uncalled for, but if the Income-tax Officer knows he can go back four years if he has missed anything and eight years if the assessee has been deliberately cheating him, then he can afford to be a little more generous in his treatment of the general run of assessee; he can give assesseees the benefit of the doubt and make the assessments to the best of his judgment at the time. That has been the experience in the United Kingdom where the time limit is six years. It also is likely to have an important effect on any officers who may be corrupt. This aspect has not been stressed before but I think I ought to mention it here. There may be officers who are corrupt. We cannot say till we inquire more closely. But if an officer who is liable to be removed from one circle to another knows that he may be followed by an energetic and intelligent officer who has the power to re-open assessments for past years, then his sins may come to light seven or eight years later—

THE HONOURABLE THE PRESIDENT: Then you collect the past dues or rectify the past omissions which have not been previously disclosed and you charge interest for those years?

THE HONOURABLE MR. S. P. CHAMBERS: What would happen is this. If the under-assessment was due to inefficiency in the Department or a failure to make a disallowance that ought to have been made, then nothing extra will be payable other than the tax itself. If, however, it was due to the fault of the assessee, then the Income-tax Officer would impose a penalty and would as far as possible fit the penalty to the offence. If it was due to gross carelessness or nothing more than carelessness in the assessee's books, then the penalty might equal the interest which the Government have lost in the past years. That is the general practice in the United Kingdom. As I say, this is likely to have an useful effect on the campaign in this Department against possible corrupt practices. Then there is perhaps one other clause

to which I should refer in connection with this question of fraudulent evasion and that is clause 19 which gives the power to assesses or persons in British India to deduct the tax from payments to persons who are non-residents. This power will provide a tax-collecting machinery which does not at present exist. In many cases persons abroad have an income which arises in British India and which theoretically is liable to income-tax but for which there is no machinery for assessment or collection. This taxation at the source will make it possible to get the money at the source in British India. It will also assist the Income-tax Officer in dealing with bogus entries of interest in his own accounts. One trouble which has been experienced in one or two provinces has been the finding of a number of debits for interest alleged to have been paid to persons abroad. It is very difficult for the Income-tax Officer to disprove such a thing. The assessee says: "Here is the payment", and he produces something which looks like receipts for payments; and in certain cases, I have personally seen Income-tax Officers, and spoken to them about this problem. They said to me that they are afraid that this may be a bogus entry but they have no evidence whatever upon which they can challenge the entry. This provision will assist the Income-tax Officer in that respect.

The next main object of the Bill is associated with this question of evasion but is concerned with a different form of evasion, what we call in the United Kingdom "legal avoidance". By "legal avoidance" I mean the method of evading the tax by complying with the letter of the law but not with the spirit or the intention. On this there has been a steady change of opinion in the United Kingdom and by "change of opinion" I mean in all quarters—in professional quarters and with public men and statesmen and with tax-payers as well and I would like to read two or three extracts from judgments in the United Kingdom. In 1922, Mr. Justice Buckley in the High Court said :—

"I have said it already twice this morning—that it is perfectly open for persons to evade this particular tax if they can do so legally. I again say I do not use the word 'evade' with any dishonourable suggestion about it. If certain documents are drawn up, and the result of those documents is that persons are not liable to a particular duty, so much the better for them".

That was in 1922. In 1928, in the House of Lords, Viscount Sumner said :

"It is trite law that His Majesty's subjects are free, if they can, to make their own arrangements so that their cases may fall outside the scope of the taxing Acts".

Now note the change of emphasis here.

"They incur no *legal* penalties, and, *strictly speaking*, no moral censure".

There is an element of doubt there, and only a few years ago, it must have been about three years ago, the President of the Institute of Chartered Accountants in England in his presidential address deplored the tendency to prostitute the profession for the benefit of tax-dodgers, and he felt that the time was coming shortly when some sort of professional action ought to be taken in connection with this matter. Then we have the much more recent threat of the Chancellor of the Exchequer of the United Kingdom again—that if, notwithstanding his efforts to tighten up the law on the subject, tax-payers continued to frustrate the intention of the Legislature when that intention is to impose taxation on a fair and equitable basis, he may be compelled to take stronger measures, to introduce a severer law and also to make his future legislation retrospective. Now that met with considerable approval in a number of quarters and we may find here that if the provisions which we have in this Bill

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prove in some respects ineffective in the years to come the Legislature may feel it necessary to attack the problem in a more direct and a more blunt manner; I hope not.

Broadly speaking, to avoid tax, what people do is to draw up documents or make arrangements by which what is in substance and in effect one person's income is made to be the income of another person who is either not liable to tax because he is a non-resident or is liable at a lower rate, or they make what is substantially income legally capital and in that way evade the tax.

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I think I ought to refer to one other matter because it has been referred to in the press in one or two places, and that is that in making changes in this Bill we are introducing some complexities, and in fact that we are making the law here as complex as the very complex law in the United Kingdom. Well, I think that criticism must have been drawn from an examination of these legal avoidance clauses. The rest of the Bill, I think Honourable Members will agree still leaves the Income-tax Act in simple language. But it must be admitted that these clauses are complex and they are difficult and the reason why they are so complex is that we wish to catch the tax-dodger and at the same time we want to avoid doing any hardship where there are genuine documents of a similar character. For this reason the sections have to be complex. That is the experience also in the United Kingdom. But I think this complexity is only concerned with those few people—I think they are only a few at the moment—who attempt to dodge tax, and if it causes a headache to tax-dodgers and their advisers I am sure nobody in this Council will be particularly worried about it. I think too, after what I have just said, Honourable Members will not wish me to give a detailed explanation of these clauses. All I think I need do is to point out the principal clauses which come in this category.

First of all, there is clause 2 which explains the definition of "dividend". If this is read with clause 25 it will be seen that it will be much more difficult in future for assesses to avoid tax by the simple device of having a company which fails to pay dividend. The company will, of course, be liable to income-tax. If it fails to pay dividends, then without these provisions super-tax is avoided. These two clauses endeavour to stop that as far as possible.

Then there is clause 17 and that deals with a device which is rather more widespread, the device of making a settlement on another person, normally a dependent, so that what is A's income becomes B's income, or what is part of A's income becomes part of B's income, so that the tax charged is either nothing or at a much lower rate.

Then the next clause—it is large one—is clause 48. Clause 48 introduces a whole new chapter into the Bill and it is aimed at two devices which are adopted and can only be adopted by a few very wealthy persons. The first is the floating of companies abroad and the transfer of a large block of assets which were originally the property of residents to these non-resident companies. That section follows rather closely the corresponding provisions in the United Kingdom. The other section introduced by that clause is designed to stop what we call "bond-washing", that is to say, market transactions by which tax on interest on securities is refunded or the Government compelled to refund the tax even though strictly morally, one ought not to refund the money. The clause, I think, is rather a clearer clause than the one that precedes it and I think it is just understandable, and I think Honourable Members by

just reading the clause can understand the type of transaction which it is intended to prevent.

Now, the third main object of the Bill is to make the tax more equitable. Now here I think the most important change is the change from what we have described as the step system of rates of tax to a slab system. Strictly, there is no particular clause which makes this change but there are a number of consequential changes throughout the Bill which make it necessary in the Finance Act to introduce a scale of rates based upon the slab system. So we can say that this change has been brought about by this Bill. Now the principal difference between these two rates are, I think, worth a short explanation. Under the step system, tax is charged upon all incomes within a certain range at a fixed rate and then the tax is charged at a higher rate on the next range of income and so on. Under the slab system, from all incomes, however large, the first slice or slab of income is exempt from income, the next is charged at a fairly low rate, the next at a higher and so on. The effect of this difference is just this, that the average rate of tax payable on progressive incomes increases steadily instead of by jumps and I think in this connection I might refer Honourable Members to Appendix III of the Income-tax Inquiry Report of 1936. There there is a table shown which gives the percentage of tax payable under the present step system and under a specimen of the slab system. Just one example is worth quoting. Whereas under the step system, an income of Rs. 5,000 pays tax at present at 3·4 per cent. of the income, while an income of Rs. 5,300 (just Rs. 300 more) pays as much as 5·1 (*i.e.*, an increase in tax from 3·4 to 5·1 for a very small increase of income) ; under the specimen slab scale the percentage is moved from 3·3 to 3·6. In other words, it goes up gradually, and going up gradually clearly means that the tax would be more equitable. I think it has already been explained elsewhere that under the specimen slab scale shown in the Report about five-sixths of the assesses would pay less tax and about one-sixth would pay more. These five-sixths are in the lower range of income and the one-sixth are in the upper range. In this connection perhaps I might remind Honourable Members that Sir Otto Niemeyer about three years ago drew attention to the fact that the rate of direct taxation of very large incomes was, he thought, abnormally low in India. To some extent, by introducing a slab system that can be remedied. I think I ought to mention here also that, although the discussion in the other House and elsewhere has proceeded by a comparison between the existing step rate and the specimen slab scale in the Report, there is, of course, no obligation on the Finance Member to introduce that particular slab scale. That is purely an illustrative scale. I mention that in case there is any misunderstanding.

The next important manner in which the Bill seeks to improve the incidence is the assessment of foreign income. Foreign income in the past was assessed on the amounts brought into British India and in certain circumstances the intention is to assess that on the amounts arising abroad whether or not it is brought into British India. On that subject I propose to speak in greater detail later on. Then we have the carrying forward of business losses. In this the Bill redeems the pledge of an earlier Finance Member to grant this relief as and when the finances of the Central Government permitted it. I am not personally in a position to say whether the finances of the Central Government do permit it at this stage but here it is in the Bill—

THE HONOURABLE THE PRESIDENT : In anticipation ?

THE HONOURABLE MR. S. P. CHAMBERS : Yes, Sir, in anticipation.

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Coupled with the question of losses is the question of the allowance for depreciation. In the past depreciation was the one expense which could be carried forward. The proposal is that in future depreciation will be treated in the same way as other losses and carried forward in the same way but that instead of calculating that depreciation on the cost of the asset, we shall calculate it on the written down value. That written down value is to be determined by taking the original cost and deducting from it the previous allowances under the Act. If I can give a simple illustration, if an asset costs Rs. 100 and it was expected to last five years, then if the prescribed rate was 20 per cent., as it ought to be, then in the past Rs. 20 would be allowed each year for five years, so that the whole of the original cost is ultimately exhausted after five years. On the written down value basis, a different rate will be taken. For example—purely for example—if 30 per cent. was allowed, and Rs. 30 was allowed in the first year, then 30 per cent. of Rs. 100 less Rs. 30, that is to say, 30 per cent. of Rs. 70 or Rs. 21 will be allowed in the second year and so on. The allowance thus progressively declines as the asset gets older. The written down value basis was strongly recommended by the Royal Commission on the United Kingdom Income-tax in 1920 and it is hoped that by making this change we would improve some of the depreciation allowances or rather that they would be put on a more rational basis. In the Assembly, however, some misgiving was felt about the operation of this change for the year 1939-40. It was suggested that if this Bill became law as from the 1st April next, then the assessments for that year would be based on the income of the previous year and those traders who kept their books on the same basis in this respect as the allowance for income-tax purposes would find that their books would be inconsistent with the allowances given by the Income-tax Officer. That is one difficulty. Another difficulty referred to was that of fixing the new rates under the written down value basis. For that reason an undertaking was given to introduce in this Council an amendment by which this change would be postponed for one year, that is to say, the new written down value basis would not come into force until the 1st April, 1940 at the earliest. Notice of an amendment to that effect has already been given.

Another matter which has not received much attention but which is in a sense quite important in improving the incidence of taxation is the assessment of associations of individuals. In the past, where there has been joint ownership of property as distinct from partnership in a business, these joint owners have been treated as an association of persons and the effect of that has been that the rate of tax has been higher—in a few cases lower but generally higher—than it would have been had the income been assessed on each individual separately. If I can give a simple illustration, if three persons owned property with an annual income of Rs. 5,000, they would have been assessed under the old Act at nine pies in the rupee even if they had no other income. Under the provisions which we make here, each of these individuals would have as his income for income-tax purposes one-third of Rs. 5,000 and as this is less than Rs. 2,000, the exemption limit, he would be exempt from tax. In that respect I think the Bill makes a very definite improvement in the incidence of taxation.

The last point to which I would refer on this question of improving the incidence is the taxation of insurance companies. Formerly the provisions for the determination of the income of these companies were dealt with by statutory rules made by the Central Board of Revenue. It was thought that such important companies which yield such a large proportion of the income-tax revenue should be dealt with by the Legislature itself and should have a

place in the Income-tax Act itself and that it should not be left to the Executive to change the rules in a sense which would alter the incidence of tax on these companies. For that reason an amendment has been introduced which brings these rules into the Act as a Schedule, so that they cannot in future be amended except by introduction into the Legislature of a separate Bill. The opportunity was taken to amend these rules to make them more equitable. These rules are, as Honourable Members are no doubt aware, very complicated. They must of necessity be complicated because "Insurance" is a complicated subject, and so is "Income-tax", and if you marry two complicated subjects you get something still more complicated. I do not propose, with the permission of the House, to give any explanation in detail of these clauses. Such explanation as is required might perhaps be asked for when we come to these clauses.

The fourth object of the Bill is to improve the assessment and collection machinery. In fact this is absolutely necessary if the three earlier objects to which I have referred are to be made in any way effective. It is no good having beautiful rules for catching tax-dodgers or for making the incidence more equitable if you have a Department which does not know how to catch the tax-dodgers or how to use the law which is placed in their hands, or whose own executive powers are too restricted. The principal change made here is the division of the work of Assistant Commissioners into two parts. Formerly, the Assistant Commissioner of Income-tax had two responsibilities. One was of a quasi-judicial character. He heard appeals from the assessments made by the Income-tax Officer and the other was a general executive power to control the Income-tax Officers, issue instructions to them and inspect their work. This mixture of judicial and executive functions has worked rather badly in two ways. In one way it has given some assesseses the excuse to say that the Assistant Commissioner is really another part of the tax collecting machine, that he is biased and therefore is not a fair judge of the assessment, that he is the executive superior of the Income-tax Officer and is not likely to take a different view from that of his subordinate. The statistics at least show that to a very large extent that criticism is unwarranted. But the system does lay the Assistant Commissioner open to that charge. Apart from that, by having two functions, the judicial function and the executive function, the Assistant Commissioner has in many areas been over-burdened and as it is quite common where two functions of this kind are vested in the same person, the judicial functions have taken precedence and the executive functions, in particular the inspection of the Income-tax offices, have taken a back seat. In fact, in some areas, the inspections have been defective and inadequate altogether. The Bill proposes—the clause in question is clause 5—to divide Assistant Commissioners into two separate groups. Those in one group will have purely appellate functions. They will hear appeals and do nothing else. Those in the other group will have executive functions and nothing else. They will make inspections. And we hope by that division that both aspects of the work will be improved. In particular we hope that the inspections will make it possible to prevent a certain amount of harsh treatment of small assesseses and also to prevent, where it exists, if it exists, a certain amount of corruption.

Then clause 5 also provides for the setting up of a headquarters staff. In regard to this I might say that there is in India at present no staff at headquarters comparable to the technical staff at Somerset House which controls and advises the whole of the income-tax staff throughout the United Kingdom. The object in having such a staff, first of all, is to impose a more thorough

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check upon the imposition of penalties. The Bill provides, as I have already mentioned, for much larger penalties and penalties which may extend back to eight years. Well, it is felt that responsibility for imposing such penalties, which can of course be very large in some cases, should not rest entirely on the local officer, but there should be some system of centrally controlling penalties. So some officers are required to "vet" penalties throughout the country. Then there are some assessments which we have found have been rather badly handled, not because the officer is necessarily unintelligent or lazy but because he lacks the necessary technical equipment. In the United Kingdom such matters as the assessment of insurance companies, banks and large financial houses are dealt with, mainly dealt with in one place only—in London. But there is at hand some one or two persons at Somerset House who are really expert in these difficult matters, and in that way the assessments on those large cases have been dealt with more effectively and more efficiently in the United Kingdom than they have been here. But the fault does not lie so much with the officers as with the system in India which does not provide for specialists, and it is hoped that by having one or two persons here for this purpose the Government will not lose large sums of revenue through ignorance or inefficiency. In saying that clause 5 provides for this, I should have said the amendments of section 5 provided for in clause 6.

Now I turn to the last object of this Bill, the fifth, that is to get more revenue. This aspect naturally has been stressed elsewhere. Various parties have laid emphasis on it but I think personally it is really only consequential upon the other four objects to which I have already referred. Obviously if we stop fraudulent evasion we get more money; if we prevent legal evasion we get more money. Similarly, although this is not quite so obvious, if the incidence of taxation is more equitable, we also get more money, or rather the taxable capacity is potentially increased, because the burden of the tax will fall more fairly and therefore more lightly.

Such then are the main objects of the Bill and I want to turn now to the principal amendments made in the Legislative Assembly.

There were two important changes in the clauses relating to fraudulent evasion. The first is the one which deals with the power of the Income-tax Officer to re-open assessments for past years. Some anxiety was felt by some Members that this power might be used by an Income-tax Officer to raise additional assessments for past years on mere suspicion and without adequate evidence. For that reason the clause has been amended so that he cannot now re-open assessments for past years unless some definite information comes into his possession. That I think is probably an improvement.

The other important aspect in which these clauses have been amended is in clause 42. Sub-section (2) of clause 42 gave the Income-tax Officer power to enter premises and to call for books, to examine those books and to take them away. Now, a good deal of apprehension was felt about that clause. It was felt that Income-tax Officers would use their powers wrongly. On that of course there is room for difference of opinion, and personally my own opinion is that the Income-tax Officers, being responsible officers of Government and subject to adequate supervision, would probably not do that, especially as the clause as amended did not give them the power to delegate this right. They would have had to go personally themselves. However that sub-clause has been entirely deleted and in future the Income-tax Officer will have to rely upon the evidence which is brought to him and such powers of entry as are

contained in other Acts, that is to say where there is a power under a search warrant or something like that. The Income-tax Act itself gives no such power.

Then there was one change made in the legal avoidance clauses and that was to the clauses which deal with settlements and dispositions of incomes to other persons. That has been amended by the addition of a proviso that where a settlement is made and it does not transfer the income to the other person for a period of less than six years or is not revocable within that period or within the lifetime of that beneficiary, then that deed will not be caught by the section. That is one modification and I think it is the only modification of substance made in these legal avoidance clauses.

Then on the question of the incidence of taxation, there is of course the change made in the clauses dealing with foreign income, and as there have been misunderstandings I think about those clauses, I propose, again, Sir, with your indulgence, to explain them in greater detail. Under the Bill as it now comes to this Council, taxpayers are divided into three classes. First, there are the non-residents. They pay tax only on the income which arises in British India. Then there are the persons who are resident but not ordinarily resident. They pay tax on the amounts which arise in India *plus* the amounts of their foreign income which they bring into British India. And then, finally, there are those who are both resident and ordinarily resident. I will come to the way in which these classes are defined in a moment. But this last class pay tax on the income which arises in India, on the amounts they bring to India and also on the amounts which arise abroad and which have not been brought into India, with a deduction from this last class of income of Rs. 4,500. So much for the incidence of taxation between these three classes. I think the chief trouble has arisen not so much in understanding that but in understanding the differences made between the classes, the manner in which the classes have been defined. This matter is dealt with in clause 5 which introduces new sections 4A and 4B. Now under the new section 4A a person is resident in British India if he satisfies one of three conditions. First of all he has to be resident in British India (or rather actually in British India) for at least half the year. That is one condition. Secondly, if he has a house in British India maintained for at least half a year and visits the country for any time during the year, however small the period may be, he may be here only two or three days; he would then be regarded as resident. And thirdly, if in the preceding four years he has been in British India for at least 365 days, he will be regarded as resident. Now that differentiates residents from non-residents. We will have to keep those three conditions entirely separate from the conditions which are dealt with in the second section, section 4B, which defines persons who are ordinarily resident. Now under 4B a person in order to be ordinarily resident must have been a resident as defined in 4A for at least nine out of the ten preceding years and must also have been in British India for at least 730 days (that is to say, two years), in the previous seven years. Both those conditions have to be satisfied. If I give one or two illustrations, perhaps it might make the thing clearer. First of all, let us take the case of a Sindhi merchant—I mention the Sindhi merchant because that is a class affected—who maintains a house in British India, trades abroad and comes back regularly every year. He will clearly be a resident of British India, but unless he has also been for 730 days out of the past seven years in British India he will not be also ordinarily resident. He would just be treated as a person resident but not ordinarily resident and will pay tax on the income in British India *plus* the income arising abroad which has been remitted to British India. Then, if you take the case of a European

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member of the Indian Civil Service who has been here for eight years, he will be regarded as not ordinarily resident, because quite clearly he has not been resident in British India for nine out of the previous ten years. But his colleague, also a European member, who has been here 12 years and has only had short periods of leave, eight or nine months at a time will clearly be regarded both as resident and ordinarily resident. In order to escape a person who has been resident here for more than ten years will have to be out of the country for the whole of two complete income-tax years; otherwise the condition of ordinary residence will apply to him.

So far I have been dealing with the question of residence in its relation to individuals; but an important change has been made in defining what we mean by a company resident in British India. In the past a company was regarded as resident in British India unless its control and management was situated wholly outside the country. The Bill adds another condition and says that a company shall be regarded as resident if its control and management is here or if more than half its income arises here. That is a change which has been made in the Assembly and the effect of that is to bring within the scope of the Act those companies which have most of their trading activities in India but which have their technical control in the United Kingdom. By technical control I mean control as it has been interpreted in the Courts, the control of the Board of Directors if the power of control is vested in that Board. If those meetings are all held in London, then, notwithstanding the existence in India of large buildings and most of their business here, then technically that company will be regarded as resident in the United Kingdom and not resident in India. These companies paid in the past on the income arising here, but they did not pay on the income arising abroad, the United Kingdom or elsewhere. That is rather an important change. Fortunately for a company "ordinary residence" is the same as "residence". So there is no further complication there.

Two other modifications were made in this connection and as part of the same general arrangement. One is the allowance for foreign income-tax in respect of income arising abroad. The provision is that where income arising abroad has been subject to Indian income-tax and also to foreign income-tax, then there shall be deducted from the Indian tax payable one-half of the foreign tax or one-half of the Indian tax whichever is the lower. That represents a considerable concession, because unlike the other double taxation provisions it is not made reciprocal. That is given whether the other country gives any relief or not. Then the other modification was made owing to some fear that the collecting machinery would work harshly where a person resident in India had a large amount of income arising abroad but, owing to exchange restrictions imposed by the foreign country, could not bring that income into British India. Provision has been made in section 46 for holding over the tax, that is to say, for not collecting it, for so long as such restrictions operate. When those restrictions are removed, then the tax will be collected. The assessment will be made at the time but the tax just held in abeyance and not collected until the restriction has been removed.

Now, the only other change of importance in relation to incidence of taxation is the granting of exemption to certain superannuation funds. Under the old Act, provident funds which conformed to certain rules were treated in a special manner. Their own income was exempt and the contributions by the employee were deducted and contributions by the employer were also deducted in arriving at his income. There were no corresponding provision

for superannuation funds and a new Chapter has been introduced to give corresponding relief to superannuation funds. Although this clause introduces an entirely new Chapter, I think there is nothing controversial in it and I do not think I need say any more about it.

Then, in the machinery side, we have of course a very important change, an Appellate Tribunal is proposed, and that is dealt with in Part II of the Bill. The reason for putting this in a separate Part of the Bill, even though the amendments are spread throughout the Act, is that it would impose too heavy a burden upon the Department to have such a radical change made at a time when so many other changes were being made both in the organisation of the Department and the incidence of the tax. For that reason the provisions are put into Part II of the Bill and the intention is that they shall come into force two years after the Bill itself comes into force. Now, the main lines of the proposal were settled in Select Committee and they were these. First of all, a Tribunal was to be set up consisting of not more than ten persons half of whom would be judicial members, that is to say, persons of approximately the status of a district judge—no less status than that—and half of them were to be what has been described as 'accountant members, that is to say, persons with experience in accountancy matters and business matters generally. The intention is to have appeals heard by Benches of two members drawn from the Tribunal which would be a kind of panel and one judicial member would sit with one accountancy member, so that when a case came up which dealt with difficult points of accountancy or of business generally the experience and knowledge of the accountancy member would be available, while of course on points of law there would be the experience and learning of the judicial member. Provision is made for referring to the President of the Tribunal of any case in which there is a difference between two members hearing an appeal and the President can then refer the matter to other members and take a majority decision. The precise rules for determining the manner in which that should be done have not been laid down; they have been left for the President to make himself. Now, one big difficulty which was feared when these proposals were first mooted was that there will be hundreds and thousands of appeals, some of them very small, which would go from the Assistant Commissioner to the Appellate Tribunal. I may say at this stage that the intention is that the various Benches should sit at the same time in different parts of India, so that one will be sitting in Bombay, one in Calcutta and perhaps another in Madras. Thus, in various parts of the country these groups of two would be hearing appeals at the same time. It was felt that the Tribunal would be flooded out by these appeals and that something must be done to prevent that, otherwise the increase in the number of members necessary to hear the appeals would be so great as to make the scheme altogether too costly. To get over that, the proposal is to provide for a fee of Rs. 100 for every appeal to be taken to the Tribunal. The assessee continues, of course, to have the right without any cost of going to the Assistant Commissioner, who in future will do nothing but hear the appeals and it is expected that he will be able to do substantial justice in all ordinary simple cases. That will mean that only those cases in which a very large point of substance or a very difficult point of law arises will, in fact, go to the Appellate Tribunal. That corresponds very largely, almost exactly, to the system of the Special Commissioners in the United Kingdom. There, the Special Commissioners are a full-time body as here and they go on tours in twos all over the country and it is a practice for only fairly large and important cases to reach that stage. I think I have explained everything that need be explained on that Tribunal except possibly this that the Tribunal will not in any sense be under the

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control of the Commissioner as it is going to be an entirely separate judicial body and for that reason the right is given to the Income-tax Officer himself to lodge an appeal against the decision of either the present Assistant Commissioner or the Appellate Tribunal. His appeal against the Appellate Assistant Commissioner's decision would, of course, be on the instructions of his Commissioner of Income-tax and would follow the same course as that of an appeal by an assessee. The further stages will, of course, be nothing more than the reference to the High Court on a point of law in the same way as a point of law can now be referred by the Commissioner to the High Court. I think that is all I need say about the Appellate Tribunals.

There is one point to which I would like to draw the attention of the Honourable Members and that is that they will find, when they are printed, a rather large number of official amendments to this Bill. I believe their total number is 95. If there is any apprehension, perhaps I had better mention that those amendments are all either consequential upon changes which have been made in the Legislative Assembly or are purely formal drafting changes which have come to light between the Assembly sitting and this sitting as a result of the more careful and leisurely examination of the Bill in the light of the amendments made. There are no official amendments which are, I think, controversial. They are all either points of very minor importance or are purely drafting points.

These, then, are the merits of the Bill which I claim. It will not make the income-tax law perfect, nor will it make the administration perfect. In this connection, may I remind the House of a passage in the writings of the classical economist, McCulloch, who, adapting a quotation of Pope's, wrote :

"Whoever hopes a faultless tax to see,
Hopes what never was or is or ever shall be".

With all its defects I think it can be claimed that the Bill represents a vast improvement over the existing law and, with the steady improvement of the machinery which we are hoping to effect during the next few years, I think it can be claimed that this Bill should provide a law which should prove to be the foundation of an income-tax system which would be as good as that of any other country in the world.

Sir, I commend the Bill to this House.

THE HONOURABLE THE PRESIDENT (to the Honourable Mr. Shavax A. Lal) : Will the Honourable Member please circulate the list of amendments to the Members as early as possible ?

THE HONOURABLE MR. SHAVAX A. LAL (Nominated Official) : That will be done, Sir.

THE HONOURABLE THE PRESIDENT : Motion moved :

"That the Bill further to amend the Indian Income-tax Act, 1922, as passed by the Legislative Assembly, be taken into consideration."

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official) : Sir, I do not want the House to give a silent vote on this important matter. Everyone hesitates to take part in the debate on this very complicated Bill, but I do venture to state what my views are in the matter. It was claimed that this Bill is a vast improvement over the present Act and it would form a very reasonable basis for income-tax law in future. I have no doubt that everyone

in this House agrees with that proposition. Sir, this Bill is a great achievement to the credit of the Honourable the Finance Member. He has piloted this measure with great courage, consummate skill and statesmanship. They are proved to be justified by the manner in which the debate on this Bill had taken place elsewhere. With great courage he faced the Opposition and with consummate skill he drew the opponents to his side and he showed statesmanship in dealing with the broad principles of this Bill. A similar Bill which was introduced in 1932 received very different treatment from that of the present Bill. It was rejected without being referred to the Select Committee. That was also to introduce this accrual basis in the place of the remittance basis. It was also meant to tax the total income of an Indian resident which had accrued or arose out of British India. These principles were there but they were so hotly contested that the Bill was not referred to the Select Committee. It is now given to the Honourable the Finance Member to pilot this Bill successfully and bring it to port. The slab system as described by him in his speech is a system of charging successive slices of income at a progressively higher rate of tax, the first slice bearing no tax whatever. The remittance basis is abandoned. This change is brought about in modifying some of the sections relating to it. It required considerable tact and knowledge to arrive at the result and to bring the measure to a safe conclusion from the stormy passage it had elsewhere. I am sure that a different atmosphere will prevail in this House and we are glad for this vast improvement which has been effected in this Bill. There was a controversy more intense in form and in force than in 1932. According to the accrual basis it has been shown that up to persons liable to pay on income of Rs. 8,000 there is considerable relief given to the poorer classes. But above that, out of 300,000 assesses, about 260,000 assesses receive relief. It is a great relief for the poorer class of taxpayers. As has been said by the Honourable Mr. Chambers about five-sixths of the total number of taxpayers receive this benefit. While the rules are tightened up against tax evaders or what he called tax-dodgers, various provisions are made in order to bring in a just and proper revenue to the coffers of the Government. It is unnecessary for me to discuss in detail the highly technical and complicated matters dealt with in this Bill. Two points however require attention. These are dealt with in sections 4 and 49. They are very important. Section 4 deals with taxation of the total income of any previous year accrued or arose in India or without British India. Section 49 deals with double income-tax relief. Great controversy raged round these two sections and criticised as being racial. But there was no foundation for saying that it was racial. It was ignored by the critics that this double income-tax relief is no new provision in this Bill. It has been in existence for a long time. However, for purposes of debate this fact is ignored and the bogey of racial discrimination was brought into the debate. These two principles were fully discussed and the controversy was set at rest by the party Leaders in the Lower House discussing the matter and arriving at a formula. According to that formula the accrual basis was adopted, but exemption was made in respect of accrued income to the extent of Rs. 4,500. The exempted income was to be taxed only when brought to British India. A definition was added to make it clear what is meant by a "resident" and "ordinarily resident" so that the hardship which would have been placed on casual resident may be removed. In addition to the aforesaid exemption we find also another advantage to the Indian taxpayer. Under section 49 (d) Indian residents pay only half the Indian income-tax on their foreign income arising in other countries where there is no provision for double income-tax relief; where there are no exchange facilities, Indians need pay only on that portion which can be remitted, the rest being taxed only in the year in which remittance facilities are made available. The provisos to section 4

[Sir A. P. Patro.]

clearly define the extent to which foreign income is liable for tax under the accrual basis. These two important points having been settled in a fair manner, the Honourable Member said in the other House :

" The Bill was not a Bill as it had been called, to give favours to the British, it is a Bill to give to the poorer Indians and also to provide money for the provinces ".

About which I shall have to say something later on. He said :

" It is a Bill which will make the rich of all communities to pay more and it will stop them dodging their proper contribution to the welfare of the country ".

Now, Sir, with regard to the first part, he is justified in saying that about five-sixths of the taxpayers are benefited. The various devices adopted to evade taxation were, as far as law and rules could stop, provided to prevent mischief. These points were so well analysed by the Honourable Mover of the Bill that I need not go into details. It is no hardship to the capitalist and the industries to pay just dues to the State which has been helping them to grow richer at the expense of the poorer people and receive higher dividends. The agriculturist has been mulcted with 50 per cent. of his produce and even 60 per cent. in some places and yet the agriculturist is always tapped for the purpose of fresh taxation whereas the industrialist and the capitalist do escape lightly all the time. The capitalist and the industries are protected by high tariffs, by subsidies and other props, even obligatory purchase of stores. The consumer pays higher prices. It does not matter. It only enables the rich to grow richer, and the State is losing its customs revenue.

I have always advocated that in the interests of India and in the interest of the agricultural population, free trade is the best policy for India in the present circumstances. Even discriminatory protection is a disadvantage in some cases. It helps in these cases to pay high dividends. Now, millions of agricultural people are compelled to pay to enable the capitalist to get higher dividends. On the other hand what have these capitalists done for the uplift of the people, to raise their standard of living or to promote their welfare ? These capitalists and industries have contributed nothing to the State to enable the State so far to provide facilities or improvements for the people. The subject can properly be dealt with when the Bills come before the House.

Now, Sir, after the lucid statement made by the Honourable Mover of this Bill I think I need not take up much of the time of the House. I would refer only to a few salient points in the Bill. One important change introduced in the Bill is the establishment of an Appellate Tribunal, namely, section 5A of Part II. This Tribunal will be composed of an equal number of persons, with judicial training and accountancy. It has been argued all the time, it has been complained of by all concerned that the Assistant Commissioners and others who hear appeals are departmental people biassed in favour of the departmental orders and therefore it would not be possible to get even handed justice from such persons in case of income-tax appeals. Of course many have got personal experience of these matters. This Tribunal is intended to obviate that difficulty and to get over this criticism. It has been explained how this Tribunal is to work and how it should be organised. This will not come into force at once because it would dislocate the work of the administration if it is to be immediately introduced. It will come in only after two years. It is an independent body and it has to decide appeals on facts and law, the power of the Commissioner to refer matters of law to the High Court will still remain. Now,

Sir, sections 22 and 32 deal with what is called compulsory return of income and penalty for failure. In the case of assesses with an income of less than Rs. 3,500 this compulsory return will not be applicable. If on the other hand any notice is served on them within a certain period, then alone they would have to send the return. It is only in the case of dishonest evasion that this compulsory return will be very effective. The failure would be met with a penalty of one and a half times the amount that would be assessed in the particular case. Again, in the case of trusts care has been taken to make a provision that there is no abuse.

1 P. M.

We find various forms of trusts created for certain persons but the income is enjoyed by the author of the trust,—the whole trouble being that this is only a *benami* transaction. In some cases we find that in order to avoid taxation while a trust is created for the benefit of others the author of the trust is enjoying the benefit. This provision therefore tightens up cases of fraud. Then the transfer of funds abroad is another manner in which also evasion is carried on, namely, it has been explained that funds are transferred to other countries or to an Indian State. There a company is started and the proprietor of that company is the person who transferred the funds. Money is again taken from that company in the shape of loans in order to evade taxation, and the whole thing is carried on to defraud the State of its just dues. Here again the Bill tightens up and such persons who carry on this kind of transfer of funds to other countries or to other States will not be allowed to escape hereafter.

One of the most important provisions of this Bill is to reopen the taxation assessment which has been made in previous years. Suppose there has been under-assessment for some reason or other,—I do not say there has or has not been dishonesty of the officers,—and it has been discovered that there has been under-assessment, it is provided that in eight years or four years the matter can be gone into according to circumstances and the dishonesty is to be ascertained and proper assessment is to be levied from him. So the Bill has provided various means by which the evasion of tax could be stopped; and also the slab system or the accrual system equitably adjusts the payment of tax, namely, only those rich people and capitalists who have been evading taxation can be asked to pay more to the State.

The last point to which I wish to refer is the earnest and sincere desire of the Honourable the Finance Member to provide funds for the Provincial Governments. It is a very welcome move but the matter requires to be very carefully considered. Such Provincial Governments as have deliberately thrown away revenues in pursuit of a will-o'-the-wisp,—excise revenue and land revenue,—deserve very little consideration. The provinces which have lost excise and land revenue for no reason whatever deserve, as I say, very little consideration. To serve a political stunt and so to carry out an unreasonable and extravagant programme the land revenue of Government should not be jeopardised. In Madras prohibition was introduced in some districts at a loss of Rs. 40 or Rs. 50 lakhs. Extravagant statements were made that this prohibition was a grand success and a miracle was worked in Madras Presidency. It has been boomed up by a favourable press and even the non-official Europeans were very enthusiastic in supporting it. But in truth what is it today? It was said that within the first few months this prohibition has improved the economic condition of the people so much that there has been more gold, more clothes and more brass vessels in their families. But on inquiry by unbiassed agency this position has been found to be utterly untenable.

THE HONOURABLE THE PRESIDENT : What has that got to do with this Bill ?

THE HONOURABLE SIR A. P. PATRO : The Finance Member wants to give a portion of this income to the Provincial Governments. Therefore I am saying that such provinces who have thrown away all this income should have no share in this. Not only this. At a meeting of the members of Taluq and Village Prohibition Committees the Collector of the Salem district, Mr. Dixon, said that this prohibition stunt was waning and the enthusiasm with which it was started was getting less and less.

THE HONOURABLE THE PRESIDENT : All this will be very useful when the Finance Member distributes this money !

THE HONOURABLE SIR A. P. PATRO : But the desire of the Honourable the Finance Member is to distribute a portion of this income-tax to the provinces. Therefore I warn him that it is only a will-o'-the-wisp that they are pursuing. They are voluntarily and deliberately throwing away revenue and therefore they do not deserve favourable treatment. (*An Honourable Member :* "This is a tirade against the Congress Governments?") I do not know whether it is Congress or not, but this is what I see. Mr. Natesa Aiyar, one of the special officers said that recently there seemed to have been a lack of enthusiasm on the part of the people and the crimes were so many. At one time it was said that crimes were going down and economic prosperity had increased. The columns of the Congress papers were full of these things and now these special officers say that it has been a failure. Therefore, I warn the Finance Department that however sincerely they may feel for distributing funds they must take good care about it. Then they are losing in another way. In regard to land revenue they have started a stunt that the ryot and cultivator is the owner of the soil and therefore he is only entitled to pay rent which was settled at the time of the first settlement by Colonel Munro. With regard to zamindars they say that the zamindars are nobody and they should be wiped out and altogether eliminated. With regard to the *pattadars* they say that if once the rent has been fixed——

THE HONOURABLE THE PRESIDENT : I think the Honourable Member should reserve these remarks for some future occasion.

THE HONOURABLE SIR A. P. PATRO : Therefore I say they are losing revenue. The *pattadars* claim remission. Now they are losing revenue and therefore these people who without any consideration and without any experience of administration are throwing away revenue in such a manner do not deserve any consideration ; and I am sure the Honourable the Finance Member will be very careful in dealing with such cases where revenue has been voluntarily thrown away. Great caution and care are necessary in the distribution of this income-tax money where existing resources of revenue are crippled without any benefit to the people.

On the whole, as I said, this Bill is a great credit to the Finance Member and the various provisions relating to prevention of evasion, stiffening up the collection, equitable distribution and improvement of the collective machinery will all help to bring revenue to the State. These are aspects which are very important and it is really laying the foundation for a good and substantial income-tax law for India.

Sir, I support the Motion.

The Council then adjourned for Lunch till Half Past Two of the Clock.

The Council re-assembled after Lunch at Half Past Two of the Clock the Honourable the President in the Chair.

THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA (Bihar: Non-Muhammadan): Mr. President, the Honourable Mr. Chambers made this morning a fairly clear exposition of the provisions of this Bill and also explained the objects underlying this measure. While I do not wish to quarrel with his claims generally, I do wish to express one disagreement. Mr. Chambers seemed to express a claim that this measure was essentially a pious measure intended to be equitable to all, kind to the honest taxpayer and designed to make it difficult for the dishonest taxpayer to dodge the Income-tax authorities and that while these were its avowed intentions the accretion to the finances of Government were merely incidental! In claiming this, I am afraid perhaps a little too much innocence is claimed by the Honourable Mr. Chambers. My view is that on a general reading of the Bill it gives the impression that essentially it is a tax gatherer's Bill. The Bill bestows no special consideration to special Indian conditions nor shows any helpful consideration to the industries of this country which have to struggle under unfavourable conditions, unlike the industries in Great Britain or other countries. I admit that the Bill has emerged from the Select Committee and the Assembly a much more chastened and acceptable measure than it was when it was introduced in the Assembly. Some of the clauses like the one requiring the aggregation of the income of the husband and wife and permitting the Income-tax Officer to enter the premises of the assessee have been given up. These deletions have certainly made the Bill more acceptable. The Bill however suffers from the absence of many of the commendable human features which embellish the Act of Great Britain and perhaps of many other countries, as for example, the allowance given to the assessee for wife and child. I wish these human clauses were present even in some measure in this Bill. I welcome the provisions regarding the appointment of an Appellate Tribunal. This goes to meet a long-felt want of the Indian taxpaying public. The Tribunal is to consist of not more than ten members, half of whom would be judicial members and half accountant members. The proviso at the end of this provision is, to my mind, not satisfactory. It gives the Government option to appoint as an accountant member of the Tribunal any person not possessing qualifications required by this sub-section. I do not see why this proviso should be necessary? This proviso might weaken the composition of the Tribunal.

Then, Sir, I would like to refer to *Explanation 2* at the end of section 4 which says that pensions payable outside British India will be excluded from the effects of the Income-tax Act. I cannot see why this exemption should be necessary? Pensions are to be treated as salaries and I do not think that this difficulty is in any way insuperable. Why make the pensions payable outside India at all? Put them in the Indian banks and let the persons concerned withdraw them. These are all the points, Sir, that I want to make at this stage of the Bill.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, I support the Motion which has been so ably moved by the Honourable Mr. Chambers. The Bill before the House represents one of the few very important measures which have been placed before the Legislature during recent years. This Bill in its present form is very different from the one originally introduced in the Assembly. In the course of its passage through that House it has undergone important changes and much of what was considered to be objectionable has been dropped and substantial

[Saiyed Mohamed Padshah Sahib Bahadur.]

alterations have been made which have gone a long way to make the present measure a very desirable and useful piece of legislation. This result was achieved by the honest and sincere efforts made in that House by every section, not only of the non-officials but of the officials also. Not only did the Government soften down in its attitude from the one which it originally adopted, but all parties in the House co-operated whole-heartedly and made an honest endeavour to make of this measure something which would really be acceptable and helpful to the country. In this connection mention deserves to be made particularly of the contribution made by the European Group. This Group cheerfully accepted a position which was much worse for them in the compromise than was given to them by the original measure. This kind of co-operation and sincere effort made in the popular House goes to show that whenever there is a really useful and helpful measure brought in the Legislature which is designed to advance the interests of the country, the various parties and representatives of different schools of thought forget their differences and co-operate whole-heartedly to give effect to what they consider to be in the real interests of the country at large. As has been claimed by the Honourable Mover, this measure will, it is hoped, lay a strong and sure foundation for the building up of a sound and good system of income-tax in the country. To instance one of the changes introduced by this measure, the slab system has been substituted for the present system of assessing income-tax. This, Sir, is a very important and beneficial change, inasmuch as the assessing of a tax is made on a more fair and equitable basis. Not only does the tax not rise by sudden jumps and by leaps and bounds but there is also a fairer distribution of the burden, the incidence of taxation rising steadily, till, at last, the highest burden falls on the broad shoulders of the millionaires and multi-millionaires in the country, the big capitalists and industrialists who are quite in a position to bear that burden. If, Sir, as the Honourable Mr. Chambers has claimed, the system has lightened the burden on five-sixths of the assesses and increased it in respect only of one-sixth, this measure for this equitable and fair adjustment, if for no other reason, should be welcomed by this House. Again, Sir, the change introduced in regard to foreign income is very good and desirable, even though there may be some difficulty in understanding the distinction between resident, ordinarily resident and non-resident, and so forth. It is obvious, Sir, that those who have large fortunes outside India and have until now escaped liability to pay income-tax by having the head office of their business outside India and by such similar devices, these people now cannot go scot-free any more. They will have to pay their just dues to the Indian exchequer. And it is also but fair, Sir, that in this respect there is also relief afforded in the case of double taxation.

Again, Sir, it is a matter of great gratification and a matter which goes to show the solicitude for the poor petty trader, that foreign income is not taxed until it reaches the amount of Rs. 4,500 per annum. This wholesome exemption gives relief to the petty trader who have gone out to foreign countries not with a view to make huge fortunes but only to eke out their livelihood, for which they did not find much scope in the country. Again, Sir, the devices set up to catch tax-dodgers can in no way be considered to be unfair. Anything that may have the effect of providing against such tax evasion should certainly be welcomed by this House. In particular, Sir, I welcome the change that has been introduced in the function of the Assistant Commissioners of Income-tax. Whatever might be said about the impartiality of these Income-tax Officers and their honest efforts to bring quite a judicial and unbiassed mind in deciding cases that come before them, it could not be denied, Sir, that they have been

trying to do until now a very difficult duty, that human beings as they are and anxious as they always are to add to the revenue, to bring as much revenue to the Income-tax Department as possible, they could not very easily judge of things on their intrinsic merits, detaching themselves altogether from the considerations of revenue. Whatever it be, Sir, even if it is supposed that they could work a miracle in this respect and could be really fair and impartial judges, there is always a suspicion in the mind of the public that an executive officer who has got a specific duty, having a close bearing on the matter on which he has to take an impartial and fair view, cannot easily come to an unbiassed and fair decision. Therefore, Sir, this attempt to separate the functions of the executive and the judiciary in respect of the Income-tax Department is really a very wholesome change and a change which ought to be welcomed by this House. As you know, Sir, the need for the separation of the judicial from the executive functions has been insisted upon in this country for nearly 50 to 60 years. And I think, Sir, that anything which is done in the direction of bifurcating these two functions should be welcomed by anybody who has the interests of justice at heart.

Of course, Sir, there might be some defects in the measure before us. Some of them have been mentioned by my friend who has just resumed his seat. We all hope, Sir, that the Government may try and remedy these defects, whenever they possibly can. As has been observed by my Honourable friend who spoke just before me, the refusal of relief to an assessee in respect of an allowance to his wife and children is really not very fair. Things like that, Sir, do call for redress and in respect of these things I hope the Government will try to effect modifications in the measure which they have now proposed. On the whole, Sir, this is a very important and a very helpful measure and I congratulate the Honourable the Finance Member and his lieutenant, the Honourable Mr. Chambers, on having brought this measure before the Legislature.

THE HONOURABLE RAO BAHADUR K. GOVINDACHARI (Madras : Non-Muhammadan) : Sir, I should like in the first place to congratulate the Government heartily on their having been able to bring forward the present Bill. There has been so much of controversy regarding both the object of the Bill and the methods by which that object is sought to be achieved that one can well imagine the trouble and anxiety which have been expended in shaping the Bill in its present form. At the same time, it is not easy to perceive the reasons for all the acrimonious discussions which have preceded the introduction of this Bill. I am certain that there are not many in this House who would agree with the opinion of the philosophic anarchist that taxation is never morally justifiable. As long as the country needs a Government to carry on the work of public administration, resources have to be found for it. I have indeed heard that the governmental expenses of the Principality of Monaco are entirely met from its share of the profits from the Casino at Monte Carlo, and that there is often a surplus left over which is distributed among the subjects of the State in the form of annual dividends.

Though the effect of the passing of this Bill would be to raise additional revenue for the State, we must all bear in mind that it is not a money Bill. Its only object is to protect the honest payer of income-tax by closing up the loopholes in our present system. It is true that certain categories of income which have hitherto escaped assessment are now being brought within the scope of the Bill, but its principal objective is to prevent evasion. It is not generally recognised that it is the honest income-taxpayer who has to meet

[Rao Bahadur K. Govindachari.]

the deficit caused by fraudulent evasion, and when this fact is driven home to the minds of all self-respecting citizens, all questionings as to the wisdom of tightening up income-tax practice and administration are bound to vanish.

It may be asked how the Government have so far remained quiet when they were fully aware that evasion on a large scale has been going on for a long time. As long as the defects in the taxation system of the country affected the Government and the taxpayer only slightly, they were but little heeded. The financial strain of the post-war period has compelled us to view these matters in a different perspective. Income-tax which formerly was only an unpleasant incident in our daily life has now become its dominating feature, and its evasion which could formerly be overlooked has now become an enormity, and those features of it which once upon a time were too small to be taken seriously have now become intolerable because of the additional burden imposed on the honest taxpayer.

Another reason why we are now compelled to study the methods for increasing the revenue contemplated in this Bill is that the needs of the autonomous provinces are constantly expanding. The Niemeyer award has provided the provinces a considerable slice of the revenue from income-tax, and they stand directly to gain from any increase in its proceeds. We have it on the authority of the Finance Member that, on the scale recommended in the Report of the Income-tax Experts, he hopes to get an excess of about Rs. 3 crores when all their proposals reach the full fruition stage. And though it may not be possible to arrive at an exact estimate, it will be commonly agreed that the excess realisable through the instrumentality of this Bill is a very considerable one, the immediate and ultimate destination of which is the treasury of the Provincial Governments. The anxiety displayed regarding the fate of this Bill by the Provincial Governments, and more particularly by the Congress Ministries is a sure sign that the Bill is welcomed by them ; and this incidentally explains why, in spite of the alarm which attended its introduction in another place, the spirit of reasonable compromise ultimately prevailed and the Bill before us has assumed its present form and shape. From this point of view, therefore, the Bill is a necessary and welcome adjunct to the constitutional reforms under which provinces obtained autonomy. To deprive the provinces of the means for carrying on their work effectively while granting them political responsibility would have been to offer them the shadow instead of the substance.

This, Sir, partially at least, explains why we are now called upon to deal with this Bill ; and from the considerations that I have already advanced, it will be clear that the matter brooks no further delay. From the nature of the case, it is a highly technical and complicated piece of legislation with which we have to deal, but in substance, as I pointed out, it is simple enough, in that its main object is to tighten up income-tax administration and prevent leakage. Incidentally it also provides for a very important change in assessment, a change which, though not formally mentioned in the Bill, has nevertheless been referred to in several of the clauses. The present system, called the step system, has been found to be defective in that it provides for taxation of the whole income at a specified rate when the income exceeds a certain limit, and not merely for the taxation of the excess over that limit at that rate.

The acceptance of the slab system and of the many other administrative and other reforms contemplated in the Bill will undoubtedly have a healthy effect not only on public finances, but also on the incomes of private individuals. One effect therefore of the passing of this Bill, will be to make

income-tax more equitable in its incidence by relieving the lower middle classes and progressively increasing the tax on the higher incomes.

Though there are thus great advantages in the Bill, I must at the same time confess to a feeling that the principle of ability to pay may be somewhat over-stressed. Speaking as one with some experience of business, doubts have assailed my mind as to whether the widening of the field of taxation and the greater liabilities imposed on the higher incomes may not lead to a shrinkage in the national saving. This is an era in which the whole country is looking forward to means and methods for increasing our industrial and commercial activity. The funds or finance for undertakings of this kind can only come from the money that is being saved by individuals and corporations every year. Businessmen, therefore, believe that taxation should always be kept at the minimum compatible with the needs of the administration, and that any other policy might prejudicially affect the development of national productive and commercial activity. All things considered, big business in the country, as elsewhere, is the goose that lays the golden eggs and it would certainly be a short-sighted policy if the goose were allowed to die of slow starvation. Having said this, I am also reminded of the fact that the Government needs a great deal of additional income to discharge satisfactorily the increasing volume of nation-building work which it has now to cope with.

I view with some apprehension the clauses giving enlarged powers to the Income-tax Officers to obtain production of account books and dealing with the imposition of penalties, though the object of preventing fraudulent evasions is a laudable one.

To sum up, the new Bill, by compelling evaders to toe the line, will bring in more revenue to the Treasury and to that extent relieve the honest taxpayer; by increasing the yield of the existing taxation, fresh taxation may be avoided; a greater measure of distributive justice will be ensured by the slab system, and the resultant increase in income-tax will bring about a more equitable relationship between direct and indirect taxation in the country. On these grounds I have much pleasure in supporting the principle of the Bill.

THE HONOURABLE SIR RAMUNNI MENON (Nominated Non-Official): Sir, I must begin by associating myself most whole-heartedly with the tributes that have been paid by previous speakers to the Honourable the Finance Member for successfully piloting this Bill through the Lower House. He certainly had to navigate his ship through a very perilous sea and his success is deserving of the highest praise. I must also offer my congratulations to the Honourable Mr. Chambers for his very lucid explanation of many of the complicated provisions of this rather complicated measure. In particular, I listened with great interest to his explanation of the terms, resident, ordinary resident, non-resident and so forth. I do not quite remember all the details now but I have made out that I am a full victim of this particular measure. He has also suggested a means of getting out of the clutches of this Bill, namely, absencing oneself from British India for two years continuously. I shall keep that suggestion in mind. I hope I shall not be regarded as an artful dodger if I have recourse to the method suggested!

The Honourable Mr. Chambers set out at some length the main objects of this Bill and I do not propose to enumerate them. The most welcome and most agreeable feature of this Bill, as it appears to me, is the proposal to substitute the slab system for the existing step system. I say it is the most agreeable,

[Sir Ramunni Menon.]

because it introduces what promises to be a very equitable system of taxation. We hear a lot about socialism, communism and all that. The people who preach these doctrines are all human beings. Whether we agree with them or not—I may say generally that I do not agree with them—it must be admitted that they are actuated by some genuine considerations for humanity as a whole. Now, one effective method in which we can steal their thunder is by ourselves constitutionally devising a system of taxation which will be equitable to various sections of the community, and fair to the community as a whole. I believe the slab system is a definite move in that direction and I hope future Finance Members will pursue this method with greater vigour and intensity. I do not know what the actual proposals are, but I believe it will be generally agreed that the steadiness of this slab system will depend to a very large extent on the thickness of the bottom slab. I hope, therefore, that the Finance Member, when he prepares his Finance Bill, will provide a sufficiently large tax-free slab which will be the foundation of the whole thing.

There is a matter of detail in regard to the proposed system on which I am not quite clear and on which I would like the Honourable Mr. Chambers to throw some light when he replies. I find in one of the provisions of the Bill that the wife's income under certain conditions will be added to the husband's income and taxed on the total. In the Bill as originally introduced in the Assembly I believe there was a proposal to lump together the wife's and husband's income in all cases. I think that the original proposal was a much juster proposal than the one contained in the Bill as it has emerged from the Assembly.

THE HONOURABLE SIR A. P. PATRO : It was modified in the Assembly.

THE HONOURABLE SIR RAMUNNI MENON : I know it was modified. There is a provision in the Bill according to which recognition is given to a trust or settlement or disposition—whatever the legal term may be—if it is not revocable for six years or for the lifetime of the person who makes the settlement. If that principle is granted, I do not see why a husband cannot settle some property on his wife, without being made liable to a larger rate of tax on the income from that property than it would bear if it stood by itself.

3 P. M. Under the provision as it exists in the amended Bill now before us, a wife's income derived from the husband's gift or settlement is added to the husband's income for purposes of taxation. I admit that there are cases where a husband simply to evade a higher rate of tax transfers a certain amount of property to his wife. If you can detect such cases, by all means have the income added on to the husband's income and tax it. But there are genuine cases, I know, in certain communities and in certain parts of India where the husband for absolutely honest, *bona fide* reasons finds it necessary or desirable to transfer and actually transfers property to his wife and children for their maintenance, the simple reason being that if he did not do that, and if he did not make a will, the property would not go to them at his death. I need not enter in greater detail into this matter now because it was dealt with by me when the Bill containing this special provision was considered in this Council a couple of years ago. I had hoped that the Honourable the Finance Member would have bestowed some attention on this aspect of the subject when bringing in the present amending Bill.

The particular point about the wife's and husband's income which I have been trying to develop is this. Will the wife who has a separate income of her own and the husband who has his own income, be treated together?

Will they, for example, be regarded as a sort of balanced architectural detail with a heavy burden resting on their juxtaposed heads and their feet resting upon a very small pedestal, or will the wife be given a slab to herself and the husband another slab? If the wife has an income of her own, will she have Rs. 2,000 deducted from that income before she is taxed, even when the remainder is added to the husband's income? That is the point on which I hope the Honourable Mr. Chambers will throw some light.

I am not going into the other objects of the Bill, but I note with very great pleasure that one of the features of the Act as it exists at present, a discriminatory feature, has been practically completely removed; that is to say, salaries and allowances which are paid hereafter outside British India will be liable to Indian taxation. And I understand an undertaking has been given that an attempt will be made to make pensions also liable to similar treatment.

One of the objects of this Bill, though it is not its chief object, is obviously to extend the field of taxation. This raises a very important issue, because the attempt has led, not according to original intention perhaps but incidentally, to a very peculiar result. We now propose to tax foreign income. I am not taking up the question of foreign income generally but only one aspect of it. Under foreign income will be included income from all sources, including agriculture. Now agricultural income, as we all know, in British India is not subject to tax. I know that proposals are afoot or under consideration in various provinces, the intention being to bring this income also under income-tax. I am not a lawyer, but I assume that, even though provincial autonomy has been established and is in full operation, the Central Legislature has the power to legislate on a subject which is clearly and distinctly set apart as a provincial subject. Agricultural income is a provincial subject and it is quite clear that the Central Legislature cannot legislate for agricultural income in a province. Now we are legislating for agricultural income derived from areas which are outside British India and are not therefore included in the provinces of British India, as for example Burma and the Indian States. Now, my submission is this. The subject-matter of the tax is one in which the Indian States are deeply interested and it would have been quite appropriate if we could have waited for this particular measure of taxation—taxation of agricultural income—till the Federation was established. I hope the Federation will be established soon. I am one of those who are looking forward with great hopes to the early establishment of the Federation. If the Federation were in existence there would have been in the Federal Legislature a very large number of members from the Indian States and I cannot help thinking that a measure of this kind, a measure containing a proposal to tax agricultural income, would have received far more attention, with what result I am not prepared to say, in the Federal Assembly than it seems to have received in the Lower House. That is a point which I want to emphasise. Now what is the result? There are people who have got property in Burma—I am not concerned at the moment with the way in which they acquired this property; they probably had to acquire it in ways which were the only ways open to them. The income from those properties in Burma has to be brought into British India in any case and as such that income will be subject to taxation. Therefore, whether it is agricultural income or not, it will not be unreasonable or unfair to ask the owners of this foreign income to pay the tax. But that is not the case with people who are subjects of Indian States who are resident in British India and who need not and may not bring their agricultural income in States into British India. I have not got any figures and have never attempted to collect any, but I know there must be very large numbers of subjects of Indian States who are resident in British India; many of them

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are in Government service, others are here for business and various other purposes. These people will have to include in their total income all the income they derive from their properties, agriculture, investments and so on in Indian States. They are not natives of British India ; they will go back to their own homes after finishing their labours here. Now I consider it very unfair that a subject of an Indian State who happens to be a resident of British India should pay tax on his agricultural income, whereas his neighbour in British India has not got to pay any tax on his agricultural income in British India. I think it is extremely unfair. I do not say that the result was intended by the authorities when they prepared this measure, but it is one of its incidental consequences.

Now that leads me to another point which has some reference to foreign income. Suppose a wife has an income of her own in foreign territory. Is she allowed the free margin of Rs. 4,500 as apart from the husband, or will the whole income be added to the husband's and only one deduction of Rs. 4,500 made from the total income ? That is another matter on which I would like the Honourable Mr. Chambers to throw some light.

I notice in the Bill as it has emerged from the other House one omission. Under the existing Act the commutation of pensions is exempted, that is to say, there is no income-tax levied on sums received as commuted pensions. That provision has been deleted altogether. I gather that the deletion makes no difference whatsoever as regards the non-liability to tax of the sum received. I should like to be assured on that point, that is to say, that without that provision sums received in commutation of pensions will not be subject to income-tax.

THE HONOURABLE SIR JAMES GRIGG : The Honourable Member can readily have that assurance. The provision was deleted because it was clear from a judgment of the Privy Council, I think, that the existing provision is entirely unnecessary.

THE HONOURABLE SIR RAMUNNI MENON : I am very pleased to have that assurance ; I am very glad to know that those sums will not be subjected to income-tax.

I do not think I need take up the time of the Council any longer, because if there is any other point on which I should like to speak, I can do so on the appropriate clause. In conclusion, I think this measure, though it has defects and though some features of it cause me some disappointment, is on the whole an extremely beneficent measure. It is a vast improvement on the existing state of affairs and I cordially support the Bill.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, a similar Bill embodying some of these important principles was introduced by the then Finance Member in 1931 in the other House, but it did not reach even the stage of the Select Committee. It is argued in some quarters that times have changed now. I doubt whether times have changed for the better or for the worse. I am a layman ; I come under the category of the poorer classes because I am an agriculturist. But, Sir, I take a broader view of things and I am not one of those who have begun to start a tirade against industries or the capitalist. I want to know—and only the industrialists or the capitalists will be able to satisfy me—whether times have really changed for

the better so that any restriction on their income is not likely to affect or hit the industries? If that is the position, then certainly I can welcome the principles of this Bill. But to my mind it appears that times have not changed for the better. To a layman like me, if prices of shares go up, if industries give dividends to their shareholders, if I find new industries springing up in my country, then I will certainly say that times have changed for the better. But I think the case is otherwise, and if the case is otherwise, as I find that industries are being hit hard by foreign competition, then, Sir, I deprecate the attempts to put restrictions on industries and thereby cause loss to the national wealth. Sir, they have introduced the slab system and they have given the go-by to the step system which existed up till now. I cannot myself appreciate the good results of the slab system unless I know the rates under which the so-called poorer classes will be benefited. But it seems to me that the slab system is going to hit the industrialist to a very great extent. I am one of those who think that industries in India must survive, that industries in India must be developed at any cost. India is a thoroughly agricultural country and in the interests of India as a whole it is necessary that no undue restrictions should be placed and every attempt should be made—by everybody, by all the interests concerned, whether they are Socialists, whether they are Liberals, whether they are Congressites—attempts should be made from all directions for new industries springing up in the country to enable us to compete in the market with foreign industries. So from that point of view, to a layman like me it appears that this slab system will eventually hit the industries as our industries are in an infantile condition even now. Then, Sir, it is argued that the Bill has been introduced with some pious objects and that the aim of the originator of the Bill is to catch those people who are called tax-dodgers and who have been evading payment of the taxes due to the State up till now. I fully agree with them that methods ought to be adopted to catch if really there are tax-dodgers. I find, Sir, that measures of this sort do not really affect the tax-dodgers, because they find out various devices to evade the tax, but they do really affect the honest taxpayers. Let us take the case of foreign traders—our Indian foreign traders. Up till now those Indian foreign traders were governed under the remittance system and now according to the accrual system they will be taxed and if I may say so we will be discouraging the adventure which our Indians have shown by going to foreign countries and establishing trade there. Sir, the present Government of India being a subordinate branch of the British Government could not and did not give any protection to our Indian foreign traders, nor did they encourage them in foreign trade. I therefore think that they have no right whatsoever to tax the income derived by them when they do not bring that income here into India. My Honourable friend Sir Ramunni Menon has just now told us how the agricultural income in Burma of people residing in Madras will be affected by the provisions of this Bill. Those provisions will not only discourage them but certainly be a red rag to our young men who may not find sources of earning in India and may have to go abroad and we shall be discouraging them from establishing foreign trade in foreign countries. I do not want to dilate on this point much as my Honourable friend Sir Ramunni Menon has already stated the case very lucidly on this subject. Even though there is some relief—I find it is up to Rs. 4,500—still the question is whether it is equitable, whether it is just to our Indian foreign traders that we should tax the income which they earn in foreign countries without any help on our part to them to earn that income. To my humble mind this provision does not seem to be either equitable or just. If we had helped them, if we had protected them against the treatment that is being meted out to them in foreign lands, then I think we might have some justification to impose such sort of restriction, but so long

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we have not done so, I think we have no right whatever to tax their income which they earn abroad.

Sir, another feature of this Bill which does not appear to me to be quite fair is the provision about compulsory returns. The House knows that in spite of the efforts of the British Government and in spite of their rule in this country for over 150 years, they have not been able to remove the illiteracy of the masses. Further, we have not heard any complaints, or at least we have not been apprised of any difficulties that come in the way of the Income-tax Department as far as the practice of issuing notices from that Department is concerned. To my mind this departure from the present practice will really affect the honest income-taxpayers and especially those who are illiterate and live in the countryside. I have known of cases in my own province, which is a purely agricultural province, where the people carry on subsidiary occupations in order to make both ends meet—I know that the assesses do not know exactly what is their income. They file returns knowing that certain allowances will be allowed by the Income-tax Officer, but actually the Income-tax Officer does not allow those allowances and the income goes up and becomes taxable. In such cases real hardship will be felt by those illiterate people especially in the villages and who are not acquainted with the procedure of the Department. I submit that Government ought to have taken into consideration the hardship that is likely to be caused under the provisions of this Bill pertaining to this matter.

Sir, the only feature that appeals to me in this Bill is the provision for the establishment of an independent Tribunal. I congratulate the Government on introducing this principle and on acceding to the request that has been made by the public in India for a long time. The public looked with suspicion, not that the officers of the Department that is, the Assistant Commissioners and Commissioners, were not independent, but that the officers being executive officers could not decide the cases independently. I therefore submit that this point is a very good one so far as the interests of the assesses are concerned.

I do not think I can do justice to this Bill, as I said in the commencement of my speech, because I am a layman. The Bill is a very intricate and complex measure, as was admitted by the Honourable the Mover of the Motion this morning, but I must congratulate the Honourable the Finance Member on the skill with which he has managed to force a sugar-coated pill down the throats of my countrymen this time when even Sir George Schuster failed in 1931—

THE HONOURABLE MR. RAMADAS PANTULU: It was bitter then!

THE HONOURABLE MR. V. V. KALIKAR: I do not know whether it was bitter then or it is more bitter now, but I know that my countrymen have to swallow the pill, because they are in need of money. The Government of eight provinces is in the hands of our countrymen and they want more money for various nation-building purposes. The irresponsible Government in the centre wanted to please them at the cost of all communities in India, and therefore they found an opportunity to trap my countrymen by this device of getting more money, and they have succeeded in their attempt. I therefore again congratulate my Honourable friend the Finance Member and resume my seat.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I rise to support the Motion so ably moved by my Honourable friend Mr. Chambers. I congratulate him on the very lucid speech he made specially because it is singularly free from the pedantries of the expert, and he showed considerable regard for the feelings of laymen like me. It was more than a refresher course to a student who has read the Bill ; it is also an elucidating commentary on the intricate sections of this Bill, and so I once more congratulate him on the excellent speech he made. Sir, several people deserve congratulations and appreciation from this House on the part they played in trying to put this measure on the Statute-book. The foremost of them is the Honourable the Finance Member. I do not know whether I had opportunities in the past to speak very appreciatively of his work or to congratulate him—

THE HONOURABLE SIR JAMES GRIGG : Not many !

THE HONOURABLE MR. RAMADAS PANTULU : But on this occasion, though I am not altogether pleased with the measure, I must congratulate him on the skill with which he piloted the measure through the Assembly. I appreciate the spirit of accommodation which he has shown to secure for this measure the maximum amount of agreement from all political parties in the other House, and specially the manner in which he got over the deadlock over those unfortunate sections 4 and 5 really demand our appreciation.

Sir, the Select Committee too should be congratulated on deleting the provision relating to the aggregation of incomes. It was a provision on which we passed a temporary measure here and on which we had to say a great deal on a former occasion. On the whole, we welcome the decision of the Select Committee.

Sir, the Assembly also deserves congratulations for at least one particular amendment which is made in the Bill after it has emerged out of the Select Committee, and that is the deletion of clause 42 which gave inquisitorial powers to Income-tax Officers to enter premises and to get hold of the assesses' documents. The European Group in the Assembly also deserves our grateful thanks for the correct attitude it assumed on clause 4, on the domicile and non-domicile question. In spite of these improvements, the Bill cannot be said to be a good and a perfect measure, but as some of those who appreciate it say, it represents the best of a bad bargain or as others say, we accept it in the spirit that half a loaf is better than none. I also support it in that spirit.

There are two lines of attack on the Bill on which I should like to say a few words. Some of our friends in the other House and also here said that the foreign incomes of Indians abroad ought not to be taxed, because the Government of India is not in a position to create for them facilities or to protect their interests abroad. For instance, Indians are being killed in Burma and we don't feel sufficiently strong to prevent it, but whose fault is it ? I do not think the argument that because the Government of India as it is constituted today is a subordinate Government without any power to influence foreign countries, the incomes earned by Indians abroad should not be taxed, is one which ought to appeal to us. It does not appeal to my mind. If they have sufficient protection in foreign countries to pursue their trade from which they earn sufficient incomes liable to assessment and the Indian exchequer is entitled to it, I do not see any reason why such incomes should not be taxed, simply because the Government of India is generally not in a position to afford protection to Indians abroad. That is a political argument which may be urged on other occasions. Another reason urged against this measure is

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that this Government is an extravagant Government, which does not husband its resources properly, which spends much more on defence and imperial projects than on the development of this country and gives the people no check over the expenditure, and therefore we should not put more money into the coffers of such a Government. That is also another political argument which we can use on other occasions. Redress of grievances before voting supplies is a very well known parliamentary maxim, but we should apply it on other occasions. I think when we are dealing with a taxation measure, in which we have to enunciate the principles correctly and also fix the sources of tax to which the Government of India is entitled and incomes on which the tax is to be assessed, this argument does not really arise. I think these two arguments are really beside the point. Of course, we have grievances against the Government, and we shall show our resentment when the Finance Member brings forward his Finance Bill here. The four previous Finance Bills were voted down in succession as our grievances remained unredressed in the last four years and I do not know what fate the fifth and last Finance Bill of Sir James Grigg will meet with this year. Therefore, the question of voting supplies will arise on another occasion.

Sir, before I come to some of the features of the Bill which I welcome, I will mention a few features which are not very welcome to me. In the first place, I fail to understand why the Government had brought forward merely an amending Bill and not a Bill to consolidate and amend the law relating to income-tax in India as they should have done. An amending Bill of this nature which attempts to amend the Act extensively—most of the sections and schedules have undergone considerable amendment—puts the Members of the Legislature at a great disadvantage, because no Member of the Legislature can move an amendment to any section of the Act which is not touched by the Bill, which is only an amending Bill. So, if some sections are not touched, then we have no remedy. There is also the further difficulty of having to obtain the leave of the Governor General in this case, but apart from that difficulty we cannot even ask for sanction to move an amendment to sections which are not covered by the Bill. Take, for instance, section 49 which relates to relief of the United Kingdom income-tax. This is a section to which every Provincial Government in India, so far as I know, has objected; not only the Congress Governments but also other Provincial Governments have objected to it, but no notice was taken of their objection. But if this was a consolidating and amending measure, then probably Members of the Assembly could have done something to table amendments to that section and carry them. There are other sections also in the Act which could not be touched owing to the form in which this Bill has been brought before the Legislature. Therefore, I wish it had been a consolidating and amending Bill. Probably it was inconvenient for the Government to bring such a measure because that would throw open the door for amending other sections, which they did not like.

Then, Sir, though the Government of India Act now stands in the way of taxing pensions paid abroad from Indian revenues and the interest on sterling loans paid out of the Indian revenues, I think an attempt ought to have been made along with this Bill to ask the competent authorities to amend the Government of India Act in this matter so as to make taxation of pensions and interest of sterling loans part of the Income-tax law of India. In regard to the amendment of the Government of India Act in these directions, I hope something will be done quickly. I am told that an assurance was given with regard to section 272 dealing with pensions. I do not know whether any

assurance has been given with regard to interest paid out of Indian revenues on loans contracted abroad.

The Honourable Mr. Chambers has no doubt elucidated the provisions of clause 4 which embodies the compromise arrived at in the Assembly, but I must say even after the compromise which has been arrived at, the position has not been very much improved. The distinction between domicile and non-domicile residence has no doubt been removed. That is an advantage which I appreciate but clause 4 as ultimately enacted by the Assembly is still very unsatisfactory. I had to construct a table to understand the implications of the provisions relating to residence and non-residence. Among residents, we have the distinction between those who are ordinarily resident and those not ordinarily resident. Among non-residents we have to differentiate between British non-residents and non-British non-residents and so forth. British non-residents pay less tax than non-British non-residents. Then people who are ordinarily resident are treated in one way and people who are *not* ordinarily resident are treated in a different way. So, on the whole, I think the section has not been very much improved. Discrimination still exists. It has if at all been made more complicated. It could have been made simpler and the distinction between domicile and non-domicile could have been altogether abolished without introducing any new distinction between ordinarily resident and not ordinarily resident. This takes away a portion of the benefits of the compromise.

Then, Sir, Mr. Chambers has stated the five main principles underlying the Bill. Speaking for myself I am in agreement with those main principles. With regard to the provisions relating to stopping of evasion as well as those relating to preventing legal avoidance, I have devoted some time to the study of the Bill and I think it goes as far as it can legally be done having regard to the complexities of the law. Various loopholes will always remain for evasion in spite of the greatest care. On the whole the drafting is commendable.

With regard to making the burden of tax more equitable, the main item is the substitution of the slab system for the step system. Of course it could have been done even without this Bill because the slab system exists even now with regard to super-tax. It did not require this Bill. However, an assurance was given that in future not only super-tax but also the ordinary income-tax will be levied on the basis of the slab system. How it will work remains to be seen. The statement that five-sixths of the assesses will be benefited is welcome so far as it goes. Unless we know the rates and the slabs that will be ultimately fixed we cannot now say how it will work. On the whole, I think it will give relief to the smaller assesses and people with lower incomes; but it may affect adversely some of those people who have larger incomes. My Party, along with other sections of this House, is fully alive to the dangers of taxing trade, commerce and industry excessively and the reactions it may have upon the economic development of this country. Therefore, we are not asking for any unfair or harsh treatment of the richer classes. We certainly welcome any attempt to equitably distribute the burden of taxation, to give relief to the poorer people in the process and to tax the richer slightly more and utilise the additional tax for the general development of the country. The principle is quite right. So far as I can make out from the specimen rates given, I find that the slab system will be an improvement over the step system. Let me illustrate my point. In the case of a person with Rs. 9,800 income, he pays income-tax in three stages. On the first Rs. 1,500 he does not pay at all. Under the slab system he gets exemption to that extent. On Rs. 3,500 he pays nine pies and on Rs. 4,800 he pays one anna three pies. I think I have got the specimen rates correctly. Now, take the case of a man with an income of less

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than Rs. 15,000, namely, Rs. 14,099, that is one rupee less. That man will pay only Rs. 1,015. If his income is Rs. 15,500, he pays Rs. 1,399. That is Rs. 384 more on an additional income of Rs. 501. Some of these anomalies have got to be looked into, because if the difference in the tax on incomes of Rs. 14,999 and Rs. 15,500 is so much as Rs. 384, then human nature being what it is, the assessee will show a tendency to manipulate the accounts and show the lower income while the Income-tax Officer's mind operates the other way. It is very easy to manipulate the accounts so as to cover a difference of Rs. 500. These are some of the details which have got to be looked into.

I tried to see whether larger incomes are very excessively taxed, according to the slab system. Take a man with an income of Rs. 80,000. Under the present step system his tax will amount to 18·6 per cent. of the income. Under the new system it will mean 23·9 per cent. Take a man with Rs. 3 lakhs as income. The tax which he pays now under the step system will amount to 27·5 per cent. and under the slab system he will have to pay 37·3 per cent. It looks a little excessive no doubt. I hope that when the Finance Bill is introduced and the rates of the tax are fixed and placed before the Legislature, a careful examination will be made of the effect of the rates on people with different slab incomes. That is the only observation I can make on that at this stage.

Another thing I want to say is this. There is no reason why the exemption should be put down to Rs. 1,500 under the slab system for persons with incomes of over Rs. 2,000 and are taxed under the slab system. If you apply the slab system to incomes above Rs. 2,000, say Rs. 5,000, a man gets exemption for only Rs. 1,500, whereas if a man's income is Rs. 2,000, he gets an exemption for the whole of the Rs. 2,000. I really do not see why the minimum which is free from tax should be put down to Rs. 1,500. It ought to be maintained at Rs. 2,000 under the slab system and the slab of Rs. 2,000 and below should be tax free.

Sir, an attempt was made in the other House to press on the Government the desirability of giving some allowances for wife and children—a system which obtains in many other civilized countries. The Honourable the Law Member made fun of it and in fact he laughed it out, and he made no serious attempt to consider the arguments of those who advocated the allowance system. Some reasons were put forward against it, for example, in this country, it was said there are people who marry several wives and, it was asked, how many allowances would have to be given, and mention was also made of the absence of correct registers of births to satisfactorily prove how many children one has got. It was mentioned that the registers were not reliable and so on. Now, those are arguments which could easily have been met if only serious attempts had been made to examine the proposal a little more carefully. Now, nobody asked for allowances for more than one wife. (*An Honourable Member*: "Which one, the elder or the younger?") With regard to the number of children, well, surely everybody in the town or village knows how many children a man has got. If the allowance system is accepted, we are not asking for maintaining the Rs. 2,000 limit of exemption for all assesseees. I would like the bachelor to pay income-tax on an income of even over Rs. 1,000. If a man is married, he should have an allowance of Rs. 500 for his wife and Rs. 150 for each child up to three children, so that Rs. 500 plus Rs. 450 for three children would give an exemption limit of Rs. 950 in that case. The State does not lose much, while the single bachelor will be made to pay more, *i.e.*, on an income of over Rs. 1,000. Let the married man pay on over Rs. 1,950. If the system

of allowances is examined a little more carefully, it will be seen that it does not involve any loss to the exchequer but gives relief to a certain class of assesseees. Sir, that is all that I have to say on that particular provision.

Then there was some discussion about the accrual basis and the remittance basis. I am a whole-hearted supporter of the accrual basis. I do not see why a resident of India, if he earns assessable income in foreign countries, should not bring it out here, and even if he does not do that why he should not be taxed here. I think sufficient consideration has been shown to the difficulties in his way by exempting an income of Rs. 4,500 and also by not levying the tax until exchange restrictions operating against his bringing the money to this country are removed. So long as the restrictions are there, the tax is not levied though it is assessed. Exemption is given to the extent of Rs. 4,500. Sufficient concessions have been made and I hope that those who argue against the accrual basis will reconsider the position and support the Bill. I do not personally like the exemption of even the Rs. 4,500. I would have asked for no exemption at all. For instance, take the Indian Civilian who earns a salary here and make investments in a foreign country. What does an income of Rs. 4,500 on an investment in England in his case represent? Supposing he has invested it at three per cent. in a foreign country, that would represent an investment of a sum of Rs. 1½ lakhs. Why should that income be exempted from income-tax when it is entirely earned as an investment made out of savings from his salary which he has sent out to the foreign country? I would have preferred if Government had made no exemption with regard to the taxation on an accrual basis.

Sir, there are many other provisions in the Bill on which I could have dilated but my main purpose in participating in this discussion is to say something about the way in which co-operative societies are taxed and the extremely unfair manner in which they are subjected to taxation. Sir, the position of co-operative societies in this country so far as income-tax is concerned is very anomalous. Sufficient attention has not been paid to it by the Government of India or by the public. There is some kind of vague notion that co-operative banks in this country are a negligible factor so far as income-tax is concerned. It is not so. I would ask them to refer to figures given by the Indian Banking Inquiry Committee. They will find that though we are a comparatively new banking concern, we have 80,000 societies working in British India excluding Indian States and we have about 500 central organizations called central banks and about ten provincial banks. Between them we have got a working capital of over Rs. 50 crores excluding the loans given by one society to another and also the investments made by one society to another society. If we take them into account, it will be more than Rs. 100 crores. So our deposits, which stand at Rs. 50 crores, compare very favourably with those of the exchange banks in this country as well as the Imperial Bank of India. The deposits in all the exchange banks taken together amount I believe to about Rs. 70 crores. The figure is about the same in regard to the Imperial Bank. Sir, it will be remembered that we co-operative banks have got very vital interests in the economy of this country also. We do not do ordinary commercial banking and we are there to serve the interests of the agriculturists, small traders, artisans, etc. So we claim some attention at the hands of the Government of India and the public in regard to taxation measures affecting us. I will very briefly trace the history of the income-tax in regard to co-operative societies. Sir, when the Co-operative Societies Act (X of 1904) was enacted, the Government of India took power under a section of that Act itself to give certain exemptions in regard to income-tax to co-operative banks. The Government of India issued a notification to which

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I would draw attention, *viz.*, Notification No. 6261-S/R-Finance and Commerce Department, Government of India, dated the 30th September, 1904. That Notification says :

“ In exercise of the powers conferred by section 25, sub-section (1), clause (a) of the Co-operative Credit Societies Act (X of 1904), the Governor General in Council is pleased to remit the income-tax payable in respect of the profits of any co-operative society for the time being registered under that Act, or of the dividends or other payments received by the members of any such society on account of profits ”.

That was a Notification issued under the Co-operative Societies Act. Then, Sir, in the year 1912 the Collector of Income-tax in Madras gave a ruling that interest on even Government securities held by co-operative societies was exempt from income-tax. The situation continued unaltered till 1916 when the Central Board of Revenue modified the exemption in respect of interest realised on Government securities. We are not pressing for a complete reversal of that decision of the Central Board now because we concede that the decision of the Central Board of Revenue is correct in respect of some of our investments of our surplus funds under present circumstances. Sir, the Indian Income-tax Act of 1922 classified incomes under six broad heads, and various terms were used to distinguish the various sources of income,—interest, income, gains and profits, etc. The result was that assessing authorities decided that the exemption did not cover any other sources of income of a co-operative society, except business profits which mainly arise from loans to societies. The Madras High Court, and I believe, one or two other High Courts also and the Income-tax Commissioners also held the view that interest earned on Government securities could not be exempted from income-tax. That is the

4 P. M. position at present. The Finance Department of the Government of India reviewed the whole situation and issued another Notification which is dated the 20th October, 1934. Sir, I will read that Notification because notifications relating to co-operative societies are not noticed by people and are not easily available.

“ In exercise of the powers conferred by section 60 of the Indian Income-tax Act, 1922 (XI of 1922), and in supersession of the Notification of the Government of India in the Finance Department, No. 681-F., dated 28th December, 1912 and No. 718-F., dated the 8th March, 1922, the Governor General in Council is pleased to direct that the following class of income shall be exempt from the tax payable under the said Act, *viz.*,—

The profits of any co-operative society (other than the Sanikatta Salt-owners' Society in the Bombay Presidency) for the time being registered under the Co-operative Societies Act, 1912, the Bombay Co-operative Societies Act, 1925, or the Burma Co-operative Societies Act, 1927, or the Madras Co-operative Societies Act, 1932, or the dividends or other payments received by the members of any such society on account of profits.

Explanation.—For this purpose the profits of a Co-operative Society shall not be deemed to include any income, profits or gains from—

- (1) investments in (a) securities of the nature referred to in section 8 of the Indian Income-tax Act, or (b) property of the nature referred to in section 9 of that Act;
- (2) dividends, or
- (3) the ' other sources ' referred to in section 12 of the Indian Income-tax Act ”.

This Notification has made the position of the co-operative societies much worse than it was before the issue of the Notification. So while they exempt incomes by way of interest on loans they classify all interest earned by co-operative organisations as profits from other sources. The technical expression used is “ property and other sources ”. The expression is very vague, and all comprehensive and of an omniferous source. This interpretation of the Income-tax Act virtually destroys the benefit of the exemption given under section 60 of the Act.

Sir, I may inform the Honourable the Finance Member of the system on which we work. The societies are not allowed to inter-lend independently to each other. Therefore, the primary societies invest their surplus funds in the Central Societies. The Central Societies invest their surplus funds ordinarily in the Provincial Societies. It is only the Provincial Societies that have got freedom to lend to other societies. So we are under the statutory obligation to invest our surplus funds in our own central organisations. More than that, the Central Societies are required to invest all their reserve funds in the Provincial Societies.

THE HONOURABLE THE PRESIDENT : What is your grievance now ?

THE HONOURABLE MR. RAMADAS PANTULU : My grievance is that while we are working under statutory restriction in regard to investments, we are not given any legitimate concession in respect of taxation in regard to this. We have got no freedom in regard to investment. We are working on a decentralised system ; except Provincial Bank organisations other organisations cannot invest their money ordinarily where they like. So we say you must treat our income from investments in the ordinary course of business of one society in another society as income from business exempt from taxation. Sir, so far as that is concerned, we want special treatment having regard to the limitations under which we work, the statutory restrictions.

There is one other anomaly which must be removed. For want of any classification among the assesses, the Co-operative Societies are now dealt with as "Associations of individuals" under the old Act of 1922, section 23. Now, I suppose they call us "Associations of persons". The nomenclature has been changed under the new Act, but that is what we are called for want of any other term to describe us. It is a wholly irrational description. Sir, this has led to very astonishing results. I shall commend to the attention of the Honourable the Finance Member certain figures relating to this matter.

THE HONOURABLE THE PRESIDENT : What is the special treatment, that you require ?

THE HONOURABLE MR. RAMADAS PANTULU : I am proceeding to point out that under this arrangement we are paying more tax than Joint Stock Companies. That is the point. I will give you some relevant figures. I have got figures for three years so far as the Madras Provincial Bank is concerned. In the year 1935-36, we were assessed for income-tax at Rs. 48,801, and for super-tax at Rs. 48,654. That was the tax our Bank paid. A Joint Stock Bank with the same amount of income, that is, the same transactions and same profits, would have paid only Rs. 17,121 by way of super-tax. These are actual figures. For instance, the Indian Bank or the Hindustan Bank in Madras, if it has made the profit which we made, would have paid Rs. 17,118 as super-tax, while the super-tax which we a Co-operative Bank paid was Rs. 48,654 in addition to the income-tax at Rs. 48,801. In the following year, 1936-37, we paid an income-tax of Rs. 36,453 and a super-tax of Rs. 27,915. On the same profits, a Joint Stock Bank would have paid a super-tax of Rs. 12,438 only.

In the third year, we paid an income-tax of Rs. 34,207 and a super-tax of Rs. 29,916, while a Joint Stock Bank with exactly the same income would have paid a super-tax of only Rs. 14,101. Surely, no one will say that we enjoy exemptions from income-tax. On the other hand, we paid more than twice and in one instance nearly three times the super-tax which a Joint Stock Bank would have paid on the same income.

[Mr. Ramadas Pantulu.]

I submit, Sir, that the matter certainly requires looking into. This anomaly results from the fact that we have got no classification under the Income-tax Act. We are merely classed under the existing Act as "Associations of individuals", and under the new Bill as "Associations of persons". So long as this classification stands our grievance continues. In the old days we were at first treated as mutual credit societies, and we were treated more fairly then. Now, that is abolished and you do not even treat us as a company. As a company we shall be better off because we would have paid less; but we do not come under the definition of "company" because we are not incorporated under the Indian Companies Act. Therefore, while everybody believes that co-operative societies are getting favourable treatment in regard to income-tax, the fact is we are taxed much more than Joint Stock Banks with the same income or the same profits. It is a matter that decidedly wants looking into, and I most humbly appeal to the Honourable the Finance Member to look into this matter, to examine the figures which were supplied already to him in our memorandum, and see whether he cannot do something at least so that we are not treated worse than Joint Stock Banks.

THE HONOURABLE THE PRESIDENT: But you are not making any suggestions as to how you want to be treated?

THE HONOURABLE MR. RAMADAS PANTULU: Well, Sir, I have my amendments which I shall move in time. I have got them ready. The suggestions, Sir, that I wish to make are this. Co-operative Banks must be removed from the scope of the expression "Association of individuals" which is now changed into "Association of persons" in the new Income-tax Bill. In the absence of any specific mention of Co-operative Societies as a class of assesses, they will continue to be classed as "Association of persons" under the new Act.

To sum up my case, defects in the Income-tax Act have practically resulted in subjecting Co-operative Banks to heavier burdens than Joint Stock Banks, a result which could not have been contemplated when the exemption under section 60 of the Act was granted. The need for rectifying these defects in the Income-tax law is therefore clear. The Income-tax Inquiry Committee has not, however, made any specific recommendations regarding Co-operative Societies. The Committee simply mentions that Co-operative Societies are enjoying certain exemptions granted under section 60 of the Act which, however, is not much. The Income-tax Bill, as it has emerged now from the Lower House of the Central Legislature does not effect any improvement in the position of Co-operative Societies, and does not take note of the anomalies pointed out above. It is necessary that something should be done. I therefore suggest that:—

- (1) Co-operative Societies should be defined separately and enumerated as a special class of assesses in section 3.
- (2) The business profits of Co-operative Societies should be explicitly defined so as to include income from deposits and investments of one co-operative institution in another which are required by the rules and regulations under which we work.

- (3) In Parts I and II of Schedule 2 of the Income-tax Act, the rate of tax applicable to co-operative societies should be specified under a separate class, *i.e.*, the income-tax on a graduated scale and super-tax at a flat rate.

These are my concrete suggestions and I intend moving amendments on these lines. I have taken much of the time of the House, no doubt, in explaining my position, because there is no other place where I can ventilate my grievances. If I can get the ear of the Honourable the Finance Member—he comes here only very rarely; this is an exceptional occasion for me—if I have made myself heard and if I have impressed upon him the injustice done to Co-operative Societies in so far as they are taxed more heavily than Joint Stock Banks and placed my case before him, I am content and I shall try my luck by moving amendments.

With these observations, I support once more the Motion for consideration of this Bill.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, I join with other Honourable Members of this House in congratulating the Honourable Mr. Chambers on his very lucid exposition of this Bill. But I cannot agree with him when he refers to it as being very simply worded. I personally find that I need a cold towel round my head and a bottle of claret to help me to understand it! But that perhaps is a weakness of mine. Any Honourable Member would probably define "income" quite simply. He probably would say that it is "money which I get with great difficulty out of other people and share with Government and my wife! I do not, however, find that my share is a big one".

There are a number of great improvements in this Bill. But I want to draw attention to one or two defects in it. I still want to urge Government to bear in mind that Company's super-tax is a very definitely inequitable tax. I know that the answer to that is that you cannot afford to give it up. But, nevertheless, the right attitude, to my mind, is this, that if a tax is inequitable, another tax that is equitable should take its place. What that tax should be, I leave to the Honourable the Finance Member.

As regards the new provisions relating to depreciation, I must say that I accept these with very great regret. I do not think it is as sound or as equitable as the existing basis of a percentage on original cost and I would still like to see an arrangement by which the original basis is preserved, even if it were only as an alternative.

The Honourable the Finance Member and Leaders of other Parties in the Assembly have hammered out something which is perhaps as close to equity as possible between those domiciled in India and those who though not domiciled, spend much of their working lives here. We have also gained in the arrangements for the carry forward of business losses. I think that is a very important and great improvement.

As to the clauses relating to legal avoidance, although I do not pretend to understand them very fully, I am very much in favour of them. I do not like anybody to avoid taxation when I have got to pay!

I personally cannot understand my Honourable friend Mr. Pantulu having such a very strong objection to the aggregation of the incomes of husband and

[Mr. R. H. Parker.]

wife. I think that he is there standing up for the capitalist and not for the poor man who has no capital in his possession to transfer to his wife. I cannot possibly conceive why he should stand up for the man who has got money and not for the poor man who has not got any money.

That is all, Sir, I want to say at this stage.

THE HONOURABLE THE PRESIDENT : If there are no other speakers tomorrow morning, I shall call upon the Honourable Mr. Chambers to reply.

The Council then adjourned till Eleven of the Clock on Friday, the 27th January, 1939.