



PUBLISHED BY AUTHORITY

No. 3

CUTTACK, FRIDAY, MARCH 31, 1944

SEPARATE PAGING IS GIVEN TO THIS PART, IN ORDER THAT IT MAY BE FILED AS A SEPARATE COMPILATION

PART VI

Bills introduced into the Council of the Governor General of India and
Bills published before introduction in that Council

GOVERNMENT OF INDIA

LEGISLATIVE ASSEMBLY DEPARTMENT

The following Bill* was introduced in the Legislative Assembly on the 29th February 1944 :—

L. A. BILL No. 10 OF 1944

A Bill to give effect to the financial proposals of the Central Government for the year beginning on the 1st day of April 1944

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, British India, to fix maximum rates of postage under the Indian Post Office Act, 1898 (VI of 1898), to continue for a further period of one year the additional duties of customs imposed by section 6 of the Indian Finance Act, 1942 (XII of 1942), and to increase certain of those duties, to alter the duty of excise on tobacco and to impose duties of excise on betel-nuts, coffee and tea, to fix rates of income-tax, and super-tax and to continue the charge and levy of excess profits tax and make certain additional provisions relating thereto ;

It is hereby enacted as follows :—

1. Short title and extent—(1) This Act may be called the Indian Finance Act, 1944.

(2) It extends to the whole of British India.

2. Fixation of salt duty—The duty on salt manufactured in, or imported by land into, British India shall, for the year beginning on the last day of April 1944, be at the rate of one rupee and nine annas per standard maund.

3. Inland postage rates—For the year beginning on the 1st day of April 1944, the Schedule contained in Schedule I to the Indian Finance Act, 1943 (VIII of 1943), shall again be inserted in the Indian Post Office Act, 1898 (VI of 1898), as the First Schedule to that Act.

4. Continuation of, and enhancement of, additional duties of customs imposed by section 6, Act XII of 1942—(1) The additional duties of customs on certain goods chargeable with a duty of customs under the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), or under the said Schedule read with any notification of the Central Government for the time being in force, imposed up to the 31st day of March 1943, by section 6 of the Indian Finance Act, 1942 (XII of 1942), and continued up to the 31st day of March 1944 by section 4 of the Indian Finance Act, 1943 (VIII of 1943), shall continue to be levied and collected as provided in section 6 of the Indian Finance Act, 1942 (XII of 1942), up to the 31st day of March 1945, subject to the modification contained in sub-section (2).

(2) The additional duty to be levied and collected under the foregoing sub-section shall be one-half instead of one-fifth of the amount of the duty of customs specified in the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), in the case of the following goods, namely :—

(a) spirits, comprised in Item No. 22 (4) and in Item No. 22 (5) of the said Schedule ;

(b) tobacco, comprised in Item No. 24 and in Item No. 24 (3) of the said Schedule ;

(c) cigars, comprised in Item No. 4 (1) of the said Schedule ;

(d) cigarettes, comprised in Item No. 24 (2) of the said Schedule.

5. Alteration of excise duties on tobacco and imposition of excise duties on betel-nuts, coffee and tea—The amendments set out in Part I and Part II of the First Schedule

shall be made respectively in the First and Second Schedules to the Central Excises and Salt Act, 1944 (I of 1944).

6. Income-tax and super-tax—(1) Subject to the provisions of sub-sections (2), (3) and (5),—

(a) income-tax for the year beginning on the 1st day of April, 1944, shall be charged at the rates specified in Part I of the Second Schedule increased in each case by a surcharge for the purposes of the Central Government at the rate specified therein in respect of each such rate of income-tax, and

(b) rates of super-tax for the year beginning on the 1st day of April 1944 shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922), be those specified in Part II of the Second Schedule increased in the cases to which paragraph A, B and C of that Part apply by a surcharge for the purposes of the Central Government at the rate specified therein in respect of each such rate of super-tax.

(2) In making any assessment for the year ending on the 31st day of March 1945—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" or under the head "Interest on Securities" or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922 (XI of 1922), to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1943 (VIII of 1943), on his total income the same proportion as the amount of such inclusions bears to his total income.

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922 (XI of 1922), the super-tax payable by the assessee on that portion of his total income which consists of such inclusions shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1943 (VIII of 1943), on his total income the same proportion as the amount of such inclusions bears to his total income.

(3) In making any assessment for the year ending on the 31st day of March 1944 or the year ending on the 31st day of March 1945—

(a) where the total income of a company includes any profits and gains from life insurance business the super-tax payable by the company on that part of its total income which consists of such inclusion shall be in the case of an assessment for the first mentioned year at the rate of one anna and one pie in the rupee and in the case of an assessment for the second mentioned year at the rate of nine pies in the rupee ;

(b) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942 (XII of 1942), on his total income the same proportion as the amount of such inclusion bears to his total income, so, however, that if the aggregate of the taxes so computed in respect of such inclusion exceeds the aggregate of the taxes on the same income payable by a company under the operation of the Indian Finance Act, 1942 (XII of 1942), the taxes payable on such inclusion

* The Governor General has been pleased to give the previous sanction required by sub-section (2) of section 67 of the Government of India Act as saved from repeal by paragraph 12 of the Government of India (Commencement and Transitory Provisions) Orders, 1936, and the previous sanction required by sub-section (1) of section 41 of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

shall be computed at the rates applicable to a company under the operation of the said Act.

(4) Where any assessment for the year ending on the 31st day of March 1944, to which clause (a) or (b) of sub-section (3) is applicable has been completed at the rates of tax in operation under the Indian Finance Act, 1943 (VIII of 1943), it shall be revised by the Income-tax Officer in accordance with the provisions of clause (a) or (b) as the case may be, of sub-section (3) and the excess tax paid, if any, shall be refunded.

(5) In cases to which section 17 of the Indian Income-tax Act, 1922 (XI of 1922), applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section, and in accordance with the provisions of sub-section (2) and (3) of this section where applicable.

(6) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922).

(7) Where the total income of an assessee referred to in paragraph A of Part I of the Second Schedule does not exceed six thousand rupees, an amount representing one rupee for every complete unit of two hundred rupees of his total income as reduced by the income, if any, exempt from tax under any provision of the Indian Income-tax Act, 1922 (XI of 1922), or any notification issued thereunder shall be funded for the assessee's benefit and shall be paid to him on such date, not more than twelve months after the termination of the present hostilities, as the Central Government may fix.

Explanation—In computing the amount to be funded under this sub-section if there is an incomplete unit amounting one hundred rupees or more it shall be reckoned as a complete unit of two hundred rupees.

(8) The provisions of section 23A of the Indian Income-tax Act, 1922 (XI of 1922), shall not apply in respect of profits and gains of the previous year for the assessment for the year ending on the 31st day of March 1945.

7. Continuance of and rate of excess profits tax—(1) In sub-clause (a) of clause (6) of section 2 of the Excess Profits Tax Act, 1940 (XV of 1940), for the words and figures "31st day of March, 1944," the words and figures "31st day of March, 1945," shall be substituted.

(2) The excess profits tax imposed by section 4 of the Excess Profits Tax Act, 1940 (XV of 1940), shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1944, be an amount equal to sixty-six and two-thirds per cent of the amount by which the profits of the business during that chargeable accounting period exceed the standard profits.

8. Further provisions respecting excess profits tax—(1) In sub-rule (1) of rule 2 of the Second Schedule to the Excess Profits Tax Act, 1940 (XV of 1940),—

(a) for the words "and in particular any debt for income-tax or super-tax or for excess profits tax in respect of the business shall be deducted" the following shall be substituted, namely:—

"and in particular there shall be deducted any debts incurred in respect of the business for income-tax or super-tax or excess profits tax, or for advance payments due under any provision of the Indian Income-tax Act, 1922 (XI of 1922), or for any further sum payable in relation to excess profits tax under section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943)";

(b) after clause (b) of the proviso the following clauses shall be inserted, namely:—

"(c) in the case of any advance payment due under any provision of the Indian Income-tax Act, 1922 (XI of 1922), on the date on which, under the provisions of that section, the payment first became due;

(d) in the case of any further sum payable in relation to excess profits tax under section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943), on the date on which, under the provisions of that section, the further sum became payable."

(2) To sub-section (1) of section 10 of the Indian Finance Act, 1942 (XII of 1942), the following proviso shall be added, namely:—

"Provided further that in respect of chargeable accounting period ending after the 31st day of December 1943, the provisions of this section shall apply only in respect of the amount of the excess profits tax which is payable on the amount of the total income referred to in section 17 of the Indian Income-tax Act, 1922 (XI of 1922)."

(3) In section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943),—

(a) to sub-section (1) the following proviso shall be added, namely:—

"Provided that, in respect of any chargeable accounting period ending after the 31st day of December, 1943, the provisions of this sub-section shall have effect as if for the words "one-fifth" the words "nineteen-sixtyfourths" were substituted."

(b) after sub-section (1) the following sub-section shall be inserted, namely:—

"(1A) In respect of any chargeable accounting period ending after the 31st day of December 1943, in respect of which a provisional assessment of excess profits tax is made under section 14A of the Excess Profits Tax Act, 1940 (XV of 1940), the person liable to pay such excess profits tax shall deposit in the manner laid down in sub-section (1) a further sum equal to nineteen-sixtyfourths of the amount of the said excess profits tax; and the provisions of sub-sections (6) and (7) of the said section 14A shall apply to any payment made under this sub-section as they apply to a payment of excess profits tax."

(c) in sub-section (4) for the words, brackets and figure "sub-section (1) of this section", where they occur for the first time, the words, brackets, figures and letter "sub-section (1) or (1A) of this section" shall be substituted.

Declaration under the Provisional Collection of Taxes Act, 1931.

It is hereby declared that it is expedient in the public interest that the provisions of clause 4 of this Bill and so much of clause 5 as relates to the first amendment contained in Part I of the First Schedule shall have immediate effect under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

THE FIRST SCHEDULE

(See section 5.)

Amendments to be made in the Central Excises and Salt Act, 1944 (I of 1944).

PART I

Amendments of FIRST SCHEDULE

1. For Item No. 9, the following item shall be substituted, namely:—

9. TOBACCO—

"Tobacco" means any form of tobacco, whether cured or uncured, and whether manufactured or not, and includes the leaf, stalk and stems of the tobacco plant but does not include any part of a tobacco plant while still attached to the earth.

I. Unmanufactured tobacco—

(1) if flue-cured and intended for—

- (a) manufacture into cigarettes containing—
 - (i) more than 20 per cent weight of imported tobacco Three rupees and eight annas.
 - (ii) 20 per cent or less than 20 per cent weight of imported tobacco. Two rupees and eight annas.
 - (iii) no imported tobacco One rupee
- (b) any purpose other than the manufacture of cigarettes or of the products enumerated in (2) (a) and (2) (b). Three rupees and eight annas.

(2) if other than flue-cured and intended for—

- (a) manufacture into cigarettes .. Nine annas
- (b) any purpose other than the manufacture of cigarettes or of the products enumerated in (3) (a) and (3) (b). Nine annas

(3) whether flue-cured or not, if intended for—

- (a) manufacture into—
 - (i) biris .. Nine annas
 - (ii) snuff .. Nine annas
 - (iii) cigars and cheroots .. Three annas
 - (iv) hookah tobacco .. Three annas
- (b) sale as chewing tobacco, whether manufactured or merely cured. Three annas

(c) agricultural purposes .. Nil

(4) Stalks, stems and other refuse of tobacco intended for use in the preparation of any form of unmanufactured tobacco. One anna

II. Manufactured tobacco—
 Class and amount of which the value—
 Per hundred
 (i) Cigarettes, 20s and 25s .. Twelve rupees

	per lb.
(ii) exceeds Rs. 25 a hundred but does not exceed Rs. 30 a hundred.	Ten rupees
(iii) exceeds Rs. 20 a hundred but does not exceed Rs. 25 a hundred.	Eight rupees
(iv) exceeds Rs. 15 a hundred but does not exceed Rs. 20 a hundred.	Six rupees
(v) exceeds Rs. 10 a hundred but does not exceed Rs. 15 a hundred.	Four rupees
(vi) exceeds Rs. 5 a hundred but does not exceed Rs. 10 a hundred.	Two rupees
(vii) exceeds Rs. 2-8 a hundred but does not exceed Rs. 5 a hundred.	One rupee
(viii) exceeds Rs. 1-4 a hundred but does not exceed Rs. 2-8 a hundred.	Eight annas
(ix) exceeds annas 12 a hundred but does not exceed Rs. 1-4 a hundred.	Four annas

2. After item No. 11, the following items shall be added, namely:—

12. BETEL-NUTS, cured—
 "Betel-nut" means the fruit of the areca-palm (*areca catechu*), whether with or without husk, whether cured or uncured, but does not include the fruit while still attached to the tree. Two annas per lb.

13. COFFEE, cured—
 "Coffee" means the seed of the coffee tree (*coffea*), whether with or without husk, whether cured or uncured, but does not include the seed while still attached to the tree. Two annas per lb.

14. TEA—
 "Tea" means the commodity known as tea made from the leaves of the plant *Camellia Thea* (Linn) and includes green tea. Two annas per lb.

PART II

Amendment of SECOND SCHEDULE

In PART A after Item No. 1 (Tobacco) the following shall be added, namely:—

- "2. Betel-nuts } When supplied by a curer to a wholesale dealer, whether directly or through a broker or commission agent."
 3. Coffee }

THE SECOND SCHEDULE

(See section 6)

PART I

Rates of Income-tax

A—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies:—

	Rate	Surcharge
1. On the first Rs. 1,500 of total income.	Nil	Nil
2. On the next Rs. 2,500 of total income.	Nine pies in the rupee.	Six pies in the rupee.
3. On the next Rs. 5,000 of total income.	One anna and three pies in the rupee.	Ten pies in the rupee.
4. On the next Rs. 5,000 of total income.	Two annas in the rupee.	One anna and six pies in the rupee.
5. On the balance of total income.	Two annas and six pies in the rupee.	Two annas in the rupee.

Provided that—

- (i) no income-tax shall be payable on a total income which does not exceed Rs. 2,000;
 (ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds Rs. 2,000.

B.—In the case of every company and local authority, and in every case in which under the provisions of the Indian Income-tax Act, 1922, the income tax is to be charged at the normal rate:—

	Rate	Surcharge
On the whole of total income.	One anna in the rupee.	One anna in the rupee.

PART II

Rates of Super tax

A—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraphs B and C of the Part applies—

	Rate	Surcharge
1. On the first Rs. 25,000 of total income.	Nil	Nil
2. On the next Rs. 10,000 of total income.	One anna in the rupee.	One anna in the rupee.
3. On the next Rs. 20,000 of total income.	Two annas in the rupee.	Two annas in the rupee.
4. On the next Rs. 70,000 of total income.	Three annas in the rupee.	Two annas and six pies in the rupee.
5. On the next Rs. 75,000 of total income.	Four annas in the rupee.	Three annas in the rupee.
6. On the next Rs. 1,50,000 of total income.	Five annas in the rupee.	Three annas in the rupee.
7. On the next Rs. 1,50,000 of total income.	Six annas in the rupee.	Three annas in the rupee.
8. On the balance of total income.	Seven annas in the rupee.	Three annas and six pies in the rupee.

B—In the case of every local authority—

	Rate	Surcharge
On the whole of total income.	One anna in the rupee.	One anna in the rupee.

C—In the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of Co-operative Societies—

	Rate	Surcharge
1. On the first Rs. 25,000 of total income.	Nil	Nil
2. On the balance of total income.	One anna in the rupee.	One anna in the rupee.

D—In the case of every company—

	Rate
On the whole of the total income.	Three annas in the rupee.

Provided that a rebate of one anna in the rupee shall be allowed on the total income as reduced by the amount of any dividend declared in British India not being a dividend payable at a fixed rate in respect of the profits of the previous year for the assessment for the year ending on the 31st day of March, 1945.

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to continue for a further period of one year the existing rate of salt duty, the present inland postage rates and the additional duties of customs imposed by section 6 of the Indian Finance Act, 1942 (XII of 1942), subject to increase in some of those duties; to alter the duty of excise on tobacco; to impose duties of excise on betel-nuts, coffee and tea; to increase the corporation tax and the central surcharge on income-tax and super-tax and to fix the deposit of excess profits tax.

2. Clause 2 provides for the continuance for a further period of one year of the existing provisions regarding salt duty.

3. Clause 3 provides for the continuance for a further period of one year of the present inland postage rates.

4. Clause 4 provides for the continuance of the additional customs duties imposed by section 6 of Act XII of 1942 except that the additional duty to be levied on imported spirits, tobacco cigars and cigarettes is raised from 20 per cent to 50 per cent.

5. Clause 5 provides for certain increases in the existing excise duties on tobacco and tobacco products and for the imposition of excise duties on betel-nuts, coffee and tea at two annas a pound.

6. Clause 6 read with the Second Schedule provides for the continuance for a further period of one year of the existing basic rates of income-tax and super-tax and for certain graded increases in the surcharges on income-tax and super-tax. It also provides a ceiling of 63 pies for income-tax and super-tax on life insurance business.

7. Clause 7 provides for the continuance of the excess profits tax at the rate of 63 2/3 per cent.

8. Clause 8 provides that in respect of chargeable accounting periods ending after the 31st December, 1943, the compulsory deposit shall be increased from 15% to 10% of the net profits tax payable. It also provides for a certain reduction in the rate of provision for excess profits tax.

The following Bill* was introduced in the Legislative Assembly on the 29th February 1944:—

L. A. BILL No. 11 of 1944

A Bill further to amend the Indian Income-tax Act, 1922

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922 (XI of 1922), for the purposes hereinafter appearing:

It is hereby enacted as follows:—

1. **Short title**—This Act may be called the Indian Income-tax (Amendment) Act, 1944.

2. **Amendment of section 7, Act XI of 1922**—In sub-section (1) of section 7 of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the said Act), in Explanation 2, the words "at or in connection with the termination of his employment, whether or not the employment is then terminated or to be terminated," shall be omitted.

3. **Amendment of section 14, Act XI of 1922**—In sub-section (1) of section 14 of the said Act, after the words "Hindu undivided family" the following words shall be added, namely:—

"where such sum has been paid out of the income of the family".

4. **Amendment of section 15, Act XI of 1922**—After sub-section (2) of section 15 of the said Act, the following sub-section shall be inserted, namely:—

"(2A) Nothing in sub-section (1) or sub-section (2) shall apply to so much of any premium or other payment made on a policy for securing a capital sum on death (whether in conjunction with any other benefit or not) as is in excess of seven per cent of the actual capital sum assured; and in calculating any such capital sum no account shall be taken of any sum payable on the happening of any other contingency or of the value of any premiums agreed to be returned or of any benefit by way of bonus or otherwise which is to be or may be received either before or after death either by the person paying the premium or by any other person and which is not the sum actually assured."

5. **Insertion of new section 18A in Act XI of 1922**—After section 18 of the said Act, the following section shall be inserted, namely:—

"18-A. **Advance payment of tax**—(1) (a) In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, the Income-tax Officer may, on or after the 1st day of April in any financial year, by order in writing, require an assessee to pay quarterly to the credit of the Central Government on the 15th day of June, 15th day of September, 15th day of December and 15th day of March in that year, respectively, an amount equal to one-quarter of the income-tax and super-tax payable on so much of such income as is included in his total income of the latest previous year in respect of which he has been assessed. Such income-tax and super-tax shall be calculated at the rates in force for the financial year in which he is required to pay the tax, and shall bear to the total amount of income-tax and super-tax so calculated on the said total income the same proportion as the amount of such inclusions bears to his total income or, in cases where under the provisions of sub-section (2) of section 17 both income-tax and super-tax or super-tax are chargeable with reference to the total world income, shall bear to the total amount of income-tax and super-tax which would have been payable on his total world income of the said previous year had it been his total income the same proportion as the amount of such inclusions bears to his total world income:

Provided that, if the assessee is a partner of a registered firm and an assessment of the firm has been completed for a previous year later than that for which the assessee's last assessment has been completed, his share in the profits of the firm shall, for the purpose of this sub-section, be included in his total income on the basis of the latest assessment of the firm:

Provided further that, if after the making of an order by the Income-tax Officer and before the 15th day of February of the financial year an assessment of the assessee or of the registered firm of which he is a partner is completed in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal

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instalments on the specified dates if more than one, falling after the date of the amended order, the tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original order; but if the amount already paid exceeds the tax determined on the revised basis, the excess shall be refunded.

(b) If the notice of demand issued under section 29 in pursuance of the order under clause (a) of this sub-section is served after any of the dates on which the instalments specified therein are payable, the tax shall be payable in equal instalments on each of such of those dates as fall after the date of the service of the notice of demand, or in one sum on the 15th day of March if the notice is served after the 15th day of December.

(2) If any assessee who is required to pay tax by an order under sub-section (1) estimates at any time before the last instalment is due that the part of his income to which that sub-section applies for the period which would be the previous year for an assessment for the year next following is less than the income on which he is required to pay tax and accordingly wishes to pay an amount less than the amount which he is so required to pay, he may send to the Income-tax Officer an estimate of the tax payable by him calculated in the manner laid down in sub-section (1) on that part of his income for such period, and shall pay such smaller instalments as accord with such estimate:

Provided that the assessee may send a revised estimate of the tax payable by him before any of the instalments payable under sub-section (1) becomes due and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(3) Any person who has not hitherto been assessed and any person who has not been served with a notice under section 29 in pursuance of an order under sub-section (1), shall, before the 15th day of March in each financial year, if his total income, or, in cases to which sub-section (1) of section 17 applies, his total world income, of the period which would be the previous year for an assessment for the financial year next following is likely to exceed the maximum amount not chargeable to income-tax under the Finance Act in force during the first-mentioned financial year, send to the Income-tax Officer an estimate of the tax payable by him on that part of his income to which the provisions of section 18 do not apply of the said previous year calculated in the manner laid down in sub-section (1), and shall pay the amount, on such of the dates specified in that sub-section as have not expired, by instalments which may be revised according to the proviso to sub-section (2).

(4) Where part of the income to which sub-section (1), (2) or (3) applies consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the assessee's account before any of the quarterly instalments of tax become due, he may defer payment of tax on that part of his income to the date on which such income would be normally received or adjusted and if he does so he shall communicate to the Income-tax Officer the date to which such payment is deferred:

Provided that, if the tax of which the payment is deferred is not paid within fifteen days of the date on which such income or part thereof is received or adjusted by the payer in the assessee's account, the tax shall be payable with six per cent simple interest per annum from the date of such receipt or adjustment to the date of payment of the tax.

(5) The Central Government shall pay on any amount paid under this section simple interest at two per cent per annum from the date of payment to the date of the assessment (hereinafter called the 'regular assessment') made under section 23 of the income, profits and gains of the previous year for an assessment for the year next following the year in which the amount was payable.

(6) Where in any year an assessee has paid tax under sub-section (2) or sub-section (3) on the basis of his own estimate, and the tax so paid is less than eighty per cent of the tax determined on the basis of the regular assessment, so far as such tax relates to income to which the provisions of section 18 do not apply and so far as it is not due to variations in the rates of tax made by the Finance Act in operation in the year for which the regular assessment is made, simple interest at the rate of six per cent per annum from the 1st day of January in the financial year in which the tax was paid up to the date of the said regular assessment shall be payable by the assessee upon

the amount by which the tax so paid falls short of the said eighty per cent :

Provided that, where, as a result of an appeal under section 31 or section 33 or of a revision under section 33A or of a reference to the High Court under section 66, the amount on which interest was payable under this sub-section has been reduced the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded together with the amount of income-tax that is refundable :

Provided further that, where a business, profession or vocation is newly set up and is assessable on the income, profits and gains of its first previous year in the financial year following that in which it is set up, the interest payable shall be computed from the 1st day of April of the said financial year.

(7) Where, on making the regular assessment, the Income-tax Officer finds that any assessee has—

(a) under sub-section (2) or sub-section (3) underestimated the tax payable by him and thereby reduced the amount payable in any of the first three instalments, or

(b) under sub-section (4) wrongly deferred the payment of tax on a part of his income, he may direct that the assessee shall pay simple interest at six per cent, per annum in the case referred to in clause (a) for the period during which the payment was deficient on the difference between the amount paid in each such instalment and the amount which should have been paid having regard to the aggregate tax actually paid under this section during the year, and in the case referred to in clause (b) for the period during which the payment of tax was wrongly deferred on the amount of which the payment was so deferred :

Provided that for the purposes of this sub-section any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months.

(8) Where, on making the regular assessment, the Income-tax Officer finds that no payment of tax has been made in accordance with the foregoing provisions of this section, interest calculated in the manner laid down in sub-section (6) shall be added to the tax as determined on the basis of the regular assessment.

(9) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment, is satisfied that any assessee—

(a) has furnished under sub-section (2) or sub-section (3) estimates of the tax payable by him which he knew or had reason to believe to be untrue, or

(b) has without reasonable cause failed to comply with the provisions of sub-section (3), the assessee shall be deemed, in the case referred to in clause (a), to have deliberately furnished inaccurate particulars of his income, and in the case referred to in clause (b), to have failed to furnish the return of his total income, and the provisions of section 28, so far as may be, shall apply accordingly :

Provided that the amount of penalty leviable shall in the case referred to in clause (a), be a sum not exceeding one-and-a-half times the amount by which the tax actually paid during the year under the provisions of this section falls short of the tax that should have been paid by the assessee under sub-section (1) or eighty per cent of the tax determined on the basis of the regular assessment as modified in the manner provided in sub-section (6), whichever is the less, and, in the case referred to in clause (b), one-and-a-half times the said eighty per cent.

(10) (a) If any assessee does not pay on the specified dates any instalment of tax that he is required to pay under sub-section (1) and does not, before the date on which any such instalment as is not paid becomes due, send under sub-section (2) an estimate or a revised estimate of the tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

(b) If any assessee has sent under sub-section (2) or sub-section (3) an estimate or a revised estimate of the tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in sub-section (1), he shall be deemed to be an assessee in default in respect of such instalment or instalments :

Provided that the assessee shall not, under clause (a) or (b), be deemed to be in default in respect of any amount of which the payment is deferred under sub-section (4) until after the date communicated by him to the Income-tax Officer under that sub-section.

(11) Any sum other than a penalty or interest paid by or recovered from an assessee in pursuance of the provisions of this section shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the financial year next following the year in which it was payable, and credit therefor, shall be given to the assessee in the regular assessment."

6. Amendment of section 24, Act XI of 1922—In section 24 of the said Act—

(a) in sub-section (1), in the existing proviso, after the word "Provided" the word "further" shall be inserted, and before that proviso the following proviso shall be inserted, namely :—

"Provided that, where the loss sustained is a loss of profits or gains which would but for the loss have accrued or arisen within an Indian State and would, under the provisions of clause (c) of sub-section (2) of section 14, have been exempt from tax, such loss shall not be set off except against profits or gains accruing or arising within an Indian State and exempt from tax under the said provisions ;"

(b) in sub-section (2), in the proviso, clause (a), (b), (c) and (d) shall be re-lettered as clauses (b), (c), (d) and (e), respectively and the following shall be inserted as clause (a), namely :—

"(a) where the loss sustained is a loss of profits and gains of a business, profession or vocation to which the first proviso to sub-section (1) is applicable, and the profits and gains of that business, profession or vocation are, under the provisions of clause (c) of sub-section (2) of section 14, exempt from tax, such loss shall not be set off except against profits and gains accruing or arising in an Indian State from the same business, profession or vocation and exempt from tax under the said provision ;"

7. Amendment of section 25, Act XI of 1922—In sub-section (1) of section 25 of the said Act, for the words and figures "on which income-tax was not at any time charged under the provisions of the Indian Income-tax Act, 1918," the words, brackets and figure "to which sub-section (3) is not applicable" shall be substituted.

8. Amendment of section 29, Act XI of 1922—In section 29 of the said Act, for the words "tax or penalty", in both places where they occur, the words "tax, penalty or interest" shall be substituted.

9. Amendment of section 30, Act XI of 1922—In section 30 of the said Act,—

(a) in sub-section (1), for the words, figures and letter "or objecting to a refusal of an Income-tax Officer to register a firm under section 26A" the following shall be substituted, namely :—

"or objecting to the cancellation by an Income-tax Officer of the registration of a firm under sub-section (4) of section 23 or to a refusal to register a firm under sub-section (4) of section 23 or section 26A";

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) Any person having, in accordance with the provisions of sub-section (3A), (3B) or (3C) of section 18, read with sub-section (6) of that section, deducted and paid tax in respect of any sum chargeable under this Act other than interest who denies his liability to make such deduction may appeal to the Appellate Assistant Commissioner to be declared not liable to make such deduction."

(c) in sub-section (2), after the words "thirty days" the following shall be inserted, namely :—

"of the payment of the tax deducted under sub-section (3A), (3B) or (3C) of section 18 or"

10. Amendment of section 31, Act XI of 1922—In sub-section (3) of section 31 of the said Act—

(a) for the words, figures and letter "or, in the case of an order refusing to register a firm under section 26A", occurring after clause (b), the following shall be substituted, namely :—

"or, in the case of an order cancelling the registration of a firm under sub-section (4) of section 23 or refusing to register a firm under sub-section (4) of section 23 or section 26A";

(b) after clause (g) and before the first proviso, the following shall be inserted, namely :—

"or, in the case of an appeal under sub-section (1A) of section 30,

(h) decide that the person is or is not liable to make the deduction and in the latter case direct the refund of the sum paid under sub-section (6) of section 18 :"

11. Amendment of section 33, Act XI of 1922—In section 33 of the said Act, sub-section (5) shall be renumbered as sub-section (6) and the following sub-section shall be inserted as sub-section (5), namely:—

“(5) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Appellate Tribunal may authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association”.

12. Amendment of section 47, Act XI of 1922—In section 47 of the said Act, after the words, brackets and figures “or sub-section (1) of section 46” the following shall be inserted, namely:—

“and any interest payable under the provisions of sub-section (4), (6), (7) or (8) of section 18A”.

13. Amendment of section 56, Act XI of 1922—In section 56 of the said Act, before the words “Subject to the provisions of this Chapter” the words, brackets, letter and figures, “Except in cases to which by clause (a) of the proviso to sub-sections (3) and (4) of section 25 those sub-sections do not apply and” shall be inserted.

14. Amendment of the Schedule to Act XI of 1922—In the schedule to the said Act,—

(a) in the proviso to rule 2,—

(i) in clause (b) for the word “received”, where it occurs for the second time, the word “payable” shall be substituted;

(ii) for clause (c) the following clauses shall be substituted, namely:—

“(c) 90 per cent of the first year's premiums received during the preceding year in respect of all other life insurance policies, plus

(d) 8½ per cent of renewal premiums received during the preceding year in respect of life insurance policies for which the number of annual premiums payable is less than twelve or for which the number of years during which premiums are payable is less than twelve, plus

(e) 15 per cent of all other renewal premiums or the actual expense ratio calculated according to clause (b) of rule 25 of the Insurance Rules, 1939, whichever is less”;

(b) in rule 3 for clause (c) the following clause shall be substituted, namely:—

“(c) interest received in respect of any securities of the Central Government which have been issued or declared to be income-tax free shall not be excluded but the whole amount of such interest received during the inter-valuation period shall be exempt from income-tax under the second proviso to section 8 though not from super-tax”;

(c) in clause (ii) of rule 5, after the words “but excludes profits on the realization of securities” the words “or other assets” shall be added.

STATEMENT OF OBJECTS AND REASONS

The main object of this Bill is to provide (in clause 5) for advance payments of tax on income which is not liable to deduction of tax at source under section 18 of the Indian Income-tax Act, 1922. The income mainly affected will be income from property and from business, profession or vocation. The other provisions of the Bill are designed either to correct certain defects in the Act or to give relief to the tax-payer. The clauses are explained in the notes below.

NEW DELHI

A. J. RAISMAN

The 29th February, 1944

NOTES ON CLAUSES

Clause 2—The intention in enacting *Explanation 2* to sub-section (1) of section 7 was to subject to tax payments from unrecognised Provident Funds and it was not anticipated that such payments would be made before the termination of the employment. It has since been found that in certain cases such payments are made before the termination of the employment. The amendment is designed to prevent such payments from escaping tax.

Clause 3—Section 14 (1) is intended to grant exemption to an assessee in respect of any sum received by him as a member of a Hindu undivided family where such sum is included in the income of the family. Cases have, however, arisen where a sum received by a member has been held to be exempt under this sub-section even though it does not form part of the income of the family. The amendment provides for its taxation in the hands of the recipient if it is not taxable in the hands of the family.

Clause 4—This amendment is designed to put a stop to a tax-evasion device which mainly takes the form of a one-year policy. The amendment follows the United Kingdom law.

Clause 5—The scheme in this clause for quarterly advance payments of tax is based on an option given to the assessee to pay tax either on his last assessed income or on his own estimate. The year in respect of which tax is to be estimated is the assessee's own “previous year” for the next year's assessment. Thus if his year ends on the 30th September, he is to estimate in 1944-45 and pay in that year the tax on his estimated income for the year ending 30th September, 1944 and when the assessment for 1945-46 comes to be made on the income of his year ending 30th September 1944, he will be credited with the advance tax paid in 1944-45, whether it is paid on the basis of his last assessed income or on the basis of his own estimate. Simple interest at 2 per cent per annum will be paid by Government on these advance payments and penal interest at 6 per cent will be payable by the assessee on the amount by which the payments made on the basis of his own estimate fall short of 80 per cent of the tax determined on regular assessment. No penal interest is imposed where the assessee chooses to pay on the basis of his last assessed income. To secure compliance with scheme, the provisions of section 28 are imported [sub-clause (9)] for the purpose of imposing penalties for making untrue estimates or for failing to make an estimate in certain cases. In addition it is provided [sub-clause (10)] that if an assessee fails to pay the due instalments he shall be treated as in default and the provisions of section 46 will then apply.

Clause 6—Whereas profits which accrue and arise in Indian States are exempt under sub-section (2) (c) of section 14, corresponding losses can be set off against British Indian income or carried forward under section 24. The amendments provide that such losses can only be set off or carried forward against the corresponding exempt profits.

Clause 7—This amendment merely brings sub-section (1) into line with sub-section (3) as amended by the addition of the proviso to sub-sections (3) and (4) made by the Indian Income-tax (Amendment) Act, 1941 (XXIII of 1941). As sub-section (1) stands it does not permit of an assessment in the year of discontinuance on businesses assessed under the 1918 Act but to which the provisions of sub-section (3) are not applicable by virtue of the aforesaid proviso.

Clause 8—This amendment provides for including in the notice of demand the penal interest imposed under the provisions of clause 5.

Clauses 9 and 10—These clauses provide for a right of appeal against a refusal or a cancellation of registration under section 23 (4) and also in the case of a person denying his liability to deduct tax under the provisions of section 18 (3A), (3B) or (3C).

Clause 11—This clause is designed to give to the Appellate Tribunal the power given to the Appellate Assistant Commissioner by section 31 (4).

Clause 12—This amendment provides for the recovery of penal interest imposed under the provisions of clause 5.

Clause 13—This amendment is necessary to prevent the proviso to sub-sections (3) and (4) of section 25 from being nullified by the provision in section 56 that the total income for the purposes of super-tax shall be the total income as assessed for the purposes of income-tax.

Clause 14—Sub-clause (a) proposes an increase in the amounts allowable to Life Insurance Companies for management expenses.

Sub-clause (b)—This amendment is designed to secure that only income-tax and not super-tax shall not be paid on the interest on tax free securities. The amendment also secures the inclusion of the interest in the surplus.

Sub-clause (c)—Profits on the realisation of securities are excluded by the provisions of rule 5 (ii) from “gross external incomes”. It is proposed to extend this provision so as to exclude also profits on the realisation of other assets.

The following Bill was introduced in the Legislative Assembly on the 3rd March, 1944:—

L. A. BIL No. 13 OF 1944

A Bill further to amend the Factories Act, 1934 WHEREAS it is expedient further to amend the Factories Act, 1934 (XXV of 1934), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Factories (Amendment) Act, 1944.

2. Amendment of section 9, Act XXV of 1934—In section 9 of the Factories Act, 1934 (XXV of 1934) (hereinafter referred to as the said Act), in sub-section (1) the word "and" occurring at the end of clause (d) shall be omitted and after clause (e) the following word and clause shall be added, namely:—

“; and

(f) such other particulars as may be prescribed.”

3. Amendment of section 19, Act XXV of 1934—In sub-section (3) of section 19 of the said Act, the words “in which any process involving contact by the workers with injurious or obnoxious substances is carried on” shall be omitted.

4. Amendment of section 23, Act XXV of 1934—In sub-section (1) of section 23 of the said Act, for the words “as can reasonably be required in the circumstances of each factory” the words “as may be prescribed” shall be substituted.

5. Temporary amendment of section 45 and 54, Act XXV of 1934—Until the termination of the hostilities in being at the commencement of this Act the first proviso to sub-section (1) of section 45 and the proviso to sub-section (3) of section 54 of the said Act shall have effect as if for the figures and letters “7-30 P.M.” the figures and letters “8-30 P.M.” had been substituted.

STATEMENT OF OBJECTS AND REASONS

The Bill is intended to remedy certain defects and meet some difficulties in the working of the Factories Act 1934, which are explained in the notes on clauses below.

NEW DELHI

B. R. AMBEDAKAR

The 24th February

NOTES ON CLAUSES

Clause 2. Amendment to section 9—The particulars which are at present required to be sent before commencement of work in a factory are not comprehensive enough.

A suitable clause is therefore being added to sub-section (1) of section 9.

Clause 3. Amendment to section 19—The washing facilities under sub-section (3) of section 19 are required to be provided only in places where workers come in contact with injurious or obnoxious substances. It is, however, desirable that washing facilities should be provided in all factories. The restrictive clause in the sub-section is therefore being deleted.

Clauses 3 and 4. Amendments to sections 22 and 23—Under section 22 of the Act “precautions against fire” can be prescribed and section 23 refers to orders which may be passed by Inspectors in the matter of “means of escape”. In a recent judgment of the Bombay High Court it was held that rules to provide for “means of escape” were *ultra vires* in that they have reference to section 23 of the Act for the purpose of which such rules cannot be made. Rules have, however, been made by Provincial Governments in this matter, and it is considered that such rules are desirable. It is considered desirable that rules as hitherto made should exist. Sections 22 and 23 are accordingly being suitably amended.

Clause 5. Amendments to sections 45 and 54—Under the provisions of sections 45 and 54, no woman or child shall be allowed to work in a factory except between the hours of 6 A.M. and 7 P.M. and the limiting hours can be varied by a Provincial Government to cover a span of 13 hours between 5 A.M. to 7-30 P.M. Practical difficulties have been felt in this respect in the western provinces. The required hours in many cases cannot be worked within the present allotted span unless work is started in the morning at an hour which is too early by the sun, and which is therefore inconvenient. It is therefore proposed to extend by an hour the evening limits in sections 45 and 54 from 7-30 P.M. to 8-30 P.M. The proposed amendment will have effect only for the duration of the war.

The following Bill* was introduced in the Legislative Assembly on the 3rd March, 1934.

L. A. BILL No. 14 of 1944

A Bill to extend the date upto which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934, shall have effect

WHEREAS it is expedient to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), shall have effect ;

It is hereby enacted as follows :—

1. Short title—This Act may be called the Protective Duties Continuation Act, 1944.

2. Amendment of the First Schedule, Act XXXII of 1934—In the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), in Items Nos. 10(1), 11 (1), 17, 43, 44, 44(1), 46, 46(1), 47, 47(1), 47(6), 48, 48(1), 48(3), 48(4), 48(5), 48(7), 48(9), 48(10), 49(5), 51(2), 51(3), 61(5), 63(2), 63(3), 63(6), 63(9), 63(10), 63(12), 63(15), 63(17), 63(19), 63(20), 63(21), 63(25), 63(27) and 74, for the entry or entries in the seventh column " March 31st, 1944 " the entry or entries " March 31st, 1946 " shall be substituted.

3. Amendment of section 3, Act XIII of 1932—In section 3 of the Sugar Industry (Protection) Act, 1932 (XIII of 1932, for the figures " 1944 " the figures " 1946 " shall be substituted.

Declaration under the Provisional Collection of Taxes Act, 1931

It is hereby declared that it is expedient in the public interest that the provision of this Bill shall have immediate

* The Governor General has been pleased to give the previous sanction required by sub-section (2) of section 67 of the Government of India Act, as saved from repeal by paragraph 12 of the Government of India (Commencement and Transitory Provisions) Order, 1936, to the introduction in the Legislative Assembly of this Bill.

effect under the provisional Collection of Taxes Act, 1931 (XVI of 1931).

STATEMENT OF OBJECTS AND REASONS

The protective duties on sugar, wood pulp, paper, cotton and silk manufactures, gold and silver thread, and wire (including the so-called gold thread and wire mainly made of silver) and iron and steel manufactures, which were extended for a period of two years with effect from the 1st April 1942, by the Protective Duties Continuation Act, 1942, expire on the 31st March 1944. In the present unsettled conditions no stable data on the basis of which inquiries by a Tariff Board could be instituted are available. In the absence of such inquiries it is not possible to ascertain the quantum of protection required during normal years and the object of this Bill is to maintain the *status quo* for a further period of two years, *i.e.*, up to the 31st March 1946.

2. The protective duties on wheat and wheat-flour which were also extended for a period of two years by the Protective Duties Continuation Act, 1942, expire on the 31st March 1944. Owing to the need for facilitating imports from abroad, the import duty on wheat was remitted in December 1941, and there is only a nominal entry of a duty on wheat on the Statute-book. This Bill seeks to extend the existing protective duty both on wheat and wheat-flour for a further period of two years in order to preserve the power to restore protection without delay should a change in circumstances necessitate this.

NEW DELHI
The 28th February 1944

M. AZIZUL-HUQUE

MD. RAFI
Secy. to the Govt. of India