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**MADRAS LEGISLATIVE COUNCIL
DEBATES**

OFFICIAL REPORT

FRIDAY, 23RD JANUARY 1948

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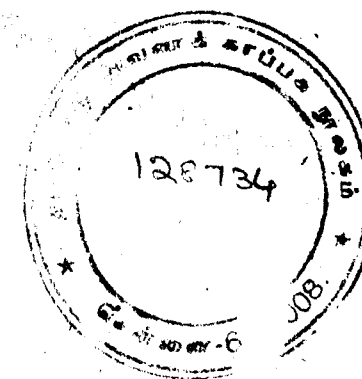
PERSONNEL OF THE GOVERNMENT OF MADRAS.

GOVERNOR OF MADRAS.

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EDWARD NYE, G.C.I.E., K.C.B., K.B.E., M.C.

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2. THE HON. DR. P. SUBBARAYAN, *Home Minister.*
3. THE HON. DR. T. S. S. RAJAN, *Food Minister.*
4. THE HON. SRI M. BHAKTAVATSALAM, *Public Works Minister.*
5. THE HON. SRI B. GOPALA REDDI, *Finance Minister.*
6. THE HON. MR. DANIEL THOMAS, *Prohibition Minister.*
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8. THE HON. SRI K. CHANDRAMOULI, *Local Administration Minister.*
9. THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR, *Education Minister.*
10. THE HON. SRI K. MADHAVA MENON, *Agriculture Minister.*
11. THE HON. SRI KALA VENKATA RAO, *Land Revenue Minister.*
12. THE HON. SRI A. B. SHETTY, *Public Health Minister.*
13. THE HON. SRI V. KURMAYYA, *Rural Development Minister.*



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MADRAS LEGISLATIVE COUNCIL.

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President.

THE HON. SRI R. B. RAMAKRISHNA RAJU.

Deputy President.

HON. SRI K. VENKATASWAMI NAYUDU.

Panel of Chairmen.

DR. SYED TAJUDDIN SAHIB.

SRI R. SURYANARAYANA RAO.

SRI C. N. MUTHURANGA MUDALIYAR.

SRI N. RAMABHADRA RAJU.

Secretary.

SRI M. SURYA RAO, B.A., B.L.

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Name of member.	Name and class of constituency.
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2 Abdul Latif Farookhi Sahib ..	Madras North Central, Muhammadan.
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4 Ahamed Ibrahim Sahib, K. T. M. B.A., B.L.	Madras South, Muhammadan.
5 Bhima Rao, B., B.A., B.L.	Bellary, General.
6 Clubwala, Mrs. M. N., M.B.E.	NOMINATED.
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8 Govindacharyulu, A. ..	West Godavari, General.
9 Hameed Sultan Maricair Sahib, V.	Madras South Central, Muhammadan.
10 Hensman, Mrs. M., M.B.E.	NOMINATED.
11 Jagannatham, H. M. ..	NOMINATED.
12 Jayaram Reddy, S. B.A.	Ramnad, General.
13 John, Dr. V. K. ..	Indian Christian.
14 Krishnamurti, Rao Bahadur D..	NOMINATED.
15 Kumaraswami Mudaliyar, Medai Dalavoi.	Tinnevelly, General.
16 Lakshmanaswami Mudaliyar, Diwan Bahadur A., M.D., LL.D., D.S.C., F.R.C.O.G., F.A.C.S.	NOMINATED.
17 Madhava Menon, The Hon. Sri Kozhipurath, B.A., B.L. (Minister).	Malabar, General.
18 Manjaya Hegde, D. ..	South Kanara, General.
19 Manathunainatha Desigar, K. ..	Tanjore, General.
20 Muthuranga Mudaliyar, C. N. ..	Chingleput, General.
21 Nagappa Chettiyar, V. Vr. N. Ar.	Ramnad, General.
22 Narayana Menon, M. ..	Malabar, General.
23 Narayana Rao, Mothey ..	West Godavari, General.
24 Narayanaswami Nayudu, B. ..	Kistna, General.
25 Natarajan, K., B.A., B.L.	Tanjore, General.
26 Perumalswami Reddiyar, C. ..	North Arcot, General.
27 Pathy, A. R. L. ..	NOMINATED.
28 Purushotham, Thuraga ..	East Godavari, General.
29 Rajan, The Hon. Dr. T. S. S., Leader (Minister).	Trichinopoly, General.
30 Ramabhadraraju, Nadimpalli ..	East Godavari, General.
31 Ramachandra Reddiyar, A. K. A.	Madura, General.

Name of member.	Name and class of constituency.
32 Ramakrishna Nayudu, R.	Coimbatore cum Nilgiri, General.
33 Ramakrishna Rajulungaru, The Hon. R. B. (President).	Chittoor, General.
34 Ramanatham Chettiyar, S. A. S. Rm.	Tanjore, General.
35 Rama Rau, Dr. U.	Madras City, General.
36 Ramaswamy Reddiar, The Hon. Sri O. P. (Premier).	South Arcot, General.
37 Ranga Reddi, N.	Cuddapah, General.
38 Roche Victoria, J. L. P.	Indian Christian.
39 Rodriguez, A. S. T. F.	Indian Christian.
40 Sankara Reddi, N.	Kurnool, General.
41 Satagopa Mudaliyar, S. K.	Salem, General.
42 Sarma, P. R. K.	NOMINATED.
43 Shaik Rowther Sahib, S. K.	Madras West Coast, Muhammadan.
44 Subbarama Reddi, L.	Nellore, General.
45 Sudarsanam, Maddi	Guntur, General.
46 Sundararama Ayyar, N. K.	Madura, General.
47 Suryanarayana Rao, R.	NOMINATED.
48 Tajuddin Sahib, Dr. Syed	Madras South Central, Muhammadan.
49 Uppi Sahib, K.	Madras West Coast, Muhammadan.
50 Veerabhadra Rao, Colluru	Vizagapatam, General.
51 Veerabhadraswami, P.	Do.
52 Veeraswami, Bikkina	East Godavari, General.
53 Venkatachalamaji, N.	Vizagapatam, General.
54 Venkata Reddi, G., B.A., B.L.	Anantapur, General.
55 Venkataswami Nayudu, (Deputy President).	K. Madras City, General.

THE MADRAS LEGISLATIVE COUNCIL.

EIGHTH SESSION OF THE LEGISLATIVE COUNCIL UNDER THE GOVERNMENT OF INDIA ACT, 1935.

Friday, the 23rd January 1948.

The House met in the Council Chamber, Fort St. George, at three of the clock, Mr. President (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

I.—PANEL OF CHAIRMEN.

MR. PRESIDENT :—“ I have to announce to the House that under rule 9 of the Madras Council Rules, I have nominated the following four members of the Council to be panel of Chairmen for the eighth session of the Council :—

- (1) Dr. Syed Tajuddin Sahib.
- (2) Sri R. Suryanarayana Rao.
- (3) Sri C. N. Muthuranga Mudaliyar.
- (4) Sri N. Ramabhadra Raju.”

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

GOVERNMENT MOTION.

II.—ELECTION OF MEMBERS TO THE HOUSE COMMITTEE.

THE HON. DR. T. S. S. RAJAN :—“ Sir, I move—

“ That under rule 143 of the Madras Council Rules, this House do proceed to elect six members to the House Committee according to the principle of proportional representation by means of the single transferable vote in accordance with the regulations made in this behalf by the President.”

The motion was put and carried.

MR. PRESIDENT :—“ I have to inform the House that, in accordance with the regulations framed by me under rule 143 of the Madras Council Rules for the holding of elections according to the principle of proportional representation by means of the single transferable vote, I fix 2 p.m. on Monday, the 26th January 1948, as the time within which nomination of candidates for election to the House Committee should reach the Secretary. There will be an election on a date to be announced in due course if the number of candidates nominated exceeds the number of vacancies, namely, six.”

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III.—DISCUSSION ON THE ADJOURNMENT OF BUSINESS
UNDER RULE 63 OF THE MADRAS COUNCIL RULES.

THE HON. DR. T. S. S. RAJAN :—" Sir, with regard to the elucidation you required about rule 63 of the Madras Council Rules, I have thought it best to ask the Advocate-General to come here and give his opinion on the point. He is here now."

MR. PRESIDENT :—" I am glad that the Advocate-General is here at least now. I would like to see him more often in this House."

THE HON. DR. T. S. S. RAJAN :—" We must create opportunities to him for that."

MR. PRESIDENT :—" We will create more opportunities for him. I suppose the Advocate-General knows the point."

THE ADVOCATE-GENERAL (Sri K. Rajah Ayyar) :—" Sir, under rule 63, three contingencies arise."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" On a point of order, Sir. Is the Advocate-General a member of this House?" (Several hon. Members : 'Yes; he is a member of both Houses'.)

MR. PRESIDENT :—" The Advocate-General has the right of audience."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Both Houses means, he must be elected . . ."

MR. PRESIDENT :—" The hon. Member may refer to section 64 of the Government of India Act."

* THE ADVOCATE-GENERAL (Sri K. Rajah Ayyar) :—" Sir, I think under rule 63 three contingencies arise. It is possible to say that there are four contingencies which are contemplated under the rule. But, I think that the better construction would be to say that only three contingencies are contemplated, namely, (1) the meeting being adjourned, (2) the business being postponed, and (3) a motion that the House do pass to the business next in order in the list of business. I will read the words from the beginning . . . Any meeting or business be adjourned or postponed . . . That is, meeting be adjourned, business be postponed. It would be seen that practically there is no difference between 'adjourned' and 'postponed'. In fact, when I looked into the dictionary I found that one meaning given for 'adjourn' is 'postpone'. It would be rather inappropriate to say that a meeting is postponed after the meeting has already commenced. The meeting, therefore, may very properly be adjourned once it has begun to meet. But so far as business is concerned, the business may be either said to be adjourned or said to be postponed. Therefore having regard to the correlation of the words, I think it may very well be said that 'meeting or business be adjourned or postponed' really means the meeting be adjourned or the business be postponed. Now, about the third contingency, namely, the House passing on to the business next in order in the list of

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business. So far as this is concerned, there is an important qualification. In respect of all the three, that is, the motion that the meeting be adjourned, or the motion that the business be postponed, or the motion that the House do pass to the business next in order in the list of business, there is one common qualification, namely, that it should not interrupt a speech. So far as the last is concerned, there is the further qualification, that is, . . . if the motion carried be that the House pass to the business next in order in the list of business, the business then under discussion shall be considered to be disposed of. I think that is a material qualification, and it would really come to this that when the House proceeds to consider a motion of the third description, it really means that that business which is under discussion should be considered to be disposed of. That can arise only when the business has been taken up for consideration. It cannot possibly arise before the business is taken up for consideration. I find that there is precedent in other constitutions, for example, in the Canadian Constitution. It is what is called a dilatory motion. It says—

'Dilatory motions are designed to dispose of the original question either for the time being or permanently . . .'

that is, that the House do proceed to the business next in order in the list of business; that the House do now adjourn; and that this House be now adjourned. To continue the quotation—

'Adjournment motions are in this class because they may sometimes be used to stop a debate which will never be resumed'."

MR. PRESIDENT :—" What is the book you are reading from? "

THE ADVOCATE-GENERAL (Sri K. Rajah Ayyar) :—" This is Beauchesne's Parliamentary Rules and Forms of the House of Commons, Canada. I am reading from page 133. It will be seen that when a subject is being discussed, if the object is that it should be put to vote, rule 62 comes in. After some discussion, the matter is put to vote. If the object is that it should merely be postponed to some other day, then the first motion is brought up as an adjournment motion, the result of which would be that on the day to which it is postponed, it will come up without the necessity of having to pass through a ballot. But if the object is that the business should again come only through another ballot, it should be taken to have been disposed of even without any discussion. Then comes in clause (3). It says that business under discussion shall be considered to be disposed of. That is, you do not want that it should be discussed further. The clause runs: 'If the motion carried be that the House pass to the business next in order in the list of business, the business then under discussion shall be considered to be disposed of.' This is a special clause which deals with this particular contingency. There must be a business under discussion and a business can be said to be under

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discussion only when it is brought up before the House. Discussion starts only when the Mover has moved. Because, there is that qualification that none of the motions can be made to interrupt a speech. Therefore, first of all the motion has to be made, and then there is the speech to be made. At any time thereafter the third motion can be brought up and the business under discussion shall be considered to be disposed of. That I think is the meaning of the rule. As far as the actual point before the House is concerned, these are my views. I shall clear any other points if required."

MR. PRESIDENT.—"The point that arises for discussion is this. (Interruption by the Hon. Sri K. Madhava Menon.) As you agree with me, let us finish off with the Advocate-General first. I think I am making this clear. The point is this. The other day even before a resolution was proposed or seconded, the Government brought in a motion saying 'we do pass on to the business next in order in the list of business.' I held that the motion was quite right and therefore that business was dropped.

3.15 p.m. "Subsequently I felt on reading it over again a doubt whether I ought to have allowed it at that stage or allowed such a motion only after the motion was moved and seconded. That would be the proper time—I thought subsequently—for allowing a motion of that sort, viz., 'that we do pass on to the subject next in order.' It is only that point that I wanted to get cleared. The Advocate-General can enlighten us on that point, namely whether such a motion can be made even before a motion is moved and seconded or only after a motion is moved and seconded. As he says this consists of three contingencies. The motion that a meeting be adjourned can be moved at any time. By its very nature, as soon as we meet now, any Member can rise and say 'We do adjourn'. No further discussion is necessary about that. The only discussion necessary is about the business being adjourned or postponed and the House passing on to the next subject in order. When are these motions to be made? Is it in order to bring in such a motion even before a particular Member rises and moves and another hon. Member seconds a resolution or such other motion. Even when I call upon any Member to make his motion is it open to any other Member to rise and say: 'Let us pass on to the next business'. That is the point on which I would like to be enlightened."

* THE HON. SRI K. MADHAVA MENON:—"I submit, Sir, that the words 'at any time' applies to all the three cases. My doubt is this. Under the ordinary principles of interpretation no words will be ordinarily used in a Statute without some meaning. Therefore the words 'at any time' will apply to all the three cases mentioned by the Advocate-General, whether it is a motion for adjournment, postponement or that the House pass to the business next in order in the list of business. The only condition is that you should not interrupt a speech. So, without interrupting a

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speech any of the three motions can be made at any time. My doubt is this. Suppose the first item is over, and the Hon. President calls upon any Member to take item 2 standing in his name. I say that before he stands up I can move that we may pass on to the item next in the order of business. You must give some meaning to the words 'at any time'. The other Member whom you have called upon has not begun his speech. At any time, I or any other Member can get up and say 'We pass on to the next item.' Then if I can do it at any time without interrupting a speech my motion will be in order. The only difficulty will be about the words 'business then under discussion'. What is the meaning of the words 'business under discussion'? I say that the business under discussion is the item which you have called upon to be moved. After the first two items are over if you have called upon a Member to move the third item then it becomes a motion. Then we will come to this position. It is said that not only a Member must move but another member should second it. If it is a non-official motion, the Member must move and make a speech and another member must second and make a speech. Then only we can move a motion for passing on to the next item of business. If that is the interpretation that is to be put then I submit that the words 'at any time' are very important. When the President asks a particular Member to move a motion after the first motion is over and before the Member begins a speech if I make a motion without interrupting a speech you are bound to admit it. There is a fullstop there after the word 'speech'. The only condition is that I should not interrupt a speech. Before that Member gets up and makes a speech if you have passed on to the next item or called upon the Member to move and before that member moves or gets up I say: 'Sir, we pass on to the next item of the business' then it satisfies all the conditions that are required for the motion to be in order. Then the motion will be in order whatever may be the result of the vote. The only question now is 'what is business under discussion'. According to me it can be a business under discussion when you have asked it to be moved."

MR. PRESIDENT:—"I think the Advocate-General can wait to hear some other hon. Members. Does any other hon. Member want to say anything on this."

SRI M. NARAYANA MENON:—"I wish to point out one thing after hearing Mr. Madhava Menon's speech in respect of the words 'at any time.' I do not want to say anything against it because I agree with him. The latter portion of the rule reads—

'If the motion is carried, the meeting or business shall, subject to the provisions of sub-rule (3) of rule 15, be adjourned or postponed accordingly, or if the motion carried be that the House pass to the business next in order in the list of business, the business then under discussion shall be considered to be disposed of.'

[Sri M. Narayana Menon] [23rd January 1948]

We have no difficulty if a motion 'that the House pass on to the next business in the list' is carried. The difficulty is about the business under discussion. What we are concerned with is that if that motion is carried what will be the result subsequently. If the motion is that the meeting or business be adjourned or postponed subject to sub-rule (3) of rule 15 the business will be adjourned or postponed accordingly. With regard to the other thing, namely if the motion that the House pass to the business next in order in the list of business, is carried, what will be the result? The business then under discussion shall be considered to be disposed of. Then we have to consider what is the meaning of the expression 'the business under discussion.' I say that the business under discussion means the business in respect of which a motion is made. I think the rule is clear. At any time without previous notice the motion can be moved that the House pass on to the business next in order in the list of business. If it is passed then that business will be considered to be disposed of, because the business then under discussion means, the business in respect of which the motion is made. I think the view that was taken by the President previously is the correct view. Therefore, there is no necessity to water it down subsequently."

SRI S. B. ADITYAN :—" Mr. President, I hope the learned Advocate-General will explain in his reply what is meant by the 'business under discussion.' Does it become a business under discussion the moment you mention that the next item on the Agenda be taken up or does it become a business under discussion as soon as it is moved or does it become a business under discussion as soon as it is moved and seconded? I hope the learned Advocate-General will enlighten us on that point. The important words are 'under discussion' and not 'the business under discussion.'"

"As he mentioned there are three things; that the meeting be adjourned or a business be postponed or the House pass on to the next item in order in the list, I want to know what is the difference if there is meant to be a difference, between the second and the third category."

MR. PRESIDENT :—" Adjourned or postponed? "

SRI S. B. ADITYAN :—" It is said that the business be adjourned. First of all there is this, that the meeting be adjourned. That part is quite clear. When there is a motion that the business be adjourned, how does it differ from the other motion that the House pass on to the business next in order in the list. I merely suggest that probably the motion that the business be adjourned can be brought at any time."

MR. PRESIDENT :—" We are not really on that point what is the effect of adjourning or what is the effect of postponing a business or what is the effect of passing on. We are not really on that point. The point is when can these motions be made."

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SRI S. B. ADITYAN :—" Of course, the whole thing centres round this, namely when does a business become a business under discussion. If I may venture to offer my opinion, I say it does not become a 'business under discussion' until it is actually 'under discussion.' If the Government want to move a dilatory motion before it becomes a subject of discussion, they must do so under some other Rule."

* THE ADVOCATE-GENERAL (Sri K. Rajah Ayyar) :—" Mr. President, I shall illustrate by assuming that there are 10 items on the Agenda. Under rule 63 any business may be postponed. Therefore there may be a motion at any time saying for example, that item 5 in the Agenda may be postponed, item 7 may be postponed or items 5 and 7 may be postponed. Any business may therefore be postponed at any time. There is no restriction at all as to when such a motion can be made. The only restriction is not to interrupt a speech. So long as a speech is not interrupted, without any limitation as to time the proposal that the meeting itself be adjourned or any business on the Agenda be postponed would be in order. If such a motion is carried the effect is: The meeting or business subject to the provisions of sub-rule (3) of rule 15 will be adjourned or postponed accordingly."

MR. PRESIDENT :—" That is changing the order."

THE ADVOCATE-GENERAL (Sri K. Rajah Ayyar) :—" Subject to that rule therefore it is adjourned. Or if the motion carried is that the House proceed with the business next in order in the list of business, such a contingency can possibly arise only when there is a next item in the order of business. Therefore we will assume that No. 3 is being discussed. The motion which is contemplated can only be that you pass on to No. 4. The point is: next in order of business. We have got rule 15 which says that the order of business as appointed shall not be revised except upon a motion accepted by the House. Therefore the House has to proceed with the items in the order of one, two, three, four, five, etc. Therefore when business No. 3 is under discussion then the motion can be that we pass on to business No. 4. Only this contingency can arise. Because if when business No. 3 is being discussed there is going to be a proposal that No. 5 may be postponed or 6 be postponed it will only come under the earlier clause of business being postponed. It won't be passing on to the item next in the order of business. Therefore 'next in order of business' can come in only when for example in the illustration which I have given, 3 is being taken up. The real point that arises is when can that motion be made. No doubt that can also be made at any time, without any limitation as to time. That can also be made only so as not to interrupt a speech. But in testing it practically the contingency can arise only if No. 3 is under discussion and No. 4 has to be taken up or is proposed to be taken up. The real point therefore for consideration, will be when does the business come under discussion. It is said that it becomes a business under discussion the moment the Chair calls upon the

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mover to move. Does it become a business under discussion only after it has been proposed and seconded or at any earlier stage. I would venture to think that having regard also to the words 'at any time' as pointed out by the Hon. Mr. Madhava Menon—we have got to give a meaning to it—it is not necessary that it should have been seconded even. We have to give meaning to the words 'business then under discussion' also. It is possible to say that a business becomes a 'business under discussion' the moment the Chair calls upon the mover to move. It may be possible to say that the business becomes a 'business under discussion' only if it has been formally moved and seconded. But I venture to think that having regard also to the words 'at any time' a business becomes a 'business under discussion' the moment the mover has moved the resolution. I would say that by the mere fact that the Chair calls upon a particular mover to move or bring it up for discussion will not bring it under discussion until the mover moves. Suppose the mover says: 'I do not move it at all' then it does not come under discussion at all. The Chair merely brings it up for discussion. It settles the Agenda and it brings it up for discussion by calling upon the mover to move. The mover moves, then the question is taken up. In one sense, it does not finally come up for discussion, in the sense that the seconder has also got to second it and that till the seconder seconds it, it does not actually come up for discussion. But we have also to take the words 'at any time.' The effect of it can come therefore the moment the mover moves. Supposing he moves it and does not make a speech then there is no difficulty at all. Supposing he moves and makes a speech, then immediately thereafter the business is under discussion and that business is deemed to have been disposed of by the passing of a motion that 'the House pass on to the business next in order in the list of business', and we have got to proceed to the next item in the Agenda. I do not know if I have made myself clear. I have given my opinion that the business under discussion starts when the mover has made his speech. Any time thereafter, a motion can be brought."

3-30 p.m. SRI B. BHIMA RAO :—" If it is seconded or simply moved? "

THE ADVOCATE-GENERAL (Sri K. Rajah Ayyar) :—" The moment it is moved."

* DR. V. K. JOHN :—" Only after the mover finishes his speech because he cannot be interrupted, a Government member can move and say, let us pass on to the next item. Is it the opinion of the Advocate-General that the mover should finish his speech? "

THE ADVOCATE-GENERAL (Sri K. Rajah Ayyar) :—" Yes."

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" We are thankful to the Advocate-General for the opinion that is

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expressed by him. But the Hon. Sri Madhava Menon has tried to confuse the issue of the Advocate-General, which is the view taken by you afterwards."

MR. PRESIDENT :—" You do not know what the view that I have taken afterwards is."

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I mean tentative. I want to know one point, Sir. What is meant by the business under discussion? Supposing there are many items. I will just give an illustration. If there are three or four items in the Agenda and if one item is disposed of, is there any business? There is no business in the interval when one item is disposed of and before another item is taken up. In that interval, there is no business at all and therefore no motion can be moved in that interval. The other point which I want to place before you for your consideration is that a motion that any meeting can be adjourned may be moved either by a Government member or by any other non-official member of the House. But the point is, there was the motion of Sri Suryanarayana Rao and the motion of the Government member was that that item should be omitted and the next item should be taken up. In that case, the Government member was not right in moving that motion."

MR. PRESIDENT :—" The hon. Member should not be under the impression that it is meant only against the Government. It is a right given to any member. If the Government member had moved a motion and made a speech, it will not be possible for any other hon. Member to make another motion some time hence."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I submit that there is no business in the interval when one item is disposed of and before another item is taken up. In that interval there is no business at all."

* DR. V. K. JOHN :—" I regret I cannot fully agree with the Advocate-General's opinion on this matter. The Advocate-General was of the opinion that there cannot be a motion that the business next in order in the list of business be taken up unless the mover has finished his speech and when the mover finishes his speech, the dilatory motion can be made. In my opinion discussion is different from a motion. We should give the same meaning to the motion under discussion as is given in the rules 63 and 72. We must as far as possible give the same meaning to the words used by the Legislature in the various rules. The Legislature makes a distinction between a motion and a discussion. Therefore, the Advocate-General, in my opinion, is not correct when he says that when the mover moves the motion, it is under discussion. The discussion starts only after the President calls for a discussion of the motion. Then there is the phrase 'at any time' there. At any time a member can make a motion that the business next in order in the list of business be taken up without previous notice and the business then in discussion shall be considered to be disposed of. We are worried with the words 'under

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discussion.' The intention of the Legislature must be ascertained by giving a reasonable interpretation to the words used. It may be that a motion is made that we pass on to the next business in the order after the business under discussion. It may be that no discussion has started. In my opinion you might move that the business next in order may be taken up at any time, even before the hon. Gentleman has begun his speech and therefore the Government was in order last time in moving that the next item in the order of business be taken up. It says that if the motion is passed after the discussion has started the business then in discussion shall be considered to be disposed of. Therefore, any Government member or any other member may make a motion that the business next in order in the list of business be taken after a motion has been discussed or before it, in other words at any time. I think I must emphasize this point. The Legislature has used three phrases; one is 'at any time', the other is 'business next in order', and the third is 'the business then under discussion'."

MR. PRESIDENT :—" If business No. 2 is under discussion, then the motion is that we pass on to No. 3."

* DR. V. K. JOHN :—" You can pass on at any time. Let us see what is the business next in order; it means the next business to the one under discussion. In my opinion you cannot give the interpretation that it is under discussion after it is simply moved. Only after it is seconded, you put it to discussion. Then it is under discussion. That is the intention of the Legislature. I think we ought to give a commonsense interpretation and a reasonable interpretation to the wording used in the rule. I think the motion that was moved by the Hon. Minister for Food was quite in order. In my opinion we can make a motion that we pass on to the next business in the order of business at any time before the motion is moved and seconded and the business is under discussion or before it."

* THE HON. MR. DANIEL THOMAS :—" Sir, I should like to make a suggestion for the consideration of the Advocate-General."

MR. PRESIDENT :—" I hope your suggestions are for my consideration also."

* THE HON. MR. DANIEL THOMAS :—" Sir, the real difficulty arose in our attempt to reconcile these two phrases 'at any time' and 'under discussion.' Now, I agree with the interpretation of the Advocate-General when he says that till the actual motion is made, there is no business under discussion. Unless a motion is made, there is no discussion and we can pass on to the next item of business. But, I would go further and say that in order that a motion may be made, it should not only be moved but it should also be seconded. The reference of the hon. Dr. John to rule 75, I think, makes it very clear. It says: 'At any time after the expiry of six days from the publication of the Bill

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in the Gazette, the member in charge of the Bill may make one of the following motions in regard to his Bill, namely, (a) that it be taken into consideration by the Council either at once or at some future day to be then specified; etc.' On such a motion, a general discussion on the principles of the Bill may take place. It follows that until the motion has been moved and has been seconded, the second part of rule 75 does not come into operation. In order to reconcile these two rules, I am suggesting a practical working compromise because there are two phrases, namely 'at any time' and 'then under discussion' and we must reconcile them as best as we can in the light of the present rule 75. Therefore, I would like to interpret the words in rule 63 in the light of the meaning vested in rule 75 (2) which says: 'On such motion, the principle of the Bill and its general provisions may be discussed, but the details of the Bill shall not be discussed further than is necessary to explain its principle.' Therefore, there is no manner of doubt that what is under discussion is the motion after it is moved and seconded. If that interpretation is also applied to rule 63 which is the proper and legitimate interpretation, the conclusion will be arrived at that a motion to pass on to the next item of business can be made only after a motion is moved and duly seconded."

* DR. V. K. JOHN :—" But the Government member making the motion need not be seconded."

* MR. PRESIDENT :—" I would like to finish my ruling by 3.45 4 o'clock. I hope the House will excuse me if I give my ruling p.m. sitting because it is a very lengthy ruling."

" Rule 63 contemplates four different kinds of motions, namely, (1) the meeting be adjourned or postponed, (2) the business be adjourned, (3) the business be postponed, and (4) the House pass to the business next in order. The point for decision is at what point of time can these motions be made. The motion that the House be adjourned or postponed presents no difficulty. By its very nature, it can be made either as soon as the House meets and before any business is actually taken up or subsequently even when the House is actually engaged in transacting any particular business. The difficulty is only regarding the other three motions. The question is when is it competent for the House to entertain any of the other three motions. In other words, as soon as the chair calls upon a member to move a particular motion set down in his name in the Agenda paper or even before, is it open to any other member to move any of these three motions. This question can be properly answered, if it is understood when the House can be said to be in possession of any subject to enable it to adjourn, postpone or pass over it. Does the preparation of the Agenda paper setting down the matters to be considered at the meeting, *ipso facto*, put them in the possession of the House, so as to give it jurisdiction to dispose of them in any manner competent to it, or should any particular subject be formally put in the possession of the House by a proposal and

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seconding before the House can proceed to deal with it. In short, when does a matter set down in the list of business become a business in this sense, is the question. It strikes me as a very elementary proposition that the formality of proposing and seconding is necessary before the House can get seized of the matter. It is well-known that this is the accepted and well-recognized procedure adopted all over the world by all bodies and associations and even in ordinary public meetings for the conduct of their proceedings.

"Let us see if parliamentary procedure warrants any deviation in this procedure. It is well-known that the procedure of the Parliament in England forms the basis for the Rules of this House. It will be interesting and instructive to examine their procedure.

Adjournment of meeting or business.

"In May's Parliamentary practice, fourteenth edition, 1946, at page 381, it is stated thus:—

'In the Commons, when the motion has been seconded, it merges in the question which is proposed by the Speaker to the House and read by him; after which the House is in possession of the question; and must dispose of it one way or another before it can proceed with any other business. At this stage of the proceeding the debate upon the question arises in both the Houses.'

"From this it is clear that the House is not in possession of any business till the question is proposed by the Chair and as such the House is not competent to dispose of the business before that formality is gone through. Again on page 382 we find "modes of evading or superseding a question are (1) by moving the adjournment of the House or debate (the so-called dilatory motions) (2) by moving the previous question and (3) by amendment.' In the midst of the debate upon a question any member may move 'that this House do now adjourn' or 'that the debate be now adjourned.' From this also it is clear that these motions can only be made in the midst of a debate, the only exception being that a motion for adjournment of the House before or between the orders of the day can only be moved by a member of the Government. It is also stated on the same page 'that a dilatory motion cannot be made while a member is speaking but can only be offered by a member, who on being called by the Speaker in the course of the debate, is in possession of the House.' It is clear therefore that the motions for adjournment of the meeting or business mentioned in Rule 63 correspond to motions for adjournment of the House and the adjournment of the debate in the House of Commons.

Postponement of meeting or business.

"On page 382 of May's it is stated that in the Lords a future day may be specified in the motion for adjournment, but in the Commons such a motion cannot be made and the motion should

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be simply for adjournment. Rule 63 simply provides only for such a postponement. This is all the difference between adjournment and postponement.

House passing on to business next in order.

"This corresponds to what is called 'moving the previous question.' This is discussed on pages 383 and 384 of May's. The object of such a motion is 'to withhold from the decision of the House a motion that has been proposed by the Chair, by a motion which compels the House to decide, in the first instance whether the original motion shall or shall not be submitted to the vote of the House. The motion is 'that that question be not now put.' If this motion is carried the question is not put, the subject under discussion is dropped and the House automatically passes on to the subject next in order. So far as I can gather this is all what appears from the procedure in England. A motion of the kind in question, even before a motion is moved and seconded and proposed as a question from the Chair does not appear to be known in that country.

"Now let us examine the wording of Rule 63 and see if it warrants any change of procedure. The two phrases in the rule namely 'but not so as to interrupt a speech' 'the business then under discussion shall be considered to be disposed off' and the second proviso 'that a motion under this rule (covering all the four kinds of motions) cannot be made more than once during the debate on any question' leaves no room for doubt in my mind that it contemplates an actual debate in the possession of the House before any of these motions can be made.

"An argument was advanced that the rule says 'at any time' and that this phrase must be given a meaning. Obviously the phrase cannot mean what all it can connote. For instance it cannot be said that such a motion can be made while the House is not actually sitting. Taking the rule as a whole and the context it can only reasonably mean 'at any time during discussion' without being bound down by rules as to period of notice, etc., and to any particular point of time during discussion.

"Next it is argued, though not in the House, that as Rule 15 says that the order of the business in the list shall not be revised except by a motion accepted by the House, it tantamounts to giving the House jurisdiction over the matters set down on the list. I consider this argument unsound. The preparation of an agenda is only for convenience and serves only as notice to members that the proceedings will be conducted in a particular order and nothing more.

"Again rule 15 (3) is negative in character. Understood properly it is just a direction to the chair that the order of business should not be changed as it pleases. The reason is obvious. Notice having been given to all the members that the subjects will be taken up in a particular order, it should not be changed without their consent. This rule if at all, gives power to the House to alter only the order if it likes. The order in which

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the subjects are to be taken is one thing and disposing of the subjects themselves is quite a different thing and the latter can be done only according to accepted principles of procedure.

"Next it is interesting to note how this question was dealt with before this in this Presidency as well as in the Central Legislature.

"In the Legislative Council Proceedings, February 1924, Vol. XVI, you find the following: Mr. C. P. Ramaswami Ayyar was called upon to make the motion against his name on the agenda. Mr. Rao Bahadur C. V. S. Narasimha Raju rose and asked for permission to move that the consideration of the item be postponed till the first day of the next session under S.O. No. 34 which corresponds to the present rule 63. The Hon. President Mr. Swamikannu Pillai said that the member had to wait until the motion was made. A discussion ensued and it was contended by some of the members that relying on the phrase 'at any time,' Mr. Raju's motion was in order. The President formulated two points for decision as follows:—

(i) whether the motion that any business be adjourned can be moved under S.O. No. 34 before the meeting at which the motion is made has become seized of the business in question;

(ii) whether in the particular case the Hon. the Law Member having been permitted to speak by the President, Mr. C. V. S. Narasimha Raju had the right to make the motion under S.O. No. 34 so as to prevent the Law Member from making his speech.

Though these two points were formulated, the Learned President did not decide point No. (1) but held on point No. (2) that the Hon. Law Member having been permitted to speak, Mr. Raju could not be permitted to move a motion so as to prevent the Hon. Law Member from making his speech. He said 'I consider that of the two honourable Members, the Hon. Law Member had obtained the right to speak first and except on the point of order he had the right not to be interrupted.' Thus point No. (1) was not squarely met and decided. But all the same the result was the Hon. Law Member was allowed to go on with his motion and the adjournment motion could not be moved.

"The question rose again in March 1927 while Mr. C. V. S. Narasimha Raju was the President. There was a motion in the name of Mr. Satyamurthi on the agenda. Diwan Bahadur Krishnan Nair wanted to move for adjournment of this item. Mr. Satyamurthi objected and said that no adjournment could be moved before he makes the motion. The President expressed his opinion that when once the list of business is prepared it becomes an agenda for procedure in the House. Then Mr. Sami Venkatachellam Chetti raised the point, whether in that view any item which is in the list prepared by the Secretary even though it may not be reached, may be moved to be adjourned. The President said that it could be done. Ultimately Diwan Bahadur Krishnan Nair was allowed to move the motion for adjournment and that was carried.

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"In 1926, this question came up before the Hon. Mr. V. J. Patel in the Central Legislative Assembly. Sir P. S. Sivaswami Ayyar had a motion against his name regarding training of Indians for nautical careers. Diwan Bahadur T. Rangachariar wanted permission to move for its adjournment even before Mr. Sivaswami Ayyar made his motion. The President remarked thus: 'A motion for adjournment of the debate can only be moved after the resolution has been formally moved.' That ruling was obeyed and Sivaswami Ayyar was allowed to make his motion.

"In 1928 a conference of all Presidents of Legislative Councils was held presided over by the Hon. Mr. V. J. Patel. There a question, namely, can a motion for the postponement of any item included in the list of business be made before the item is actually reached, came up for discussion. The President of the Madras Legislative Council, Mr. Raju, referring obviously to his ruling mentioned above, said that such a practice existed in Madras. The general sense of the conference was that no motion for postponement of any business can be made until that business is reached though the conference did not in terms decide the further question, whether a motion should actually be made before it is sought to be adjourned. Yet it is clear considering the fact that the question before the conference was a corollary to the opinion expressed by Mr. C. V. S. Narasimha Raju as contended by Sri Sami Venkatachallam Chetti and considering also the fact that the conference was presided over by the Hon. Mr. Patel who had already given the ruling quoted above, it may solely be taken that the opinion of Mr. C. V. S. Narasimha Raju was not approved by the conference.

"It looks to me the cardinal principle underlying this matter is this. We must not forget that the House consists of Government members and members of various other parties also. It may be that one party or another does not want to discuss a particular subject. When we want the House to come to a decision on a particular subject, we must tell the House what the subject is. Without allowing the member to say what he wants to say, without putting any matter definitely before the House, I should think it is unfair to ask the House to come to a decision on any point. Unless any point is before the House, unless any motion is before the House, unless the member is given an opportunity to convince the House why the subject should be taken up immediately and not adjourned, the House cannot come to a conclusion whether the business can be taken up or postponed. According to me that is a very fundamental principle which we ought not to forget. Before we ask the House to come to a decision on any particular subject, the House must know what the subject is. For all these reasons, I think the rule as it stands contemplates as regards the three latter motions that the subject must be moved and seconded. It is only then that any member can have a right to move an adjournment or postponement. I prefer to follow the procedure in the House of Commons as well as the ruling given by Hon. V. J. Patel.

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"I am aware that it may be the intention of the kind of motion under discussion that the particular subject should not at all be discussed and that in effect the House should not hear anything about it. If that is the idea, the only course seems to be first to move under rule 15 for revising the order in the list of business and putting the particular business at the end of the list, and when it is reached to move for an adjournment of the House, as was done the other day. This is no doubt a devious method, but there is no escape from it."

SRI S. B. ADITYAN :—"As a result of your ruling, Sir, may I take it that the resolution of Mr. Suryanarayana Rao is not disposed of and it will be in the list of business."

MR. PRESIDENT :—"The hon. Member is well aware of the rule that whatever mistakes the House has committed cannot be undone."

THE HON. SRI K. MADHAVA MENON :—"Can a motion under rule 15 (3) be moved at any time, Sir? That is with reference to changing the order of business."

MR. PRESIDENT :—"I think so. There is no time fixed there. I am not going to give any ruling on that point. I suppose you can do it at any point. It only says that the order of business as arranged in the list shall not be revised except on a motion accepted by the House. It does not give any time."

SRI S. B. ADITYAN :—"Sir, what your ruling amounts to is that Mr. Suryanarayana Rao's motion was not under discussion. Therefore it could not have been disposed of."

MR. PRESIDENT :—"My ruling is there on that date. I cannot set aside that ruling. That ruling, right or wrong stands. This ruling is only for future guidance."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—"Has not that ruling been cancelled subsequently by this ruling?"

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—"Sir, does not this ruling of yours overrule the previous ruling?"

MR. PRESIDENT :—"I say it does not. That ruling stands for that date."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—"For future guidance, we should take the latter ruling and not the former one."

DR. V. K. JOHN :—"Can a ruling be given, Sir, when a question is not before the House?"

MR. PRESIDENT :—"The President can do anything he likes." (Laughter.)

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IV.—MESSAGE FROM THE ASSEMBLY.

MR. PRESIDENT :—"I have to announce to the House the following message, dated Fort St. George, the 22nd January 1948, received by me from the Hon. the Speaker of the Madras Legislative Assembly :—

'In accordance with rule 111 (2) of the Madras Assembly Rules, I transmit a copy of the motion passed to-day by the Madras Legislative Assembly, desiring to obtain the concurrence of the Council in setting up a Joint Select Committee of the two Houses to consider the Madras Estates (Repeal of the Permanent Settlement and Conversion into Ryotwari) Bill, 1947 (L.A. Bill No. 37 of 1947).

'That, under rule 111 of the Madras Assembly Rules, the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of thirty members to consider the Bill, twenty members from the Assembly and ten members from the Council.'

V.—GOVERNMENT BILLS.

(1) THE MADRAS ALIYASANTHANA BILL, 1947^a.

* THE HON. SRI K. MADHAVA MENON :—"Sir, I beg to introduce the Madras Aliyasanthana Bill, 1947, and move under rule 111 of the Madras Council Rules that the concurrence of the Legislative Assembly be obtained in setting up a Joint Select Committee of both the Houses consisting of 12 members to consider the Bill, eight members from the Assembly and four members from the Council.

"Sir, there is no necessity for me to speak at length on this Bill. Aliyasanthana law is more or less the same as the Marumakkatayam law which prevails in the neighbouring district of Malabar. In the book on the subject by Mr. P. R. Sundara Ayyar it is stated as follows (pages 243-245) :—

'Aliyasanthana law as the name implies is the rule of inheritance under which property descends in the line of nephews. The term, it will be noticed, is the exact Kanarese equivalent of the Malayalam term Marumakkatayam. The people that follow this system are to be found in Kanara and mostly speak Tulu. The word corresponding to Marumagan is Marumaya in Tulu, but the word in use among the people to denote the system of law is the Kanarese word—Aliyasanthana Kattu or more shortly Aliyakattu. The rules of this system with the traditional account of its origin are to be found in a Kanarese pamphlet known as Bhutala Pandya's Kattu Kattalai.

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The system promulgated differs but slightly from the Marumakkatayam system. In its main features, viz., impartibility, descent in the line of females and non-recognition of marriage as a legal institution it completely agrees with the latter.

The Aliyasanthana system differs from that of Malabar only in more consistently carrying out the doctrine that all rights to property are derived from females. Observations to a similar effect are to be found in some decisions. These observations are responsible in the main for the recognition of rights of management in females, for the evidence given in certain cases disclosed a state of facts not dissimilar to that in Malabar.

"Sir, when the Marumakkatayam Bill was brought in the Assembly in 1932 it was expected to cover the Aliyasanthana law also, but serious objections were raised by the followers of Aliyasanthana law in South Kanara and they were excluded from the provisions of the Bill. In 1933, the hon. Member Mr. A. B. Shetty brought forward an Aliyasanthana Bill which was referred for public opinion. Public opinion was obtained and published by the Government. The majority of followers of Aliyasanthana law agreed that the Bill was necessary. But as the Legislature was dissolved, the Bill could not be proceeded with. When the Legislature was formed again, the hon. Member Mr. A. B. Shetty, before he became Minister, gave notice of a private Member's Bill and the Government gave him permission to do so and said that they would not oppose the Bill being referred to a Select Committee. Later on, he was able to convince the Government that the Government themselves might take it up as a Government Bill. That is the reason why it has come up now as a Government Bill.

"Sir, the Bill only intends to codify the existing law which is based on custom and certain decisions of courts. Customs change and the views of courts also have been changing. We have simply attempted to codify the existing practice and made certain changes to suit the conditions and the ideas of the people affected. It has been suggested that it is expedient to define and amend in certain respects the law relating to marriage, intestate succession, family management and partition applicable to persons governed by the Aliyasanthana Law of Inheritance. The exclusion of persons following Aliyasanthana law of inheritance from the operation of the Marumakkatayam Bill in 1933 was due to the opposition of a section of the people to certain provisions in the Chapters of Marriage and Partition and since then, opinion in favour of such legislation has gathered strength in the South Kanara district.

"Sir, I feel that the Bill before the House does not go as far as the Marumakkatayam Act in some respects. We have given consideration to conservative opinion and respected it. Therefore,

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we have not gone far in that direction. But on one matter, I would have certainly preferred a further step. On the question of marriage, you will find in clause 4:

'Save as provided in section 5, the conjugal union of an Aliyasanthana female with a male belonging to the same community as such female shall be deemed for all purposes to be a legal marriage, . . .'

"Personally I would have liked the words 'male belonging to the same community as such female' to be omitted. I do not see any reason why a marriage of an Aliyasanthana female with a male belonging to any community provided he is a Hindu, should not be a valid marriage. When the Marumakkatayam Bill was introduced there was the same wording. Subsequently opinion in Malabar was in favour of a change. In the Select Committee the words 'the same community as such female' were omitted and the words 'male belonging to any Hindu community' were added.

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p.m.

"There is a very strong opinion in South Kanara that marriages between an Aliyasanthana female and males belonging to that community should be recognized and that has been recognized in the Bill here. That is the main change that has been promulgated now. I do not think I should go into details of the sections, because the sections are more or less the same as before. If any changes are necessary according to custom that is now prevailing, they may be discussed by the Select Committee and I need not take up the time of the House by dealing with section after section."

The motion was put and carried.

THE HON. SRI K. MADHAVA MENON:—"Sir, I suggest that the undermentioned Members of this House be elected to the Joint Select Committee:—

- (1) Sri R. Suryanarayana Rao,
- (2) .. D. Manjappa Hegde,
- (3) .. M. Narayana Menon, and
- (4) The Hon. Sri K. Madhava Menon."

MR. PRESIDENT:—"Since the Bill is being introduced here first, the Hon. Minister can give the names of the Members of the Select Committee after the concurrence of the Legislative Assembly."

(2) THE MADRAS ESTATES (REPEAL OF THE PERMANENT SETTLEMENT AND CONVERSION INTO RYOTWARI) BILL, 1947.

* THE HON. SRI KALA VENKATA RAO:—"Sir, I move—
That this House concurs in setting up a Joint Select Committee of both the Houses consisting of 30 members (20 members from the Assembly and 10 members from the Council) to consider the Madras Estates (Repeal of the Permanent Settlement and Conversion into Ryotwari) Bill, 1947 (L.A. Bill No. 37 of 1947) and that the following Members of this House be nominated to the said Joint Select Committee."

[Sri Kala Venkata Rao] [23rd January 1948]

Mr. President, Sir, I need not take the House through every detail about this Bill which has been before the country particularly before this Presidency during the last four or five months. Every one of the hon. Members of this House would have studied the Bill by now and the motion to-day is only for the reference of the Bill to a Joint Select Committee. After the Select Committee scrutinises the Bill, it will be passed by the Assembly and it will come before this House for discussion.

Anyhow I would like to tell the House a few general principles that are embodied in this Bill. I need not argue at this stage about the need for the abolition of the zamindaris. The cry for the abolition of zamindaris has been there for a very long time. The Congress Election Manifesto of 1946 gave it out that it will eliminate all intermediaries and create a new system of tenure in the country. In order to give effect to that pledge, I seek to introduce this Bill on behalf of the Government. The House is already aware that it has passed a Bill to prohibit the alienation of communal, forest and private lands in estates in the Province of Madras and also the Madras Estates Land (Reduction of Rent) Bill. One Bill seeks to prohibit alienation of certain defined types of land. The second Bill was to reduce the rental on the zamindari land. There was a fear in the minds of zamindars that the rates would be increased before the zamindaris were abolished. No other Province in India has thought of reducing rentals before they abolish zamindaris. Other Provinces which have published their Bills and those Provinces who are considering such Bills have not taken into account the need for reducing the rents in their Provinces. Reduction is not provided for either in the Bills that have been published or that are going to be published. But in Madras we thought that the present rental collected by the zamindars is very high and ought to be brought down. As a matter of fact in 1802 the total rent was Rs. 72 lakhs and they were paying a peshkash of Rs. 48 lakhs. The present rental is over Rs. 2 crores. They have increased it by leaps and bounds. The Government thought that the first duty was to reduce the rents. There has been a proposal from the beginning that the rents should be reduced to the level of 1802; it received the concurrence of both Houses of Legislature in the year 1939. The fear entertained then and even till the beginning of this year was that if we proposed the abolition of the zamindaris, the Secretary of State who had to give his consent to the Bill under the Government of India Act might refuse to give such consent at that time. But on account of our getting independence on August 15, that contention is now gone. Now we are free to introduce a Bill for abolition of zamindaris straightaway. That is the reason why this Government did not take further steps to continue the other Bill published in last January and they have now brought forward this Bill which has to become law. I have spoken in this House before, about the 1802 rates. The main reason for bringing forward this Bill is that the tax structure of our land revenue system should be changed and

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put on a scientific basis, whether the rates are of the year 1802 or 1948 or 1702 or 1602. At present a person who owns one acre, or 10 acres or 100 acres or 1,000 acres pays at the same rate of land tax for similar lands, whereas in the case of income-tax and other taxes we pay according to the slab system on a progressive basis. The land system should be based on progressive taxation basis. Our present proposal is that a man who has got one acre of land must pay less than the rate which a man who owns 1,000 acres pays. It is high time that we should introduce this system in this Presidency. In justification of that we are converting all the estates into ryotwari land. When all the lands become ryotwari lands, it will be time to codify the land revenue law and then introduce the system of progressive taxation. Therefore this Bill does not contain provisions for progressive taxation. I am making it clear that it is the intention of the Government to bring in further legislation after this legislation becomes law. We propose to introduce a new system of taxation on progressive lines for all the lands in the Presidency including the present ryotwari lands.

"I must now come to the other important question in this Bill, namely, the question of compensation. There has been a definite opinion in this country and there have been petitions and representations to the Government that the zamindars are not entitled to any sort of compensation. I have made it plain that it is hard to say that we cannot give compensation and will yet make this Bill law. The old difficulty is there; section 299 of the Government of India Act definitely says that, without payment of compensation we cannot abolish zamindaris; therefore we have to give compensation, and that too equitable compensation. I must remind this House that this House passed a resolution in last January or February saying that the Government might bring a Bill to abolish zamindaris on payment of equitable compensation. That resolution could not be discussed in the other House owing to certain other circumstances. Still the opinion of this House is as much binding upon this Government as that of the other House. Therefore we are only following the direction given to us by this House in last February. That resolution used the word 'acquire'. Some objection was made elsewhere that by using the word 'acquire', we are thinking of the Land Acquisition Act and the rest. In the present Bill there is no reference to the Land Acquisition Act. We have made our own provision as a sovereign legislature for the payment of compensation. There was the other question about the quantum of compensation that is being made. According to the Bill, compensation on a sliding scale is provided for. I should like to state that in other provinces the basis *adumbrated* is the present rental minus certain deductions. Deductions are made for irrigation works, for administrative charges, etc. These are deducted from the present rentals. That is taken as the basis and a multiple thereof is to be given as compensation. In this matter we are far more progressive than other

[Sri Kala Venkata Rao] [23rd January 1948]

Provinces. We want to adopt a more scientific basis. We have got two-thirds of the land as ryotwari land and only one-third as zamindari land. Therefore we want to bring about a uniform system of land tenure in the Presidency. The best thing to do is to reduce the rental in zamindari areas to the ryotwari level. When the rental is so reduced, we will be taking into consideration the extent of land that was brought under the plough subsequent to 1802. We must take into consideration the present acreage and not the acreage of 1802. Some criticisms have been made with regard to our basis. First we bring the rental in zamindari area down to the ryotwari level. Under the Permanent Settlement Act of 1802, the zamindar took two-thirds and paid one-third to the Government. In certain estates as much as 90 per cent was taken by the Government. There are estates in the Salem district which pay 90 per cent rental as peishcash. But generally the basis adopted was two-thirds and one-third. Even according to the original sanad provision had been made for the construction of dams, for administrative charges, for irrigation sources and a number of other things. Out of 33-1/3 per cent we have to deduct these charges. We have to reduce it by 13 1/2 per cent, so as to cover administrative charges and irrigation charges. We must have some basis to be guided by. You will see that the basis is only one-third of the ryotwari rental. That cannot be said to be much.

"The next criticism levelled is why are you giving 17 1/2 or 20 times the basis as in the case of the Land Acquisition Act. That is the question raised. I would like to answer that criticism by saying that it depends upon the basis of compensation. The multiple is not the consideration. If the basis is very low, there is no harm if the multiple is very high, because 25 times one is 25 and 5 times 5 is also 25. It is both 25 in both cases. Therefore if we reduce the basis to a reasonable level, we need not be terrified by the multiple, even if it is 33 times. We have gone into the whole question on a scientific basis and we have satisfied every criterion. We have taken into consideration the new extent of land brought under the plough after 1802. We have decided the portion to which the zamindar is entitled and from that we have made necessary deductions. There cannot be any objection to the procedure that Government have adumbrated.

"The question of the mode of payment has been discussed; whether it should be in cash or in bonds or securities; this is being discussed by the Government with the Government of India and we shall try to evolve a formula which will be reasonable. Our capacity to pay in cash will depend upon our raising a loan in the market and probably we shall have to issue debentures for periods covering 20 to 30 years; I am not committing Government to any particular course of action. We will go fully into the question and decide. For the present, it has been provided that the manner will be determined according to the rules to be placed before the House.

23rd January 1948] [Sri Kala Venkata Rao]

"There has been a criticism regarding private lands as to why they should be given over to zamindars. The word 'private land' is used in a sense different from its normal connotation in ordinary terminology. According to the Estates Land Act of 1908 amended by the Act of 1936, the precise definition of the words 'private lands' has been given and that was the land cultivated by the zamindar from 1896 till to-day without interruption. This is the position according to the latest decision of the Privy Council and the highest courts of the land. This is really a very stiff definition and you cannot be going on adding to it further. Further the extent of these private lands is not very much in the presidency. Except in one or two estates, in all the others it does not extend to even a hundred acres. But then there will arise the question: 'Why not a top limit be fixed to the extent of these lands?' But with regard to placing a top limit, I may tell you that in the ryotwari areas there are people who own 9,000 acres in the delta areas and there are others owning less. Without touching them, that we should touch the zamindars who have got such private lands will be iniquitous and unjust. Government have, therefore, under consideration the question whether it should not be made a universal question and that is a matter which will be dealt with in a different Bill.

"The question of inams has been very hotly debated upon both in the press and on the platform and even on the floor of the Legislative Chambers. I would like to tell you that there is a law in this country and it is not for Government to go behind it. That law is that those whole inam villages which were declared to be estates under the Act of 1936, should continue to be estates. This is a Bill for the abolition of estates and not merely the zamindaries or inams. If some inams were estates 12 years ago, we cannot gainsay that fact to-day and fail to include them in the present Bill. It does not stand to reason. We cannot abrogate an Act passed 12 years ago and further, there are difficulties. As a result of that Act, certain rights were given to occupancy tenants and they got rights of inheritance, gift and everything else. What will be the position if you want to go back, and what will become of all rights they have been enjoying all these years? It will be unjust on our part to upset the present position and therefore, I am very sorry we cannot exclude them from the scope of the Bill.

"Regarding charitable inams, you are aware, Sir, that we have provided for the payment of annual grants for charitable institutions which we have incorporated in the Rent Reduction Bill. Similar clauses will be introduced in this Bill also. Minor inams have got a connotation in the land revenue system of this presidency different from what is ordinarily loosely understood; whole inams do not cover all the inam areas in the presidency and comprises an area of nearly 34 lakhs of acres of land, leaving outside, thirty-eight lakhs of acres of minor inams.

[Sri Kala Venkata Rao] [23rd January 1948]

All these 34 lakhs of acres which form whole inam villages were divided and subdivided on account of the law of inheritance, the Mitakshara Law and there are people who own five acres or ten acres and it is very difficult to say that they are big landlords and are intermediaries. What is to be done in their case? Law is mightier than justice and justice is the law of the land. Because he owns only five or ten acres, the man under him who is poorer could not be sacrificed. But Government are prepared for some concession in that matter. One is that if he was himself cultivating the land and there were no occupancy tenants he can get the ryotwari pattah. If he is really an agriculturist let him get the benefit and nobody is worried. If he were not a cultivator himself, we can also tackle the question by giving him better compensation on a basis different from the one adopted for others in the Bill. The matter can be considered in the Select Committee and some decision can be arrived at.

"There are provisions for tribunals under the Bill and they are under clauses 5, 8 and 14. There was a criticism that the Tribunals under clause 5 should be enlarged or that their composition should be changed. I would like to tell the House that no purpose would be served by that means. People who know about survey and settlement alone can determine the nature of these private lands. We have given representation to the landholders and to the ryots; this is more or less a tripartite affair. Those people can sit, consider and determine whether the land is a private land or not. We know the whole thing clearly and in our mind there is no difficulty about the matter. But if still the Select Committee will be in favour of a change in the personnel, the Government are prepared to consider that point also and see if the question would be an improvement over the present position.

"Regarding mines, forests and the rest, the charge was laid that not only were we paying for cultivated land but for cultivable land also, which means the potential value of the land. That is not the intention of Government and if the section requires any improvement, we will be prepared to consider it in the Select Committee.

"The other matters in the Bill are only consequential and if we agree to the main principles of the Bill, there will be no difficulty to proceed with the Bill and there should be no reason why we should delay the Bill. There is a great outcry in the country for the abolition of the zamindaris; people really feel in certain quarters that this Bill is being delayed. It is not the case; we are taking all possible steps to make it law at the earliest possible moment. Any improvements suggested will be taken into consideration by Government and the Bill will be brought before you again after passing through the Assembly."

23rd January 1948] [Sri Kala Venkata Rao]

The motion was carried, and the following names were approved :—

- (1) The Hon. Sri O. P. Ramaswamy Reddiar,
- (2) „ Dr. T. S. S. Rajan,
- (3) „ Sri K. Madhava Menon,
- (4) Sri P. Veerabhadraswami,
- (5) Sri A. Govindacharyulu,
- (6) Sri N. Ranga Reddi,
- (7) Sri S. Jayarama Reddi,
- (8) K. Uppi Sahib Bahadur,
- (9) Dr. Sir A. Lakshmanaswami Mudaliyar, and
- (10) Sri Medai Dalavoi Kumaraswami Mudaliyar.

(3) A BILL * TO REGULATE THE USE OF WEIGHTS AND MEASURES
IN THE PROVINCE OF MADRAS.

* THE HON. SRI K. MADHAVA MENON :—“ Mr. President, I beg to introduce the Madras Weights and Measures Bill, 1947 and move under rule 111 of the Madras Council Rules that the concurrence of the Legislative Assembly be obtained in setting up a Joint Select Committee of both the Houses consisting of 21 members to consider the Bill, 14 members from the Assembly and 7 members from the Council.

"There is no uniformity in the weights and measures now in use in various parts of the Province. The question of taking steps to prescribe and enforce a uniform system of weights and measures was considered on several occasions. In 1928, the Jewelers Weights Committee recommended that Government should introduce legislation. The Government decided that a Bill should be prepared to provide for the stamping of all weights and measures and prohibiting the use of those unstamped, for the licensing of manufacturers of weights, etc., and for inspection and power to destroy inaccurate weights. The difficulties in the way of the proposed legislation were however considered insuperable and the proposal to proceed with the legislation was dropped in 1932. In 1936, the question whether legislation for standardizing weights and measures should be undertaken in this Province, was referred to a sub-committee of the Provincial Economic Council. This Committee decided that the matter might be deferred until after the inauguration of the new constitution.

"The constitutional position under the Government of India Act, 1935, is that 'Establishment of Standards of Weights' is a central subject while 'Weights and Measures' is a provincial subject. So far as weights are concerned, it is for the Central Government to prescribe standards. The enforcement of the use of weights based

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MADRAS LEGISLATIVE COUNCIL
DEBATES

OFFICIAL REPORT

MONDAY, 26TH JANUARY 1948

VOLUME XVI—No. 2

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[Sri K. Madhava Menon] [23rd January 1948]

4-45
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on these standards is not however a matter for the Provincial Government. In 1939, the Government of India passed the Standards of Weights Act, 1939. The Act prescribed the units of weight commonly used by the railways and in commerce, namely, the tola, the seer and the maund and the ton. The stamping establishments in this Province are at present attending to the stamping and testing of weights fixed by the Government of India Act, 1939. It was with reference to the Central Act of 1939 that the question of undertaking legislation for standardization of weights and measures was again taken up in 1939; but in view of the then disturbed political atmosphere the Government postponed legislation for the duration of the war. The question was however reopened in 1944 at the instance of Mr. G. W. Priestley (then Adviser) and it was considered necessary to specify certain denominations of weights and measures correlated to reliable standards. A draft Bill was accordingly prepared and considered recently at a conference with representatives of commercial interests, and the alterations suggested by those representatives have been embodied in it. The Bill is thus one which has been generally agreed to by commercial interests in this Province. The Bill was published for general information in Part IV-A of the *Fort St. George Gazette*, dated 9th December 1947.

"The object of the proposed Bill is to secure the uniformity which is now lacking. It follows in several respects the Bombay Weights and Measures Act, 1932, the Punjab Weights and Measures Act, 1941, the Orissa Weights and Measures Act, 1943, and the North-West Frontier Province Weights and Measures Act, 1947. It has been reported that there was opposition in the initial stages from the dealers in Bombay which was mainly the result of their conservative nature and their natural unwillingness and fear of control by a Government agency. The general response from the public in Bombay was reported to be very favourable. The Act is operating smoothly and is a success there. The trades were allowed six months as period of grace to change over to the new system of weights and measures. Similar provision is also made in our Bill. The main features of the Bill are as follows:—

"The recognized weights and the recognized measures of length, area and capacity or volume are specified in the schedule to the Bill, which is in three parts. The recognized weights have been correlated to the standard weights specified in the Standards of Weight Act, 1939 (Central Act IX of 1939). Weights and measures specified in the schedule with reference to particular trades are not to be used in other trades. Power is also reserved to the Government or any authority or officer empowered by them, to notify any integral multiple or sub-multiple of any recognized weight or measure, as a recognized weight or measure for the purposes of this Bill. The Bill provides for the preparation and custody of primary and working standards for recognized weights and measures, and also for the stamping of weights and measures. Inspectors will be appointed for the purpose of ensuring that the

[23rd January 1948] [Sri K. Madhava Menon]

weights and measures used are accurate and have been properly stamped. Every dealing or contract after the Bill becomes law is to be deemed to be had or made with reference to a recognized weight or measure. The use or possession of unstamped or incorrect weights has been made a criminal offence, and such weights and measures are also liable to be seized and forfeited to Government. Unauthorized or incorrect stamping of weights and measures and the counterfeiting of any mark prescribed for stamping on recognized weights and measures have also been made offences."

"Sir, this is the object of the Bill I move and I request the House to give its assent for referring it to the Select Committee."

The motion was put and carried.

Mr. PRESIDENT:—"We have finished our agenda for to-day. I thank the learned Advocate-General for his valuable opinion in deciding the question of adjournment of business under rule 63 of the Madras Council Rules.

"The Council now stands adjourned till 11 a.m. on Monday, the 26th January 1948."

THE MADRAS LEGISLATIVE COUNCIL.

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Monday, the 26th January 1948.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. Chairman (DR. SYED TAJUDDIN SAHIB) in the Chair.

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

I.—MESSAGE FROM THE ASSEMBLY.

MR. CHAIRMAN (DR. SYED TAJUDDIN SAHIB):—"I have to announce to the House that I have received messages from the Hon. the Speaker of the Legislative Assembly, dated, *Fort St. George*, the 23rd January 1948, in accordance with rule 94 of the Madras Assembly Rules transmitting copies of the following Bills as passed by the Assembly on the 23rd January 1948 and signed by him for the concurrence of the Council:—

(1) The Madras Silkworm Diseases (Prevention and Eradication) Bill, 1947 (L.A. Bill No. 1 of 1948).

(2) The Madras Home Guards Bill, 1948 (L.A. Bill No. 2 of 1948)."

II.—COMMEMORATION OF INDEPENDENCE DAY.

THE HON. DR. T. S. S. RAJAN:—"Sir, to-day is the 26th of January, a day of commemoration on which the independence of this country was recognized. After recognition, many events took place and independence was finally announced on the 15th of August 1947. Many men and women have struggled hard for the freedom of this country and some of them have lost even their lives. A grateful posterity has got to pay its homage to their sacrifices. As far as this Council is concerned, I suggest that we stand up here for two minutes in commemoration of those martyrs."

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR:—"Sir, I am glad to associate myself with the sentiments expressed by the Hon. Leader of the House. It is but fitting that we must pay our homage to those who have worked hard and sacrificed their all for the noble cause of achieving the independence of the country. With these words I support the suggestion made by the Hon. Leader of the House."

The suggestion was accepted and the whole House stood in silence for two minutes.

III.—GOVERNMENT BILLS.

(1) THE MADRAS SILKWORM DISEASES (PREVENTION AND ERADICATION) BILL*, 1947 (L.A. BILL NO. 1 OF 1948) (AS PASSED BY THE ASSEMBLY).

THE HON. SRI H. SITARAMA REDDI:—"Sir, I move—
'that the Madras Silkworm Diseases Prevention and Eradication) Bill, 1947 (L.A. Bill No. 1 of 1948), as passed by the Assembly be taken into consideration at once.'

* Printed as Appendix I on pages 51-54 infra.

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[Sri H. Sitarama Reddi] [26th January 1948]

"The necessity for such a Bill has been felt for a long time. It was proposed to bring such a legislation so long ago as 1943 but certain difficulties seemed to have stood in the way. Attempts were again made in 1945 to have this legislation passed for the benefit of sericulture in the Madras Province. Similar legislation is already in force in Mysore State. To protect our sericulture industry, and to see that it progresses on right lines, that the quality of silk produced is kept at a high standard and that the silkworm rearer gets proper return for the trouble he takes, this Bill has been introduced in and passed by the Assembly."

The motion was put and carried.

Mr. CHAIRMAN:—"The question is that clause 2 do stand part of the Bill."

THE HON. SRI H. SITARAMA REDDI:—"I suggest that the Bill as a whole be put to the vote of the House instead of clause by clause."

Clauses 2, 3, 4, 5, 6, 7, 8, 9, 1 and the Preamble were put and carried separately.

THE HON. SRI H. SITARAMA REDDI:—"Sir, I move—
'that the Bill be passed into law.'

This is a very important piece of legislation and I am sure the hon. Lady Member present in this House is very much interested in the quality of the silk that is produced in this Province. (Laughter.) Let me express to the House my gratitude for the expeditious passage of the Bill."

The motion was put and carried and the Bill was passed into law.

(2) THE MADRAS HOME GUARDS BILL, 1948 (L.A. BILL NO. 2
OF 1948) (AS PASSED BY THE ASSEMBLY).

11-15 a.m. THE HON. DR. P. SUBBARAYAN:—"Mr. Chairman, Sir,
I move—

'that the Madras Home Guards Bill as passed by the Assembly
be taken into consideration.'

Hon. Members are aware of the disturbed state which unfortunately exists in this country to-day and the Government have therefore got to take such precautionary measures as are necessary to prevent any outbreak. It is better to find prevention beforehand than cure afterwards. The Government have decided that in several districts people should be trained in arms and in defence so that they may form a second-line defence to the police in emergencies and they have therefore proposed to constitute this force known as Home Guards. The constitution of the Home Guards is not intended against any particular community. Fortunately, communal amity has been existing in this Province and there had not been any great trouble in maintaining law and order, although there have been some sort of skirmishes in some

26th January 1948] [Dr. P. Subbarayan]

places in the border. Personally I am looking forward to the day when perhaps we shall be able to govern the country without the aid of the police at all and that people themselves might act as the police of the country in seeing that peace is maintained. This will therefore be a preliminary training for that purpose, so that those who are trained as Home Guards, which is a sort of voluntary police, will be able to keep peace with the minimum of the police force that is necessary. I am sure Members of this House will welcome this measure, as did the members of the other House, because all are agreed that we should have a second line of defence, and what is more, that people ought to be trained in the art of self-defence. But at the same time, the Government do not want to create a force which might turn to be a Fascist element. They have therefore got to take care in the selection of people who form part of the Home Guards and I can assure hon. Members that there will be no question of any particular community being excluded from enlistment, because we want no communal considerations to enter into this matter. As the Prime Minister of India has repeatedly said, this is a secular state and we want to conduct ourselves and the Government in such a manner as to create confidence in the minds of all sections of the people and it is for that reason that this Bill is being moved. As I said just now, Sir, I am looking forward to the time when the people of the Province would get accustomed to keeping law on their own initiative by the confidence that is created by the Government even in remote villages, because after all, this Province is made up of so many villages. Till then the Government who are responsible for maintaining law and order will have to follow the methods that they have been following all along. I can also assure hon. Members that no force will be used, unless it is necessary to do so, because the Government believe in training people in the art of self-defence in a non-violent manner, if I may say so, and to that time we are looking forward. But at the same time, as a precautionary measure, I am proposing this measure, which I hope, will be accepted by this House."

SRI N. VENKATACHALAMAJI:—"May I know, Sir, whether the Government are going to pay them anything during training?"

THE HON. DR. P. SUBBARAYAN:—"Yes, Sir, they will be paid during the time they are under training for their food and other expenses as are allowed to the police officers under training, but this has not yet been settled and the Government are taking powers under the Bill to examine and settle this question. But the Commandants of these Home Guards will be permanent officials who are already attached to the Special Police and when they are detailed for this training, they will get their usual allowances."

MR. CHAIRMAN (Dr. Syed Tajuddin Sahib):—"The question is that the Bill to provide for the constitution of Home Guards in the Province (L.A. Bill No. 2 of 1948) be taken into consideration at once."

[26th January 1948]

* MRS. MONA HENSMAN :—“ Sir, So far as women are concerned, I do not think we have got any place there, because we are essentially non-violent. The Hon. the Home Minister has stated that he is looking forward to the time when he will have a non-violent method of maintaining law and order, and till that time comes, I would ask him not to include women in his Home Guards.”

THE HON. DR. P. SUBBARAYAN :—“ Well, Sir, It all depends on women and if they do not want to join the Home Guards, they need not come in.”

* SRI B. BHIMA RAO :—“ Mr. Chairman, while supporting this measure I will have to say a few words. My own impression is that this measure ought to have been brought forward even in September last. It has not come too soon. There has been a lot of complacency in the Ministry that nothing untoward is happening in some of the border areas of the Province. Sir, only last week in my district, in a village in the evening at 7 p.m. some thirty people from beyond the border came up fully armed and attacked the people of the village and took away all the properties in their houses, and so far as women were concerned, they let them go after taking away all the jewels which they had been wearing on their person. On Friday last, I saw a similar incident reported in the *Indian Express* and in this morning's *Indian Express*, on page 2, the following piece of news has appeared under the heading, 'Peace in Hospet disturbed; Excesses by Pathans alleged.' :—

Information is to hand that Pathans in military uniform stated to be of the Nizam State entered the Union territory at Chittavadagai during the last week and indiscriminately assaulted all persons sleeping outside and indulged in throwing stones on houses and knocking at doors. One man is reported to have been severely assaulted.

The residents of the locality have raised a voluntary corps for patrolling the village during nights.

The Special Armed Reserve stationed at Hospet and the Hospet police are also said to be patrolling the village.

Similar reports of goondaism have also been received from Amaravathi village and the Tungabhadra dam-site village.

“ Sir, such reports are being received during the last ten days. I am therefore glad that this Bill has come at least now—better late than never; and I do not know what the hon. Lady Member who is speaking of non-violence would have done, if she had been attacked by the goondas, as those womenfolk in that village had been attacked. It is all well to talk of non-violence in our daily life, but under such circumstances, when people are attacked by goondas, what could the principle of non-violence do? No doubt, if that principle is adopted by all persons, it is well and good. But there are goondas who attack and molest ladies and I do not think,

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when such a contingency arises this principle of non-violence would prevail. It is for such high personages like Mahatma Gandhi to evolve this principle of non-violence and put it into practice, but so far as we are concerned, we must defend our womenfolk by whatever method that is expedient, to deal with the goondas and for that at least this Home Guard training is absolutely necessary.

“ Sir, last week we had a meeting in one of the colleges in my district and it was agreed by a large majority of people that they should join this Home Guards organization and nearly 100 out of 200 people present came forward to join this organization. They are eager to join the Home Guards and get themselves trained in arms, so that they may do their bit in their district, if any emergency arises.

“ Sir, I must confess that I am rather a little nervous about non-violence against people who have no faith in non-violence. Mere enrolment in the Home Guards and getting trained in drills and other things will not be of any avail to put down these goondas who are coming from beyond the borders. I think they must be trained in arms and also given military training and also get themselves armed. Otherwise they cannot deal with these people effectively. But they need not be on the offensive; it is enough if they are in the defensive in order to protect the lives and properties of people in the villages, particularly their womenfolk. With these remarks, Sir, I strongly support this Bill.”

* MRS. M. N. CLUBWALLA :—“ Mr. Chairman, I am sorry I have to differ from my colleague Mrs. Mona Hensman, in this matter. I am in favour of joining the Home Guards. In fact, I have been for a long time asking the Government that we have a women-police along with men-police for dealing with crimes and for keeping internal peace. With special training for women in the Home Guards, they will do well, for even during the war years, we have done A.R.P. work and many women had enrolled themselves in Women Air Raid Precaution Corps without being given any special training. Women will come forward, and though perhaps they will not be going in the thick of the fight, still if any emergency arises, this training will be useful for those women to allay the suspicion in the minds of people. On account of the propaganda that has been carried on by certain people, our womenfolk will feel safer if they know there are these people to defend them. With such training they will be able to help themselves. I hope that women will be as free to join these Home Guards as men workers and with equal status for promotion and salary. With these remarks, I support this Bill.”

* K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ Mr. Chairman, it has been long felt that the police force in the Province has been inadequate to meet certain contingencies and it is not too early that this measure has been brought forward and I therefore gladly welcome this Bill on behalf of my party.

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"Sir, we know the other day an Ordinance was promulgated to give effect to the provisions of this very measure. I cannot understand the necessity for promulgating an Ordinance of this kind, especially when both the Houses were to meet shortly. Sir, the days of Ordinances have gone and that what we have been feeling after 15th August 1947 when this country has gained its independence. On principle, therefore, I want to enter my protest against the almost light-hearted manner in which this Ordinance has been promulgated. It is true that when a grave emergency exists; an Ordinance ought to be promulgated, but I do not think that such a grave emergency had arisen necessitating the promulgation of this Ordinance. I would request the Government not to follow the method that had been followed by the previous Bureaucratic Government in the matter of promulgating Ordinances.

"Then Sir, I am glad that the hon. Home Minister has given us an assurance that this measure has not been aimed against any community whatever and that in the recruitment of Home Guards no communal considerations will be allowed to enter. It is a very good assurance, consistent with the repeated assurances given on behalf of the Central Government by the Prime Minister of India and also with the noble and valiant efforts that are being made by Mahatma Gandhi. That principle has been accepted by the Central Government and I am glad that this Government also intends to follow the same principle. I hope that this assurance will be carried out in practice and will not be allowed to remain only on paper.

"So far as my community is concerned, I hope the hon. Home Minister also will concede that the Muslim League and the Muslims of this Province have been always co-operating with the Government in the maintenance of law and order and by God's grace, we in this Province, have been on account of such co-operation, almost free from all the unhappy and sorrowful things that have been taking place in the north; and my party and the Muslims will continue to extend the same co-operation they have been giving till now in the matter of maintaining law and order. Well, Sir, as the hon. Home Minister hopes, a time may come when there will be no necessity for enforcing law and order by resort to force and when culprits would confess their guilt of their own accord. I can tell you, Sir, that this is not an impossibility. You will find precedents in Islamic History. During the lifetime of the Holy Prophet, people who committed offences went to the Holy Prophet and voluntarily confessed their guilt and conferred punishment of their own accord. If we have the same spirit to guide our conduct, we can surely expect such a thing taking place in the future also.

"Sir, I feel that there is necessity for women Home Guards and I entirely agree with the hon. Lady Member Mrs. Chibwala that there must be some provision for enlistment of women Home Guards. They may especially be useful in the matter of the

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maintenance of law and order among women, when necessity arises, and also for protecting women on certain special occasions. I therefore gladly support this Bill."

SRI P. VEERABHADRASWAMI:—"Mr. Chairman, the 11-30
Government have done the right thing at the right time. His a.m.
Excellency the Governor promulgated the Ordinance and soon after, as soon the Assembly and the Council met the Bill is placed before both the Houses. Military training and discipline are essential for our young men to protect our freedom, to help the police to maintain law and order and to help men to have their houses guarded, and to have their properties guarded when there are troubles. These Home Guards will be greatly useful. Though the Government have declared a number of times that there is no aggressive policy for them and that India will not wage war against any other country, yet when there is aggression from the other side we have to defend ourselves and the Home Guards in times to come will be greatly useful in defending our country against foreign aggression. Sir, it is essential that our Home Guards should be recruited from young men belonging to good and respectable families. Then only people will have faith in the Home Guards. The Home Guards will not only guard their own homes but the homes of others. It is therefore but right that the Hon. the Home Minister has constituted the Home Guards."

THE HON. DR. P. SUBBARAYAN:—"If no one else is going to speak Sir, I want to reply."

* ABDUL LATIF FAROOKHI SAHIB BAHADUR:—"I thought that the Chairman wanted to know from the Lady Members whether they would speak. Mr. Chairman, I have seen that both in the other House and in this House also even the Opposition is supporting this Bill. (Interruption.) My hon. Friend, Mr. Ahamed Ibrahim Sahib says that there has been some fear. I want to know from the Hon. the Home Minister whether this Bill has got the same complexion as the Armed Police. It was said in the other House that a particular community would be excluded from becoming members of that Force. I want an assurance from the Hon. the Home Minister with regard to this Home Guards Bill, whether there is any such complexion in this Bill also. We feel, Sir, that as Muslims we are citizens of this vast land called the Indian Union and we feel proud of it. In spite of that, suspicion after suspicion has been thrown against us and it has been stated that there is doubt with regard to the Muslims. Sir, we have to protest very strongly against this sort of feeling and suspicion. The suspicion must as a matter of fact be in the minds of the minority community. It is the minority community that should rather be afraid.

"Now, Sir, while a number of people are supporting this Bill I do not want to sound a note of discord. But we must have an assurance from the Government that this will not be used against

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us, the minorities, particularly the Muslims. There were house searches. There were searches in the grave yards and the mosques for no purpose. Nothing has been found incriminating there. And the suspicion was found to be groundless. Therefore there was no reason for the Government to pass an Ordinance for this. The days of Ordinances are gone. We thought that after the advent of the National Government and after the advent of freedom in this land, there would be no such thing as an Ordinance. Why should there be an Ordinance rule in this land when we have a National Government and that too a free Government? As a matter of fact there was no urgency with regard to this and the Heavens would have not fallen if the Governor had not promulgated the Ordinance.

"Sir, I am also for law and order. Law and order must be preserved. Without law and order no country can progress, no nation can progress. Therefore we are for law and order and we are for maintaining peace. There should be no coercion against anybody and particularly against us when we in this Province have always been loyal to the cause of Indian nationalism. Now we have been feeling that an injustice has been done against us and it is still being done. We want to assure the majority community, particularly our Hindu brethren that we Muslims, are part and parcel of this land and we are citizens of this place; whatever might be the reasons that might be advanced and whatever might have been the causes for so much disruption and so much heart-burning in the North we in the South have always lived in peace and I want that nothing should disturb that peace. And therefore there should be no suspicion against us. What is it that has been found in the searches in the houses, grave-yards and mosques? Instruments, as a proverb in Hindustani says, not even fit to cut a hen. Those instruments were not at all intended to wage a war against a big Government. Therefore there should be no suspicion on the other side. I say this not because I do not want this Bill to be placed on the Statute Book. Sir, I do not want to level any charge against any community or against any party or against any Government. But I want to assure them of our loyalty. Therefore if anything is done we must also be taken into confidence. I want to know, Sir, whether we are going to be taken into confidence and whether we Muslims are going to become Members of Home Guard or whether we are going to be excluded as has been done in the case of the Armed Police Force. Therefore it is a matter that requires explanation and unless this explanation is forthcoming I do not think that we will be justified in supporting this Bill.

"On this occasion I have to mention very frankly that we have every confidence in the justice of the Hon. the Home Minister, Dr. Subbarayan. I know Dr. Subbarayan for a very long time. I know he is a cosmopolitan gentleman. I know he is a gentleman in whom the Muslims will have confidence. But unfortunately he is now in a Party whose mandates he has to obey. Therefore we want to know the policy of the party. There is no

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such thing as personality in the matter. Dr. Subbarayan is a very good friend of the Muslims and we have every confidence in him. Personally if he is left alone we can leave all our interests in his hands. But from the point of view of the Party I want to know whether the Congress Party is really anxious to take the Muslims into their confidence and have Muslims as citizens of this land and give them equal treatment. Calling this a secular State it should not in practice be converted into a religious State. It should not be converted into a State of a particular community. We are here as citizens of this land. We want to know where we stand. Unless we know where we stand there will be no meaning in our simply coming forward and supporting Bills of all sorts. Without either supporting or opposing this Bill I should like to know how the Congress Party views the position of the Muslims in this regard."

SRI G. VENKATA REDDI :—"Mr. Chairman, in extending my hearty welcome to the measure I would like to place before the Hon. the Home Minister some suggestions. In the first instance it is said that people will be recruited and given training for six weeks. My suggestion is that there should be training first and afterwards now and then they should be given further training. (The Hon. Dr. Subbarayan : 'Every year.') At least once in three months. There must be constant practice.

"Secondly, in the border districts danger is expected from certain quarters. Instead of a thousand people being recruited there some thousands should be recruited. Mr. Bhima Rao has now been quoting certain things as to what is happening in the border districts. We belong to the border districts and we are expecting every day some danger from some party. Instead of a thousand being recruited and being given training why not some thousands be trained?

"Thirdly, I think the following suggestion of mine is worth considering by the Government. Instead of starting these Home Guards and making them work under a Police Officer whenever occasion arises or an emergency arises, why not make this a separate unit so that the Police might get help from them whenever necessary by indenting on their services? Why should they be made to serve under a Police Officer? I make the suggestion that there should be a separate unit. Whenever the Police want their help in any emergency in order to maintain peace, law and order in the district or elsewhere, they may call for the help of the independent unit. Let there be a request from the Police for help to this separate unit and then they will come and help them. I request, Sir, these suggestions should be considered by the Government. With these remarks I wholeheartedly support the measure."

(Sri R. Suryanarayana Rao stood up.)

THE HON. DR. P. SUBBARAYAN :—"They have provided a special mike for you."

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SRI R. SURYANARAYANA RAO :—" It is for Mr. Adityan! Sir, I am sure that the Government have heard with great attention the remarks of Mr. Venkata Reddi from Anantapur. I am also wondering why the Government are so anxious to place every force created under the Police. The Armed Reserve were created and kept under the Police and the Home Guards are to be created and they too are to be kept under the Police. I would like to warn the Government that if they want the Home Guards to be popular they should not put them under the Police. Are the territorial or auxiliary forces in other countries placed under the Police? "

THE HON. DR. P. SUBBARAYAN :—" Under the Army."

SRI R. SURYANARAYANA RAO :—" We would rather like to be placed under the Army than the Police."

THE HON. DR. P. SUBBARAYAN :—" Army is a Central subject and the Home Guards come under the Provincial subjects."

SRI R. SURYANARAYANA RAO :—" The Government can create a section which is neither Police nor Military. Whenever the police need assistance from these Home Guards they can be summoned. I am sure that the Hon. Home Minister realizes the strength of feeling, in spite of all the good work done by the Police, that exists and that such a feeling will hinder people from being attracted to the Home Guards. After all the Government are not constituting the force. It is a voluntary force. People will not enlist themselves in the force unless they feel the urge for it and are assured that they would be treated with respect and consideration. That is the point which my friend Mr. Venkata Reddi made out. I had no intention to speak but the point raised by my friend needs emphasis. The Home Guards would be like another Malabar Special Police except that they are not always on duty and except that they are not paid. As the policeman calls out, these Home Guards will have to be ready to assist him. Therefore, it is necessary to make the force as attractive as possible. I think a little more of these points of view would have come to the notice of the Government if they had, instead of rushing this Bill through now by first promulgating it as Ordinance, referred it to a select committee and given time to the people who are in the know of things, especially of conditions in the villages from where these Home Guards have to be recruited. It may be that the Home Guards may almost become a permanent feature to be maintained to promote law and order in the countryside. As regards the principle of the Bill, nobody has objected, not even my friend Mr. Farookhi. He does not object to the principle of the creation of the Home Guards, but he has some objection regarding the constitution of the force. I do not know why he felt that particular communities will not be allowed to be enlisted. There is nothing, as far as I can see, either in the Ordinance or in the Bill to show that particular communities will not be recruited to the force. As regards the objection of Mr. Venkata Reddi, I wish the Home Minister does not treat it lightly as he seems to do. All that we

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want is that these Home Guards should be placed under officers from whom people who enlist themselves will receive respect and necessary regard. Otherwise, it may be difficult for people like me, if I am considered strong enough and fit enough to be enlisted, to enlist myself and serve under a Police officer. Mr. Venkata Reddi has only given expression to these feelings. Otherwise, I shall not be surprised if these Home Guards business is a failure."

SRI B. NARAYANASWAMI NAYUDU :—" Sir, I feel obliged to speak on this Bill which, I can say, is the parting of the ways. It is with regard to Gandhism in this matter. Is the cry of the Force going to be 'own' or 'borrowed'? Is the cry of the Force going to be 'fast' or 'fight'? Is the cry of the Force going to be 'shoot' or 'spin'? You have got to make up your mind. There is no question at all of what may be called camouflages. There are disorders. We have got trouble in our parts. We have got to raise the cry. Is that cry going to be 'saunhi' or 'fast' or 'spin' or 'shoot'? (At this stage Mr. President occupied the Chair.) These are no longer wishful thinkings. A new cry must take place, not in an uncivilized manner but surely in a civilized manner. Any remedy should be to protect ourselves from aggrandisements that may come. Therefore, the Flag is 'nothing, unless you have got this cry working. Whether you are going to be Krishna preaching to Arjuna or going to be Bishma on the arrow-bed—whatever it may be—I am sure my friends on this side belonging as they do to the Indian Dominion will raise up the cry of being against the other State which wants to swallow up, or fight with our State. It is only by such things that they can instil confidence into the people."

"The next thing is about the enlistment to the Force. The Government have taken powers in clause 10 (2) (d), says—for making rules for 'the organization, appointment, discipline, training, arms, accoutrements and clothing, conditions of service, powers and duties of Home Guards.'"

A general power has been taken by the Government. I do not at all grumble. On the other hand, I dare say that they must have all the powers necessary for raising this Force. But here again, there is the same conflict of ideologies. Are you going to arm this Force with *buddi chembu* (?). (The Hon. Dr. T. S. S. Rajan : 'Akshaya pathiram' Or are you going to arm them with steel helmets? The Hon. the Revenue Minister is not here. It was he who said 'I am going to give this *buddi chembu* to the zamindars.' I say '*buddi chembu*' is the exclusive privilege of Brahmans; we Non-Brahmans have 'karra' or 'burra'. Here again there is the conflict of ideologies. It is not a question of Gandhi cap or *buddi chembu*. (Interruption:) These Gandhi caps will grow like mushrooms."

MR. PRESIDENT :—" At any rate they cannot grow on the head of the hon. Member!" (Laughter.)

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SRI B. NARAYANASWAMI NAYUDU :—“ I ask the Hon. Minister for Food, is he going to give these guards fodder and gossip or flesh and fish? What is he going to prescribe? I ask the Hon. Minister for Industries what is he going to do for transport? Is it going to be the charka or the Churchill tank? What is it that he wants to give? Fortunately or unfortunately the Hon. Minister for Agriculture is here. I ask him whether he will give electric lamp or ‘ Rama deepam’. What is he going to give? Lastly, the Hon. Minister for Prohibition is not here. Will he accompany this Force also in his Prohibition style? I ask these questions to show the conflict of ideologies which is sufficient to crumble down the whole Force. I think it is time to think about more and more of what Arjuna said.

“ Now we come to the main point. The creation of the Force is necessary. I ask one plain question. All countries have practically adopted compulsory military service. But this Force is going to be a voluntary one. I know it is not the intention of the Hon. Minister to make a cant of this sort. There is no question of this party or that party. Hindu or Muslim or anybody must have the honour of serving in this Force. It is really compulsory military training. Whom are you going to select? Are you not going to see that everybody between the age of 18 and 30 on the border villages is compelled to bear arms? Only in that way you can instil confidence into the minds of the people. Voluntary force and these Gandhi caps will go into mushrooms. Not that I mean that it should not be there. But when we are faced practically with a first-class military situation, the only remedy is what they call compulsory military service and compulsory bearing of arms. In raising a national militia, national considerations transcending party considerations must prevail. (Interruption by K. T. M. Ahamed Ibrahim Sahib Bahadur.) There is no question of any discrimination. All will have to take up arms. Harijans have to take up arms along with me. Mr. Muthuranga Mudaliyar's son must sit along with my son. There should be a unifying force. As Mr. Venkata Reddi and Mr. Suryanarayana Rao said, what is the meaning of tacking it on to the Police as a voluntary force? I ask: Why should it not be called a compulsory service—compulsory in all the border districts? All persons able to bear arms must be trained in arms. If arms are not given to them, at least arms must be ready for them. It is only by making that force compulsory, you will quell all disorders, and you will be able to maintain peace and order. It is not by hoodwinking others by saying ‘ Gandhikijai ’ or ‘ boondikijai ’.” (Interruptions.)

MR. PRESIDENT :—“ There should be no conversation across the Table. I wish the hon. Member restricts his speech to the provisions of the Bill.”

SRI B. NARAYANASWAMI NAYUDU :—“ I shall restrict my speech to the provisions of the Bill, Sir. But there are other things . . .”

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MR. PRESIDENT :—“ My point is that neither Gandhiji nor Gandhi cap is mentioned in the Bill.”

(After this, Sri Narayanaswami Nayudu resumed his seat.)

MR. PRESIDENT :—“ I did not say that the hon. Member should stop his speech.”

(Sri Narayanaswami Nayudu did not get up to speak.)

THE HON. DR. P. SUBBARAYAN :—“ Sir, I will first deal with the hon. Member from Bellary. Might I tell him that behind a panicky people no Government can function? I have always warned the people in the border districts not to be panicky, because no Government, however well-ordered and well-disciplined it may be, can function behind a panicky people. It is up to the Government to create confidence in the people, and that is what the Government are trying to do. Besides, I want to tell hon. Members of this House that the Government of India are engaged in a very delicate task of bringing all the States into the Indian Union. To a large extent, thanks to the great statesmanship of Sardar Vallabhai Patel we have succeeded and I have every confidence that with the astuteness that he possesses, he will solve the problem of Hyderabad as well. As far as I am concerned, I have no doubt whatever that the great Minister in charge of the States in the Union Government will strain every nerve to bring about the accession of Hyderabad into the Indian Union. Sooner or later that is going to take place, and if you want to help this great statesman, what is demanded of us is a little bit of caution, and a little bit of assurance among ourselves so that his task is not made more difficult by our own actions. I had been round some of the border districts, and I have come to the definite conclusion that if only we can keep the people from getting panicky and we can instil confidence into them, the task of the Sardar will become much easier than it is to-day. I leave the matter at that.

“ Then, Sir, with regard to my hon. Friend, Mr. Ahmed Ibrahim, I want to tell him that this Ordinance was passed because we felt, owing to the exigencies of the situation, owing to the work that is before us, we may not be able to call the Legislature into session in time for this measure to be passed into law so that the recruitment of these Home Guards would proceed without any delay. The fact that this measure has been welcomed both in the Assembly and in the Council proves conclusively that the Government did the correct thing in promulgating this Ordinance. Besides, Ordinances to-day are not as they were in the old Constitution because, for the promulgation of an Ordinance, the Ministry takes the responsibility and if they had done anything, they can be hauled over the coals by both the Assembly and the Council. Therefore, there is the responsibility of the Members of the Government to the Legislature for an Ordinance of this kind and Government have got to put it before the Assembly and the

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noon.

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Council in the form of a Bill and satisfy the members of both the Houses. What the Government have done in the interests of public good is a matter for justification for the passing of the Ordinance. My hon. Friend, Mr. Farookhi, referred to the question of searches. Might I tell him that the mistake lies as much on his own side as on ours? There was a great cry for the division of this country and in that cry, a leading part was taken by the Muslims of this part of the Union even though they knew as well as I do to-day that they would not form part of the new Pakistan Dominion. Whatever might be their differences with the Government here, they knew as well as I do that the sun rises in the East and that their lot was cast in this part of the Dominion. If suspicion is found in the people to-day, it is because of the two-nation theory that was promulgated day in and day out in this part of the Union. I am looking forward to-day that this suspicion would be obliterated and that we would live as brothers and as sons of the same mother and would deem ourselves to be brothers in the cause of the defence of the country.

"I am glad to find Mr. Farookhi has said that he has entire confidence in me. Well, the fact that I form part of the Ministry shows that he has got confidence in the Ministry itself. If I feel that there is anything done against my conscience, I would certainly quit the Ministry the moment I feel it is against the interest which I hold dear. Therefore, you may be quite certain and secure in your thought that nothing will be done to keep communal acerbity in this Province. I am grateful to the members of the minority community in this Province that what has happened in the north has not happened so far to our people here. I hope that this position will continue to prevail and there will be no danger hereafter. It is only because that we wanted to train our people in the art of self-defence that this measure is being promulgated. It is not done in a hurry; it is not done in any panic because we have got trust in our own people. As I said in the beginning, I do believe in a non-violent society in spite of what Mr. Narayanaswami Nayudu has said. I feel that our people can be brought to believe in non-violence and can be brought to believe in the tradition and heritage of this country. (Sri B. Narayanaswami Nayudu: 'What the hon. Minister means "by our people"?'.) By our people, I mean, the Hindus and Muslims. (Sri B. Narayanaswami Nayudu: 'What about neighbouring States?') Even neighbouring States I am prepared to treat as our people. So, our people can be brought in the doctrine of non-violence if only measures are taken betimes in each village. It is that tradition which I am looking forward to and it is that consummation that the Government look forward to as a whole.

"My hon. Friend, Mr. Suryanarayana Rao, was doubtful about the Police. May I assure him that to-day from the constable to the Inspector-General of Police, they feel that they are here for the public weal and that they are the guardians of the public? I instil it into them hour in and hour out that they should behave in

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a manner that the people get the confidence of them. I ask in return of the people that they should also behave in a manner to instil confidence in the Police because rights call for duties and it is the duties I demand of the people of this Province. As far as the Police force is concerned, I may probably take up the responsibility for their action because, if anything goes wrong, it is I, as Minister in charge, who is responsible for what has happened. It is a matter on which you can haul me over the coals. Therefore, I hope the Police will realize the loyalty on their part and behave in a manner that will be worthy of the traditions set up in the Police force. Therefore, there need be no apprehension in the minds of members like Mr. Suryanarayana Rao that anything will go amiss. As I said, these Home Guards are an auxiliary Police force and naturally, training, equipment and the way in which they should behave towards the people are matters for the Police to instil into them. Therefore, there is no question of suspicion of the Police and I want you to get out of your mind the question of suspicion. This is a force which is created entirely for the defence of the hearth and home in times of civil stress and I hope, with these words, hon. Members of this House will be as kind to this Bill as Members of the Assembly were."

MR. PRESIDENT:—"The question is that the Bill to provide for the constitution of Home Guards in the Province of Madras be taken into consideration at once."

The motion was put and carried.

Clause 2.

Clause 2 was put and carried.

Clause 3.

SRI B. NARAYANASWAMI NAYUDU:—"Sir, clause 3 says that the Provincial Government may constitute for each of the areas specified in section 1 (3) (b), and for each of other areas notified under section 1 (3) (c), a volunteer body, called the 'Home Guards,' etc. I have not given notice of any amendment but I leave for the consideration of the Government this point. Why should it not conscript all classes of people at least in the border areas?"

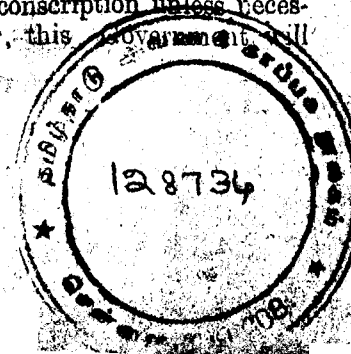
THE HON. DR. P. SUBBARAYAN:—"The policy of this Government is to cut the coat according to the cloth and because the conscripted force will mean more money, they did not do it. Besides, I am a conscientious objector of conscription unless necessity arises. Unless there is any disorder, this Government will certainly not be a party to conscription."

Clause 3 was put and carried.

Clause 4 was put and carried.

Clause 5 was put and carried.

Clause 6 was put and carried.



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Clause 7 was put and carried.
Clause 8 was put and carried.
Clause 9 was put and carried.
Clause 10 was put and carried.
Clause 11 was put and carried.
Clause 12 was put and carried.
Clause 1 was put and carried.
The Preamble was put and carried.

THE HON. DR. P. SUBBARAYAN :—" I now move—
'that the Bill be passed into law.'

There is one point which I would like to make and that is the question of 'Shanti'. The Hon. Gentleman Mr. Narayanaswami Nayudu, evidently thinks that we do not mean business. We mean business and we believe that 'Shanti' will come out of this measure. There is no conflict of interests and there is no question of parting of ways. These measures and precautions are being taken so that eventually 'Shanti' may prevail."

SRI B. NARAYANASWAMI NAYUDU :—" There is no doubt that these measures are taken for the purpose of 'Shanti'. But you have got to give an assurance, and you have got to prove it, and you cannot shirk it. In these days when America has got the Atom Bomb, it must be given the privilege before you can think of training your people in non-violence. When America possesses such a weapon, it is not words like 'Shanti' and 'Om' that will work. That is why I say you have to prove what you say. The Hon. the Home Minister said that they do not have enough funds to introduce conscription. Well, Sir, the first necessity of a State is military conscription. All other things must be postponed. You call these people panicky. The people in those parts are not panicky. How many persons have come from the Hyderabad State and encamped in the villages of the Kistna district? They are not at all panicky there and we may even congratulate the people for not being panicky in those districts. Therefore, it is not a question of panic at all but it is a question of maintaining one's resources, and unless one's resources are secure, there will not be any 'Shanti'."

12-15
p.m.

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I am very thankful to the Hon. the Home Minister for the assurance that he has given that there will be no discrimination between any class of people with regard to this Bill. Sir, as I have already said we have every confidence in the Hon. Home Minister. I remember when the late Mr. Srinivasa Ayyangar received some anonymous letters that the Muslims were going to kill him, he said that he would prefer being killed by the Muslims to being alive under a foreign rule. That was the spirit of the Leaders of the Congress Party in those days and I am sure, Sir, that the Hon. the Home Minister belongs to that set of people."

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MR. PRESIDENT :—" I think he belongs to a party which does not want to kill the Muslims."

A VOICE :—" Those were the good old days."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Sir, I want that the old days must come back and I know the Hon. Dr. Subbarayan belongs to that school of thought of those old days and he will, I am certain, create situations in which people will feel that these old days are not gone and are still there. Let us continue to be the close friends we used to be in those good old days. So far as the Muslims are concerned, I may once again request our Hindu brethren here that they must feel that we are part and parcel of the society and that we have a place in the Indian Union which is our home. We were born here and brought up here and we are going to die here. For my part I want to die here which is my motherland. I do not want that our graveyards should be somewhere else. Therefore, let us understand each other. It is only trust that begets trust. If there is distrust, it will persist on the other side also. So we must be sure as to what is the intention of this Bill. I ask the Hon. Home Minister to give us an assurance that he will not exclude any community. I do not know whether he has given this assurance already because I did not follow his speech in the end. On our part we give him and the Ministry, the party in power, not only to them but also to the non-Muslim brethren, this assurance that we are Muslims belonging to this Union and we shall stand by this Union. We shall fight for this Union, we shall live and die for this Union. Let there be no doubt about it. So far as the Muslims are concerned, whatever may be the party that may come into the Government and power, we will be loyal to them. There are still suspicions on our side, whether in future when there will be joint electorates and whether the Muslims like me will be in the legislatures or not but whatever it is, we give this assurance that we, the Muslims here, believe and feel that we are one with the other communities. During the previous Ministry, Sir, I told my friend Mr. Prakasam and this House, that whatever may happen in other places, we at least in our Province will be living like brothers. Still I feel that we have given a lead to the other people. Sir, Mahatma Gandhi has done by his recent fast a service not only to this Union and Pakistan but to the whole of the humanity and to the world by enunciating a principle that the minorities must be protected though advantage was taken of conditions advanced by him and the fast outside India. In spite of that, the Mahatma, the father of Indian Union and Indian Independence, did not shirk saying these things though it was taken advantage of in other places, in the Security Council of the U.N.O. He just did what was right and expressed what must be expressed whatever may be the advantage that may be taken of by such an utterance. Therefore, Sir, I feel that in spite of what Sir Zafrullah Khan has said, Mahatma Gandhi's place has been very much elevated in the eyes of the world by his pleading on behalf of the minorities."

[Abdul Latif Farookhi Sahib Bahadur] [26th January 1948]

I believe that his was not a service merely to the Indian Union but a service to the whole of humanity and that he has set an example for the whole world. The world may feel in future that this must be followed not only in India but everywhere. Wherever there is oppression of the minorities the world has much to learn by what Mahatma Gandhi has said and done. Therefore, I feel if this Minister is a true follower of the Mahatma, and I have no doubt about that, he should give that assurance to the minorities."

MR. PRESIDENT:—"I think that the Minister will be glad if somebody undertakes a similar fast in Pakistan."

ABDUL LATIF FAROOKHI SAHIB BAHADUR:—"That is where the greatness of Mahatma Gandhi lies. (Hear, hear.) Mahatma Gandhi's fast has been a pointer to the other people not only in Pakistan but throughout the whole world. Therefore if nobody resorts to a fast in Pakistan, it is not the fault of Mahatma Gandhi or people of his way of thinking."

"I submit, Sir, that in Madras it is necessary that the minorities must know where they stand and after what has been said I am glad that we understand each other and I am certain that in all other matters where decisions have been announced by the Government those decisions will be rendered null and void in the light of the attitude taken by the Hon. the Home Minister in this matter. I would appeal to him that with regard to the Armed Police Force also the same attitude will be taken and the decisions that the Muslims would not be enlisted for that Force will be made null and void because it is only in that manner it could be treated. We on our part, as I have repeatedly said, are loyal and if any substantial evidence of our loyalty is required it only requires an emergency to arise and if necessity arises, I assure the Hon. the Home Minister that we shall not be found lacking in giving practical proof of our loyalty. Therefore no other method can be devised for the expression of our loyalty. You have to believe us and not distrust us. The Holy Prophet has once said that once a man says that he is a Muslim believe him. Let him be a hypocrite but we are not concerned with that. We cannot see his heart and split it into pieces to see what corner contains this hypocrisy. Nobody could say what our intentions are, Sir. I say you must believe in our loyalty unless and until it is otherwise proved. Therefore, Sir, in matters like this we must be treated as loyal citizens and there should be no distinction and there should be no suspicion whatsoever. I humbly beg of the Hon. Home Minister not to give expression to this word 'disloyalty' for once it is mentioned it gets into the minds of the people. I would have mentioned one instance, Sir, but for the presence of the hon. lady members. When a husband distrusts his wife the wife naturally feels that she should not be loyal to him because there is no use in continuing to be loyal to a person who distrusts loyalty."

MR. PRESIDENT:—"I am sorry the ladies are not listening to the hon. Member." (Laughter.)

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ABDUL LATIF FAROOKHI SAHIB BAHADUR:—"So, Sir, I submit there should not be any mention of this disloyalty of the minority communities, particularly the Muslims. On our part we do not consider ourselves as a separate people. But things might be otherwise with regard to the others. They may have thought that all these factions should disappear and there should be harmony in this land and so separation would be the best way of achieving that. They might have been wrong. Whatever it may be I would say that in this feeling the Congress party has itself helped. That party said that for the sake of unity let us divide ourselves. So if it is a fault then it is a fault of the Hindus as much as that of the Muslims. They all thought that it was in the interests of the country to accept division. I am sure, Sir, if the Congress Party had objected to this partition, it would not have become a reality. Now we are helpless."

SRI R. SURYANARAYANA RAO:—"May I ask, Sir, whether all these are relevant to the Home Guards Bill under discussion?"

ABDUL LATIF FAROOKHI SAHIB BAHADUR:—"I may submit that I am referring to these because they have got a bearing on the Home Guards Bill and the preservation of peace in the land. First of all there was no necessity for an Ordinance to have been issued. The Legislature was in session last month and you could have introduced a Bill there and got it passed. These Ordinances show that the old days are still there in spite of the Congress Government having come into power and the bureaucratic regime having gone. We thought that the National Governments won't invoke these Ordinances."

"Subsequently we found from the proceedings of the Assembly 12.30 that Muslims were excluded from the Armed Police Forces. We p.m. felt that the Home Guards also may be on the same basis. In order to dispel the suspicion I thought that I must give vent to my views, so that people may know that we are not afraid of the Home Guards. We feel that the Home Guards are not intended against us and that they are for the maintenance of peace and order. I also thought that by giving expression to my views, people on the other side also may express their views and it will be found that we are agreed on these points. There should be no suspicion with regard to the Muslims and we have placed our confidence in the party in power. On account of these things, in spite of the fact that my hon. Friend Mr. Suryanarayana Rao said that this is irrelevant, I think there is some relevancy of this to the other thing. I thank Mr. Suryanarayana Rao for having said that these are irrelevant. But on account of the expression of views like these which may appear to be irrelevant, we come to understand each other and our hearts are clear both when we sit in this House and when we go out, we must understand one another. When we part, we should part like friends and not like foes or people with suspicion."

MR. PRESIDENT:—"We part only to meet on the battle."

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ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Yes, Sir, on the battle-field we shall meet, but meet as comrades and not as foes (Hear, hear). I know my Hon. Friend Dr. Subbarayan is a sport and if necessity arises, we would go to the battle-field and stand shoulder to shoulder with him and render him all possible assistance and fight under his command. Muslims are people who can be trusted even on the battle-field. I am certain that Hon. Dr. Subbarayan will understand our loyalty when we say that.

“ I thank you, Sir, for having given me so much time to express my views. I thank the Hon. the Home Minister for having given an assurance and I thank the hon. Members also for having heard our views though they may be irrelevant.”

* K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ Mr. President, Sir, I would like to make one-point clear.”

MR. PRESIDENT :—“ Does the hon. Member want to make one point clear or to have one point made clear? ”

* K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ To make one point clear. The Hon. Home Minister in his reply to the debate referred to what took place before the 15th August and he wanted the Muslims of the Indian Union, especially of this Province to allay all suspicion. Sir, the June 3 Plan was accepted by both the parties and the whole country wholeheartedly, and as a result, the country was partitioned. I am sorry that a responsible Minister like the Home Minister should refer to such things and on account of them cast suspicion on a great community like that of the Muslims. What took place then has been laid at rest by mutual consent and if what took place then should again be invoked to cast suspicion on the Muslims I am sorry there would be no end to such incrimination. My hon. Friend Mr. Farookhi Sahib made an elaborate speech about the loyalty of the Muslims and I resent that one should have to labour much to reassure anybody of the loyalty of the Muslims. Muslims have assured that they agree to be the citizens of this ancient land and that they would be loyal to the Constitution. There is no necessity to repeat that assurance and it is beneath the self-respect of any member of the great Muslim community to be under an obligation to repeat that assurance *ad nauseum*. It is beneath our self-respect and anyone having any self-respect will resent being forced to repeat and reassure others about his loyalty to the constitution. Muslims have already given the assurance on the 15th August and if you want any further assurance you need not ask them for it. You will find it in the history of Muslims; instance after instance can be found showing how Muslims have been always loyal to the Constitution in whatever part of the land they may live. Therefore Muslims of this Province should not be under any necessity to repeat the aforesaid assurance and reassure their loyalty time and again. In our own Province, far down in Madurai an incident took place centuries ago of which I would like to remind the House now. When Malik Kafur, the

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Commander-in-Chief of Sultan Alauddin of Delhi, invaded the South, he was confronted on the outskirts of Madura by the army of the Pandyan King. To his great dismay he found in the vanguard of the Pandyan army 20,000 Muslims. The Commander-in-Chief sent word to them to keep away and asked them not to put him to the necessity of fighting against his own Muslim brethren. They said: ‘ We are all loyal to the King. There is no occasion for us to be treacherous to our king. If you want to enter Madura, you can enter it only trampling on our dead bodies.’ As a result of that, Malik Kafur turned his steps eastward instead of southward and went to Rameswaram. We can quote many such instances in the history of Islam. Therefore I submit there is no necessity at all to cast an aspersion on the Muslims. Years ago, Maulana Mohamed Ali said that even if Turkey invaded India the Indian Muslims would fight them to protect their country. That was said years ago. Those of us who were in the first non-co-operation movement cannot forget the statement. Therefore it is unfortunate that the Congress Government should take action against Muslims on mere suspicion based on figments of the imagination. Many steps have been taken on mere suspicion. The other day at our Party meeting a resolution was passed drawing the attention of the Government to the fact that there is no warrant for the Government taking such steps against the Muslims merely on the ground of suspicion. That is not a resolution reflecting the individual opinion of the members of the Party alone. It reflects and represents the feeling in the mind of every Muslim of this Province. We feel there is no ground whatever for taking such steps. What after all is the result of the searches? The searches in the houses, mosques and burial places have not brought out anything to warrant the suspicion. They have only shown there is nothing to suspect. Only, the valuable life of an hon. Member of this House was lost as a result of these searches. Therefore, Sir, I would appeal to the Hon. Minister and especially to the Hon. Home Minister not to harbour any suspicions against Muslims. It is not proper for any decent Government to suspect persons who have given an assurance and then take steps against them, merely on suspicion based on figments of imagination. Gandhiji has given a good lead in this matter. I wish people who say they are following Gandhiji to follow his advice in this matter also in letter and in spirit. At least hereafter, let there be an end to the steps taken on mere suspicion. The only honest course which any Government can take is not to go on suspecting a whole community on mere rumours set afloat by some individuals.”

THE HON. DR. P. SUBBARAYAN :—“ Mr. President, Sir, I have very little to add to what I have already stated. The question of suspicion is not certainly in my mind. I can assure hon. Members opposite that I do feel when they affirm loyalty, they mean it. But people all round do suspect. There is an air of suspicion all round. I assure hon. Members that it can only be got rid of when we cease to act in communal organizations. As

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long as you keep up communal organizations, there is bound to be suspicion in spite of all the affirmations that may be made by my hon. Friends opposite and by myself and I am prepared to take it. In spite of it, I am sure the suspicion will be there and that is why I told the Muslim community who were good enough to invite me for the celebrations of the Prophet's birthday yesterday that it would be in the interests of the Province and in the interests of communal harmony and we would be acting on the advice of Mahatma Gandhi to both the communities, if we got ourselves into political parties rather than communal organizations. Because what is considered to be the basis of Governmental organizations to-morrow is not going to be religion but the economic questions that arise in daily life. Economics tend into different political directions. I do not invite my Muslim friends to belong to the party to which I belong, for that would be impertinence on my part. What I say is: Do get into political organizations, whatever complexion that organization may have and then perhaps the suspicion will die down. That suspicion dies hard is a good expression of the English language. Suspicion has been created and suspicion is there. It will die hard. We can allay that suspicion sooner if we could conduct ourselves in such a manner as to show to the public at large that we are in a political organization and not communal one and that we are interested in the body politic as a whole. That is my answer to what my friends on the other side have said. As far as the Government are concerned, they are here as representatives of the people as a whole. Once they become responsible for the administration of the Province, the interests of the people are all like in their eyes. The fact that a person belongs to a particular political party does not give him any advantage over other people because the Government of the country is being carried on in the name of the people of the Province. It is the interest of the people of the province which is really supreme. Therefore my hon. Friends will not misunderstand me if I say that if suspicion is to be got rid of, it lies in their own hands."

The motion was put and carried and the Bill was passed into law.

MR. PRESIDENT:—It is proposed to adjourn the House now and re-assemble at 3 p.m. on Monday, 2nd February. I hope it will suit hon. Members. (Hon. Members: "Yes.") The House will now adjourn and re-assemble at 3 p.m. on Monday, 2nd February 1948."

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APPENDIX I.

[Vide item III(1) at page 29 supra.]

L.A. BILL No. 1 OF 1948.

(As passed by the Assembly.)

A Bill for the prevention and eradication of silkworm diseases in the Province of Madras.

WHEREAS it is expedient to provide for the prevention and eradication of silkworm diseases in the Province of Madras; It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Silkworm Diseases (Prevention and Eradication) Act, 1948. Short title, extent and commencement.

(2) It extends to the whole of the Province of Madras.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force—

(a) at once, in the Kollegal taluk of the Coimbatore district and the Hosur taluk of the Salem district; and

(b) in any other part of the Province of Madras, on such date as the Government may, by notification, appoint.

(4) The Government may, by notification, repeal all or any of the remaining provisions aforesaid from any part of the Province of Madras, with effect from such date as may be specified in the notification, but the repeal shall not be deemed to affect the power of the Government to extend the provisions so repealed to such part under sub-section (3), clause (b).

2. In this Act, unless there is anything repugnant in the Definitions, subject or context,—

(a) "area" means any area in which the provisions of this Act are in force for the time being;

(b) "Director" means the Director of Industries and Commerce, Madras, or such officer as the Government may nominate as Director for all or any of the purposes of this Act;

(c) "Government" means the Provincial Government as defined in section 3, clause (43-a), of the General Clauses Act, 1897;

(d) "notification" means a notification published in the Fort St. George Gazette;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "seed" means seed cocoons, moths, eggs and silkworms in the first two stages of development;

(g) "seed area" means an area notified by the Director as an area where silkworms are being reared for raising seed cocoons;

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(h) "seed cocoon" means cocoon raised from silkworm rearings and intended for reproductive purposes;

(i) "seed producer" means any person engaged in all or any of the processes connected with the manufacture or disposal of seeds;

(j) "seed rearer" means any person engaged in the occupation of rearing silkworms of any species with a view to the sale of cocoons, moths, eggs or worms for the purposes of seed, including operations extending from the incubation of eggs to the harvesting of cocoons;

(k) "Sericultural Expert" means the officer who is the Head of the Sericultural Section of the Department of Industries and Commerce, Madras;

(l) "silkworm disease" means the disease of pebrine, flacherie, gascerie, or muscardine or any other prescribed disease;

(m) "silkworm rearer" means any person engaged in the occupation of rearing silkworms of any species, with a view to the sale of cocoons, moths, eggs, or worms.

Duty to
furnish
information
of silkworm
diseases.

3. (1) Every silkworm rearer, seed rearer and seed producer shall be bound to give information forthwith to the nearest officer who has been duly authorized by the Sericultural Expert in that behalf of the occurrence of any silkworm disease in seed, silkworm, moth or cocoon, in any premises belonging to him or under his control, which may come to his knowledge.

(2) Every such person shall be deemed to have had knowledge of the occurrence of any such disease in any premises belonging to him or under his control, in the absence of reasonable excuse the burden of proving which shall lie upon him.

Inspection
of premises.

4. (1) The Sericultural Expert or any officer authorized by him in this behalf may, at all reasonable times, enter and inspect any land, building, vessel, vehicle or place wherein or in any part thereof—

(i) all or any of the processes connected with the rearing of silkworms or the manufacture of seed is carried on, or

(ii) seed, silkworm, moth or cocoon is stored, or is being transported,

if he has reason to believe, from personal knowledge or from information given by any person and taken down by him in writing, that any silkworm disease has occurred in such land, building, vessel, vehicle or place.

(2) Every owner, occupier or other person in charge of any such land, building, vessel, vehicle or place shall be bound to give all reasonable facilities to the officer aforesaid in carrying out his functions under sub-section (1).

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5. (1) On receipt of information under section 3 or on the detection of any silkworm disease after inspection under section 4, the Sericultural Expert or any officer authorized by him in this behalf or the officer making such inspection, may take or cause to be taken such measures as he may consider necessary or expedient to prevent the spread of the disease or to eradicate it, being measures referred to in sub-section (2).

(2) Such measures may consist of—

(a) the disinfection or destruction of any seed, silkworm, moth or cocoon or of any vessel, receptacle or apparatus used in the rearing of silkworms or the manufacture of seeds;

(b) the prohibition for a specified period of the rearing by seed rearers of any species of silkworm in which a silkworm disease has broken out in a virulent form;

(c) any other action which may be prescribed.

(3) At least twenty-four hours notice shall be given to the owner or other person in charge of any object or article which it is intended to destroy under this section.

6. (1) If such destruction is ordered by the Sericultural Appeals Expert or an Assistant Sericultural Expert, the order shall be final.

(2) If such destruction is ordered by an officer inferior in rank to an Assistant Sericultural Expert, the owner or other person in charge of the object or article concerned may, within twenty-four hours of the service of the notice referred to in section 5, sub-section (3), appeal to the Assistant Sericultural Expert nominated by the Sericultural Expert to hear appeals under this section; and the order of such Assistant Sericultural Expert shall be final.

7. (1) Any person who contravenes or fails to comply with any provision of this Act or any rule or order made thereunder shall be punishable with fine which may extend to one hundred rupees; and any Court trying any such contravention or failure may direct that any seed, silkworm, moth or cocoon, or any vessel, receptacle or apparatus containing the same, in respect of which the Court is satisfied that such contravention or failure has occurred, shall be forfeited to the Government.

(2) No prosecution shall be instituted under sub-section (1) without the previous sanction of the Sericultural Expert.

8. No suit, prosecution or other proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act, without the previous sanction of the Government.

9. (1) The Government may make rules to carry out the purposes of this Act.

Power to
take
measures
for the
eradica-
tion of
silkworm
diseases.

Protection
of Govern-
ment
officers and
servants.

Power to
make
rules.

[26th January 1948]

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) the diseases, if any, which should be treated as silkworm diseases, in addition to those specified in section 2, clause (i);

(ii) the particulars of the information to be furnished under section 3 and the form in which it should be furnished;

(iii) the measures which may be taken under section 5 for eradicating silkworm diseases;

(iv) the form in which appeals may be preferred under section 6.

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APPENDIX II.

[Vide item III (2) at page 30 supra.]

L.A. BILL No. 2 OF 1948.

(As passed by the Assembly.)

A Bill to provide for the constitution of Home Guards in the Province of Madras.

WHEREAS it is necessary to constitute a volunteer organization for use in emergencies in the Province of Madras; It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Home Guards Act, 1948. Short title, extent and commencement.

(2) It extends to the whole of the Province of Madras.

(3) (a) This section shall come into force at once in the whole of the Province.

(b) The rest of this Act shall come into force at once in the presidency-town and the districts of East Godavari, West Godavari, Kistna, Guntur, Kurnool, Bellary, Anantapur, Cuddapah, Nellore, North Arcot, Chingleput, Salem, Coimbatore, Malabar and South Kanara.

(c) The Provincial Government may, by notification in the *Port St. George Gazette*, extend the rest of this Act to any other area in the Province with effect from such date as may be specified in the notification.

2. In this Act, unless there is anything repugnant in the Definitions, subject or context—

(a) "Home Guard" means a person who is appointed as a Home Guard under this Act;

(b) "prescribed" means prescribed by rules made under this Act.

3. (1) The Provincial Government may constitute for each of the areas specified in section 1 (3) (b), and for each of the other areas notified under section 1 (3) (c), a volunteer body called the "Home Guards", every member of which shall have such powers and discharge such duties in relation to the protection of persons, the security of property, and the preservation of public order or tranquillity as may be assigned to him by or under this Act. Constitution of Home Guards and appointment of officers.

(2) The Provincial Government or any person empowered by them in this behalf may appoint as many officers as the Provincial Government may consider necessary for the proper governance and conduct of the Home Guards; one of the officers so appointed may be a Commandant for all the Home Guards of the Province.

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MADRAS LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

MONDAY, 2ND FEBRUARY 1948

VOLUME XVI—No. 3

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[26th January 1948]

Appoint-
ment and
removal of
Home
Guards.

4. (1) Subject to the provisions of this Act and the rules made thereunder, any person possessing the prescribed qualifications and willing to serve may be appointed as a Home Guard by such authority and in such manner as may be prescribed.

(2) Every Home Guard shall receive a certificate of appointment which shall be in such form and shall be issued by such authority as may be prescribed and thereupon he shall have the powers, privileges and protection conferred, and discharge the duties imposed, on a Home Guard by or under this Act.

(3) The prescribed authority may, subject to such conditions as may be prescribed, suspend, dismiss or remove any Home Guard from his office; and thereupon the certificate received by him shall cease to have effect.

Period of
service and
discharge.

5. A Home Guard shall be bound to serve the Provincial Government for such period and in such areas as may be prescribed, but he may be discharged at any time by such authority and subject to such conditions as may be prescribed.

Calling out
of Home
Guards.

6. The Commissioner of Police in the presidency-town, and the District Superintendent of Police concerned elsewhere, may at any time call out, in such manner and through such officer as may be prescribed, any Home Guard for the presidency-town or district, as the case may be, for training or to discharge any duties assigned to him by or under this Act.

Powers,
privileges
and protec-
tion of Home
Guards.

7. (1) A Home Guard, when called out under section 6, shall have the same powers, privileges and protection as an officer of the Police appointed under the Madras City Police Act, 1888, or the Madras District Police Act, 1859, as the case may be.

(2) No prosecution shall be instituted against a Home Guard in respect of any act done or purporting to be done in the exercise of his powers or the discharge of his duties as such, except with the previous sanction of the Commissioner of Police in the presidency-town and of the District Superintendent of Police concerned elsewhere.

Control by
officers of
police force.

8. A Home Guard, when called out under section 6 in aid of the police force, shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed.

Penalties.

9. (1) If any Home Guard, without sufficient cause, neglects or refuses to obey the orders of any superior authority or officer, or fails to discharge any other duty, or deserts his post, or is guilty of any wilful breach or neglect of any provision of this Act or of any rule or lawful order made or issued thereunder by a competent authority he shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both.

26th January 1948]

(2) No prosecution shall be instituted against any Home Guard for any offence punishable under sub-section (1), without the previous sanction of an officer empowered by the Provincial Government in this behalf.

(3) An offence punishable under sub-section (1) shall be cognizable.

10. (1) The Provincial Government may, by notification in the *Fort St. George Gazette*, make rules consistent with this Act for giving effect to the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate the following matters, namely:—

(a) all matters required or allowed by this Act to be prescribed;

(b) the exercise by any police officer or any officer of the Home Guards of the powers conferred by section 6 on the Commissioner of Police, or the District Superintendent of Police concerned, as the case may be;

(c) the exercise of control by officers of the police force over Home Guards when acting in aid of the police force;

(d) the organization, appointment, discipline, training, arms, accoutrements and clothing, conditions of service, powers, and duties of Home Guards;

(e) the exercise by Home Guards of any of the powers exercisable under section 7, sub-section (1).

11. Home Guards acting in the exercise of their powers or the discharge of their duties under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

12. The Madras Home Guards Ordinance, 1948, is hereby repealed:

Repeal and
saving.

Provided that the Home Guards constituted under the said Ordinance shall be deemed to have been constituted under this Act; and all appointments and rules made, and all notifications, certificates and orders issued, under the said Ordinance and in force immediately before the coming into force of this Act shall continue in force and be deemed to have been made or issued under this Act.

THE MADRAS LEGISLATIVE COUNCIL.

Monday, the 2nd February 1948.

The House met in the Council Chamber, Fort St. George, at three of the clock, Mr. President (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the chair.

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

RESOLUTION ON THE ASSASSINATION OF MAHATMA GANDHI.

* THE HON. DR. T. S. S. RAJAN :—“ Mr. President, Sir, I move this resolution on behalf of this House—

‘ This Council is deeply grieved at the assassination of Mahatma Gandhi, the Father of our Nation and the Architect of our Freedom, and places on record its profound sorrow at the irreparable loss the Nation has sustained. The only way in which we can pay our homage and tribute to our Great Leader is to follow the principles of Truth, Service and Ahimsa that he enunciated and practised in his exemplary life. ’

“ Sir, patriotism, self-respect and honour demand this humble tribute of this House for the memory of the great man, who is no more. Mahatma Gandhi has joined the immortals. The whole world has burst out in horror and indignation over this ghastly murder. Mahatma was of the spirit eternal. He was brave and fearless as only such like him can be. To him life was an offer at the altar of Truth and Non-violence. He was the richest of men for he owned nothing in this world. Millionaires clung to him and placed their wealth at his disposal. He lived the life he preached and served mankind. To him there was no one high or low and he loved them all. He has made a historic and unique contribution to the history of the world. He has demonstrated the irresistible power of *ahimsa* in dealing with men and nations. That political freedom could be won through unadulterated moral virtues is perhaps a record which the world needed. Strangely enough he has become the victim of violence against which he has preached all his life. In this land of creeds and races of warring faiths it was left to him to prove the unity of life which pervades all human existence. He has joined the long list of immortals that staggered the world in their days. Gandhiji's life and teachings are a glorious record. Jesus Christ, Abraham Lincoln, Socrates, these are names we revere. Gandhiji came to us to live amidst us, made us see with our eyes the greatness of human personality as was depicted by him. Let us at least hold aloft the glowing banner of purity, selflessness and love and try and understand the eternal truths for which he stood. The Gandhian epoch is unforgettable in history. Born humble and low of an enslaved race, he could establish the strength of human spirit developed into an irresistible force by a right conduct. Be he of any faith or caste or creed, in him we found the response of an aching heart, a pining soul and an overflowing

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[Dr. T. S. S. Rajan] [2nd February 1948]

sympathy of love. We shall not forget it. He knew no distinction of high and low and he is more for the lowliest of the low for he loved them above all. With courage undaunted he declared his faith in stentorian voice which spread and reached the corners of the world as no other man has done. His death has made him more alive to us than ever before. Innocent children were his comrades and he has the highest regard for the womenfolk. To me he is a saviour. He took me by the hand in the streets of London when violence and hatred surged in my heart. He weaned me away from my madness. He won my heart, changed my faith and revealed to me the great lesson which books of knowledge could not reveal.

"Sir, I move this resolution."

MR. PRESIDENT:—"The question is that this House do pass a resolution in the following words:

"This Council is deeply grieved at the assassination of Mahatma Gandhi, the Father of our Nation and the Architect of our Freedom, and places on record its profound sorrow at the irreparable loss the Nation has sustained. The only way in which we can pay our homage and tribute to our Great Leader is to follow the principles of *Truth, Service* and *Ahimsa* that he enunciated and practised in his exemplary life."

K. UPPI SAHIB BAHADUR:—"Mr. President, Sir, we are assembled here to-day to bemoan the loss of Mahatma Gandhi. This is the blackest day in the history of this House because we have lost a guide, leader and soldier. Sir, nobody could ever think an assassin of all the people in the world would attempt the life of Mahatma Gandhi because I feel he has not done any injury to anybody on the face of the earth. He had been a lover of humanity all his life. He had been doing good to one and all. Sir, it was he who roused us from our slumber and lethargy and led us against an enemy who was armed to the teeth, and undaunted by his force of arms and only with moral weapons he led us to victory. We have lost such a man and words fail me at this juncture because it is only a few hours since this shock has overtaken us and I associate fully with all the sentiments expressed by my Hon. Friend, Dr. Rajan, and I support this resolution."

* SRI H. M. JAGANNATHAM:—"Mr. President, allow me to associate myself with the sentiments of sorrow expressed by previous speakers and pay my humble tribute to the greatness and glory of Mahatma Gandhi."

"Sir, I do not profess to be a Congressman nor a follower of Gandhiji. Indeed, the organization to which I have the honour to belong have often severely criticized him and some of his methods. But we were second to none in acknowledging his real greatness, his lofty ideals, his burning patriotism, and his passionate desire for the elevation of the untouchables. If to-day untouchability has been declared a crime in the statute book, it is due entirely to the inspiration and stimulus which Gandhiji, with the insight and vision so characteristic of him, imported into the movement."

[2nd February 1948] [Sri H. M. Jagannatham]

"Mr. President, I had the privilege of being brought into very close and intimate contact with Gandhiji. When he visited the city in 1927 I was the first leader of the scheduled castes to present him with the first welcome address on behalf of the untouchables. Later, in 1932, during the negotiations which preceded the Poona Pact, I was invited to Bombay to attend the emergency Conference convened by Pandit Madan Mohan Malaviya. In the discussions which we held in the very presence of Gandhiji, we laid all our demands before him and how passionately we felt that separate electorates alone could give us a distinct political status and dignity. But Gandhiji was adamant and turning to Dr. Ambedkar, he said: 'Doctor, my life is in your hands' to which Dr. Ambedkar replied, 'Well, it is not more precious to me than the fate of the 60 million untouchables inhabiting this country.' Mahatma Gandhi was quick to recognize the force of this argument and replied, 'You are quite right, Doctor.' In my experience this was the most remarkable instance of Gandhiji's greatness, of his readiness and fair-mindedness to recognize the opponents' point of view and going the whole hog to conciliate him. And here let me say that the Poona Pact would not have been accomplished nor Gandhiji's life saved in 1932 but for the conciliatory spirit shown by Gandhiji himself and the wisdom and statesmanship which Sir Tej Bahadur Sapru and Rajaji had shown in the negotiations."

"Sir, we, of the Schedule Castes Federation, disliked and disapproved of many of Gandhiji's methods. But we had no doubt of his sincerity of purpose, of his devotion to the cause of the untouchables, of his lofty patriotism and burning desire to see India freed of foreign domination. That he was destined to see his dream of Poorna Swaraj for India realized during his lifetime was a big thing. That he should be struck down by the assassin's bullet just at a moment when he was devoting all his energies to see internal peace and harmony established in India is the greatest tragedy that has befallen our country. Sir, while mourning Gandhiji's death I hope that his wise advice and noble example will continue to guide the Government as the corner-stone of all their politics."

* DR. SRI A. LAKSHMANASWAMI MUDALIYAR:—"Mr. President, Sir, words somehow seem almost inappropriate on an occasion like this. I sincerely feel that when the heart is full there is not much room for speech-making. However, it is but meet that on such a solemn occasion an opportunity should be given to some of us to give expression to the anguish that we all felt and the sorrow that we have been experiencing during the last few hours, ever since that horrible news flashed through the four corners of the globe that Mahatma Gandhi was no more and he was the victim of a cruel crime, the like of which the world has not hitherto seen. I have been trying to see the various episodes that have occurred from time to time in the history of humanity when great men have been struck, but it is unexampled in historical memory that a person of his venerable age should have been the victim—one who had devoted himself almost exclusively to the service of mankind and who was even then striving his level best to uplift his country and to instil into his countrymen something of

[Dr. Sir A. Lakshmanaswami Mudaliyar] [2nd February 1948]

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p.m.

the great messages that have been handed to us from time immemorial by the great and noble souls that have departed. There is not another instance, Sir, in the whole of the history of the human race when such an unfortunate crime had been committed and in a manner that can only provoke the deepest kind of sorrow in every one of us. He was to come up to the prayer meeting, to stand there with folded hands and invoke the divinity in him and in all others. Just at that time the culminating event happened and a bullet was driven into his heart. When the news was spread all over the world every one of us felt that a bullet had gone into our own heart. It was such that we could hardly bear the sorrow of the event. It is not a mere expression of feeling, it is what everybody actually felt. High and low, rich and poor, educated and illiterate, citizens in the towns and the villagers in the field, everybody felt the sorrow of it in a manner that he could not have felt except for his dearest ones. The whole world stood aghast. Yet, Sir, what is the strength of this poor frail frame, 78 years old, which has convulsed the world not only during his lifetime but even more so on the day of the sad event when he passed away? He had no riches, no pomp, no regal glory, no power to exercise and no patronage to bestow. Yet, remarkable as it may seem, the truth is that verily Mahatma Gandhi represented the soul of India, that soul which has always quickened itself to the naked fakir and not to the purpled prince sitting on high, that soul which has always worshipped those who discard everything worth possessing and lived far away from the madding crowd and exercised an influence far beyond any human mind can conjure. That was Mahatma Gandhi. Is it any wonder, Sir, that we his countrymen should have felt his loss more than anybody else? Think of a person who after two great world wars and after all the tragedies that he had witnessed still spoke of *ahimsa* and non-violence and preached it in season and out of season, never wavering from the path laid down by him forty years ago, when he was struggling in a remote part of the world! Nobody would have been more sincere, more steadfast and loyal to the ideals throughout his long career. That was Mahatma Gandhi. We his countrymen to-day mourn his loss. But it is not the mourning that he wants. His spirit is with us though his body has been consumed by flames. Nothing matters so much as the soul. On that great day, when India was celebrating her independence, and when his countrymen were rejoicing, where was Mahatma Gandhi? His heart was not in it. He felt the anguish of it. He asked the question: 'What shall it profit a great nation if it gains the whole world and loses its own soul?' Since that day, the Mahatma has asked himself time and again, 'What shall it profit India if she gains independence but loses her own soul?' To-day the whole world is grieved, but grief by itself would be a poor recompense from those who have looked upon Mahatma Gandhi as the greatest of world leaders. We have heard of his message, we have lived in a generation which produced a Mahatma Gandhi. We are all his countrymen and we have in our own little way tried to assimilate some of his teachings. I cannot say that anyone of us, the tallest of us, the nearest to him, could say that we have achieved all that we had hoped to

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achieve either through personal contact with him or through the preachings that we have listened to in every village and town. But this much I feel, Sir, that we who revere his memory, if we are to revere his memory for all time, what shall be our attitude? The resolution that is placed before the House gives some indication of what is expected of every Indian. To-day, Sir, in a few circles, I am sorry to say that there is a feeling which is not what Mahatma Gandhi himself would have wished. At a supreme moment, a few days before his end, on the occasion when he knew who was his assailant, he preached the doctrine of tolerance—that we must all forgive and forget—in the inimitable way of another great personality who said 2,000 years ago, 'Father, forgive them; they know not what they do.' In that spirit, may I not appeal to our countrymen to realize that the momentary anguish which may lead to anger—uncontrollable and insuppressible—is not the true way of following Mahatma Gandhi? The thing has been done and our duty now is to see how we can follow the lead of Mahatma Gandhi. how we can wean away the unfortunate section—small indeed, I hope—which has somehow or other, out of madness perhaps which sometimes catches humanity, gone astray. That is our first task.

"Secondly, let us remember—all of us, Hindu and Muslim, Sikh and Christian—that he lost his life for a great cause, the cause of unity. To him there was no distinction and Hindu and Muslim were alike. It was in that noble endeavour that he lost his life. Therefore it behoves us all—Hindus and Muslims—to realize that if we are sincere in following the footsteps of Mahatma Gandhi, we should not have estrangements. Let us all learn to live as he intended that we should live, in brotherly love and affection, each holding the other as a person to be respected, to be loved and always to be comforted.

"Sir, it is not by trying to know what our rights are that we can succeed; but by knowing our responsibilities and duties. Mahatma Gandhi had no rights to claim; he had only duties to perform and responsibilities to shoulder. He shouldered them down to the last day in a manner that no other person could have shouldered. He has lighted a path for us to follow in his footsteps. In this year of sorrow, whatever may be our caste, creed or religion, whatever may be our political views which unfortunately divide us more than ever, whatever may be our status of life—rich or poor—may we not in this year of sorrow—for a full year must elapse according to the Hindu tradition for the sorrow to be over—may we not try to follow in whatever little respect it may be, the great teachings of the greatest of immortals of modern times? Let us thank the Lord that we are here. We are blessed indeed to have had Mahatma Gandhi as one of our countrymen. We are blessed indeed to have had his revered example before our eyes. And blessed we will be if we cherish his great teachings and follow his noble advice and keep it as a guide in our life."

* SRI D. KRISHNAMURTHY:—"Sir, it is difficult to find words for expressing the sorrow we feel on this occasion. India which has produced a Buddha has also produced in the modern

[Sri D. Krishnamurthy] [2nd February 1948]

age a Gandhi. He is a very rare combination of Christ, Buddha and Krishna. He has put into practice noble truths which stand for all time. He serves as a beacon light for humanity. The misfortune of it is that he has met with his death at the hands of a murderer who killed him for no specific reason. The teachings left behind him by Gandhiji will not perish. Christ was crucified but Christianity never perished. Gandhiji has been murdered, but Gandhism will not die. To-day every one of the thinking section of the world feels this great loss. He is the architect of the political independence of India. He fought for it from 1919 and got independence for India on the 15th August 1947. Hardly six months have elapsed and now on the 30th January he has been murdered. He has left behind him a heritage of ideals for us, foot-prints in the sands of time for us to follow and to be benefited. He has joined the immortals just like every savant and seer. He has made us see the fundamental truths of all religions. Here was a Gandhi and it is difficult to see the like of him again. In the cosmic evolution, it is difficult to define the process and understand the reasons for several acts. India which has produced an Asoka and Buddha has produced also a Gandhi. It will be for the future generations to appreciate it. We who are his contemporaries have got on our shoulders the responsibility of putting into practice as far as practicable and to the best of our ability, these noble lessons of truth, love, service and sacrifice and *ahimsa* that he has taught us. I associate myself with all that is said by the Hon. the Leader of this House."

* DR. V. K. JOHN :—" Mr. President, Sir, it has been said that Gandhiji is the father of the nation. He is not only the father of the nation, but the father of the human race. He does not belong to one nation or one race. He belongs to humanity as a whole. His life, his work and his passing away can be compared only to the life, work and passing away of Jesus Christ. Like Christ, he was the prince of peace. Like Christ he preached the gospel of love and non-violence. Not only he preached the gospel of love and non-violence, but like Christ he practised love and non-violence. Jesus Christ died on a Friday and Good Friday is observed all over the world. Mahatma Gandhi also died on a Friday and I hope the last Friday in the month of January every year will be a Good Friday, because we will remember that on that day passed away a man who by his life and service has endeared himself not only to the present generation, but to future generations also and to the human race as a whole.

" Mr. President, Sir, if we have to emulate his example and follow his teachings and precepts, I suggest we have a University or an Ashramam for which the State may grant a crore of rupees and all the citizens of the Province—every man and woman—may be given an opportunity of contributing according to his or her mite even a few annas each, so that we may collect another crore of rupees. The University may train young men and women for the service of humanity according to Gandhiji's ideas. We shall have a centre not only in Madras but in every district and taluk and

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village. That is the only way to commemorate the memory of that great man. If we have a University or an Ashramam on a large scale, we shall be able to train up hundreds and thousands of men and women for service.

" Another suggestion which I should like to make is that we should give due publicity to the noble work done by many Muslim leaders in telling their people that there should be no retribution against the Hindus and that properties taken from them should be restored to them. Gandhiji asked the Hindus to make restitution to the Muslims. Muslim leaders also asked the Muslims to make restitution to the Hindus. But I think there has not been sufficient publicity to the work done by the Muslim leaders who asked Muslims to make restitution to the Hindus. If that had been done, many misguided people would not have thought that while Mahatma Gandhi was asking the Hindus alone to make restitution, the Muslims were not doing the same. I know many Muslim leaders who have asked the Muslims to give back to the Hindus what they have taken from them. But there has not been sufficient publicity given to that.

" Sir, one thing which we who are considered to be leaders of public opinion can do is to preach the gospel of love and non-violence and carry out Gandhiji's message of love in our own lives. I join with the mover of the resolution and associate myself with all the sentiments that he has expressed."

MR. J. L. P. ROCHE VICTORIA :—" Sir, I associate myself with all the sentiments expressed by my hon. Friend, Mr. John. On behalf of the Christian community I wish to express our deep sorrow at the demise of the father of our nation. We call him father because he was not merely father of the nation; he was also the special protector of all communities in India including the Christian community. We, the members of Christian community, consider Mahatma Gandhi as our special protector; we also consider ourselves as his favoured children because in all his dealings he has been one of the foremost exponents of the Christian doctrines and principles. Though the whole community may not be able to express its sorrow, I am sure every one of the Christian community feels very great sorrow as every other community is feeling for our great hero. Only recently when some Christians were persecuted in Punjab, he came out with a defence and a pleading that they must be specially protected because he felt that we are only a handful of Christians and that we are peace-loving and co-operating with other communities in all matters. The Leader of the Catholic community, the Pope himself is now working for peace in Europe. He has also expressed his great sorrow at the passing away of our great leader—Mahatma Gandhi. He has also expressed deep regret on the taking away from our midst of our Mahatmaji. Our heart is so full and we are overwhelmed with so much sorrow that it is not possible to say whatever we want to say. Suffice it to say that we wholeheartedly join with the nation in mourning the loss of Mahatmaji. Gandhi is dead but long lives Gandhism."

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DR. SYED TAJUDDIN SAHIB :—" Sir, with tear-dimmed eyes, with a greatly disturbed mind, with a broken heart and with every fibre and cell of my body burning, I stand before you at this gloomy hour when the greatest soul of the present age has been suddenly cut away from us. It has been like a dire bolt from the merciless blue. When the great mystic, Jalaluddin Rumi died—he was considered to be the prince of mystics—people of all religions and of all communities rushed to his house—for what purpose—to claim his body. Every one thought, every community thought that he belonged to his community. In the same way, all of us and every one of us feel that we have lost our father, our protector, our saviour.

" So far as Muslims are concerned they sincerely think and feel that the great Mahatmaji laid down his precious life for the sake of Muslims and Muslims alone. He indeed laid down his precious life on the altar of the country's peace and unity. He watered and manured the plant of concord and harmony by his very blood.

" He has gone before us, but his spirit is with us, behind us, about us, above us and all around us. The body, great philosophers say, is only a shadow of the soul; that great soul has become shadowless; it has become all light. He was a tower of strength to us. He was a beacon light, when we were surrounded and enveloped in the midst of the most troublous times. He has been in the mouth of us all; he is in the thoughts of all of us; he is enthroned in our hearts of hearts; he is in the bosom of ever-existing Divinity. We are not fortunate enough to have him for some more years, when we are face to face with unprecedented troubles, sufferings and tribulations. The only homage we can pay him is to follow his light and his foot-steps which he has left on the sands of time; we regard him as the father of Indian Nation. He not only preached but practised the fatherhood of God and the brotherhood of man. With these few words, with all the sincerity which I could command, I commend this solemn resolution to the acceptance of this House."

* SRI P. R. K. SARMA :—" Sir, I shall be failing in my duty if I do not associate myself with this resolution and say a few sorrowful words on this occasion. Mahatma Gandhi lived and died for the elevation of mankind and the obliteration of all differences in the world, between races and races, between castes and castes, between communities and communities and between nations and nations. This ideal of life he strove hard to achieve through the means of Non-Violence and love of Truth. He believed that only that freedom that is achieved by the purest methods will live for ever. There have been great men and personalities in the history of the world who have lived and died for great objects and have been murdered like Mahatma Gandhi. One thing which differentiated Mahatma Gandhi is that he is one who belonged to us and of whom we were proud. He wanted that, not only should the objects and ideals be pure and high, but those ideals should be reached with the purest of means. In our own times we have seen equally great men, great because of their deeds and achievements.

[2nd February 1948] [Sri P. R. K. Sarma]

There is the example of Lenin whose achievements will ever remain green in the pages of world's history; the world admires Lenin; the world will never forget Lenin. But with regard to Lenin and others like him, it cannot be forgotten that they believed in the principle of the end justifying the means. As long as men follow the policy of the end justifying the means, there can be no lasting peace in the world.

" I say this as one belonging to the working classes and their organizations still striving hard to establish socialism in the country and to eliminate all differences between man and man. Mahatma Gandhi has taught us both by his example and precept that not only political freedom but also economic freedom and every kind of freedom can be achieved not by violence but by non-violence and truth. To the working classes he was the real friend and leader. The Trade Union movement and the working class organizations in this country owe their development mainly to Mahatma Gandhi. Trade Unions were established under the inspiration of Mahatma Gandhi's satyagraha in South Africa. The oldest Trade Union in India, the Madras Textile Workers organization was started under the inspiration of Mahatma Gandhi when he was fighting his brave battle in South Africa. If the question had been put to Mahatma Gandhi as to what he would do, if he had nothing to do with politics, he would have said that he would retire and live somewhere near the workers of Ahmadabad, that he would lead the Ahmadabad Trade Unions to greater glory. He taught humanity and the whole world that noble aims should be achieved by noble means. If the means were not pure and perfect, he would rather sacrifice his objects. India wanted him to live, he also wanted to live. He died at the hands of an assassin.

" We have attained political freedom, but economic freedom is yet to be attained; for attaining that freedom perhaps more bitter struggles would have to be faced. But if the working classes set before themselves and follow faithfully the principles of non-violence and truth given to them by Mahatma Gandhi, I am sure socialism will be achieved in this country without violence even as political freedom has been attained.

" I wish to stress on this occasion that Mahatma Gandhi believed in the fundamental and principles of the Trade Union movement and in the principles of conciliation, negotiation and arbitration not only as between employers and employees, but also between races and races and countries and countries and Governments and Governments. I think that by the pursuit of the same principles the differences that now exist between the two great nations will be settled amicably. It is on this principle that the League of Nations which has since disappeared was started and the United Nations Organization is based on the principles for which Mahatmaji lived and died, in the principles of negotiation and conciliation and settlement of differences between peoples and peoples in a spirit of goodwill, understanding and cordiality. This spirit and these principles for which Mahatmaji lived and died are more necessary to-day than ever in our country and in the

2-45
p.m.

[Sri P. R. K. Sarma] [2nd February 1948]

world. Mahatma Gandhi a few hours before his death has written a significant article in the *Harijan* wherein he has stated that political freedom is only a means to an end, namely, economic freedom, social freedom and moral freedom and these are yet to be achieved and the political freedom must be utilized towards that end. He has said: 'If I live, I shall work for it'. I am sure that the working class will faithfully follow the principles preached by Mahatma Gandhi and attain all their objectives. Gandhiji may not be in our midst to-day; Mahatma Gandhi might have died but Gandhism will live for ever."

MR. PRESIDENT:—"I now request the House to pass the resolution standing with a short prayer. (The House stood.)

'Oh Almighty Lord, Thou in Thy infinite wisdom hast gathered unto Thyself Thy most humble and loyal servant, our Father, Mahatma Gandhi, who devoted all his life to the mission of establishing Thy Kingdom on earth. With immeasurable trust and confidence in Thee, many a time, he braved death itself in defence and vindication of Truth and Ahimsa and by Thy grace, every time he came out not only unscathed, but with heightened spiritual stature.

'We, poor mortals, believed that he was under Thy special care and protection and Thou wouldst not allow him to shake off his mortal coil before his mission was fulfilled. To our everlasting grief Thou hast suffered him to be taken away from our midst and that by the hand of an assassin even while he was engaged heart and soul in Thy work and at a moment when his presence here was needed more than ever before. Truly Thy ways are inscrutable and ours is only to obey and trust in Thy providence.

'Vouchsafe unto us such fortitude, courage, self-confidence and trust in Thy wisdom which alone can enable us to bear this stupendous loss. It is not given to us to know Thy divine dispensation; Our beloved motherland, nay the entire world, is passing through critical days; confronted with grave crises; the horizon is beset with dark clouds of hatred and suspicion, envy and jealousy; brother is raising his hand against brother; the worst human passions are trying to get the upper hand and destroy Thy entire creation.

'Thy servant, the Father of our nation, was a "Friend of all things that are, ever at peace with himself, and all around of love and compassion all compact" and was striving his best to establish peace and harmony on earth.

'Oh our Father in Heaven, bestow Thy grace on Thy departed servant that his living spirit may continue to lead and guide us in the difficult times ahead and give us also a worthy successor to lead us safely out of the present chaos and confusion to universal peace and harmony.

'Grant unto us mutual goodwill and toleration that by Thy grace we may carry forward and complete the noble task left unfinished by Thy messenger on earth.

2nd February 1948] ~[Mr. President]

'He desired not that kind of peace which comes from withdrawal into solitude and concentration on the inner divinity but he passionately longed to establish peace and harmony all round through the ennoblement of human personality and desired for himself only that peace which cometh from contemplation of such an ideal state of existence.

'May we beseech Thee to grant that his soul may attain that kind of peace and contentment through Thy grace and merciful dispensation.

Amen ! ! !

Om Shanti : Shanti : Shanti : "

The Resolution was carried, *nem con.*

The House was adjourned to meet again at 11 a.m. on the 21st February 1948.

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MADRAS LEGISLATIVE COUNCIL
DEBATES

OFFICIAL REPORT

SATURDAY, 21st FEBRUARY 1948

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THE MADRAS LEGISLATIVE COUNCIL.

Saturday, the 21st February 1948.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. President (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Change in the procedure governing provincial services.

* 1 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Premier be pleased to state in what respects there will be any change in the procedure governing the appointment, transfer, punishment and retirement of officers in various categories of services under the Provincial Government after August 15, 1947?

THE HON. DR. T. S. S. RAJAN (on behalf of the Hon. the Premier) :—“ The classes of services and posts under the control of the Provincial Government before 15th August 1947 were—

- (1) All-India Services.
- (2) Provincial Services.
- (3) Subordinate Services.
- (4) Other miscellaneous posts.

“ No change in the procedure governing the appointment, transfer, punishment and retirement of officers in any of the services and posts in items (2) to (4) above after 15th August 1947 is under contemplation. The same procedure as was in force before 15th August 1947 will continue to apply.

“ As regards item (1) above, these services were under the rule-making control of the Secretary of State till 15th August 1947. Under sub-section (1) of section 10 of the Indian Independence Act, the rule-making authority of the Secretary of State has ceased. Under sub-section (2) of the same section, the existing members of those services are however protected in regard to their conditions of service as regards remuneration, leave and pension. They will also be entitled to the same rights as regards disciplinary matters as they were entitled to before, or rights as similar thereto as the changed circumstances permit. Thus, there will be practically no change in regard to the procedure governing punishment and retirement, so far as existing members of the old All-India Services are concerned, except that wherever power was vested in the Secretary of State that power will be exercised by the Governor-General. Transfers and promotions of these officers will, as before, be made by the Provincial Government.

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[21st February 1948]

"With effect from 15th August 1947, there will be no more recruitment to the old All-India Services. Two of those services, viz., the I.C.S. and the I.P. have been replaced by the Indian Administrative Service and the Indian Police Service respectively, to which recruitment will be made on an all-India basis. Rules regulating recruitment, conditions of service, discipline, etc., in respect of these services have not yet been issued, but it is likely that they will not differ very much from those which have hitherto applied to the I.C.S. and the I.P. In the case of the remaining services, namely, the Indian Agricultural Service, the Indian Educational Service, the Indian Forest Service, the Indian Service of Engineers, the Indian Veterinary Service and the Indian Medical Service, the posts borne on the cadres of those services, except the Indian Medical Service, have already been brought on to the cadres of the corresponding provincial services. Posts borne on the cadre of the Indian Medical Service are being included in the Madras Medical Service and the rules are being amended. Future appointments, etc., to all these posts will be governed by the statutory rules applicable to the Provincial Services concerned.

"Mr. President, this question being long, I have had the answer cyclostyled and copies have been laid on the table of the House for the benefit of hon. Members."

SRI R. SURYANARAYANA RAO:—"May I know what remedy exists for officers now after the 15th August 1947; if they are punished by Government? May I know whether they can submit memorials to His Excellency the Governor or appeal to His Excellency, as they were able to do before that date?"

THE HON. DR. T. S. S. RAJAN:—"I must go into the question and will be able to give an answer a little while later. At present it seems to me that the whole thing is finished with the Provincial Government; but whether an appeal lies and if so, to whom is a matter that has to be investigated and I will be able to give an answer some time later."

Income of religious institutions which are paying contributions to Hindu Religious Endowment Boards.

* 2 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Premier be pleased to state—

(a) the income of the various religious institutions which are paying contributions to the Hindu Religious Endowments Board; and

(b) the amount spent by these institutions for religious and secular education?

THE HON. DR. T. S. S. RAJAN (on behalf of the Hon. the Premier):—" (a) & (b) The collection of statistics for the

[21st February 1948]

entire Presidency involves considerable labour and time. The member's attention is invited to the latest Administration Report of the Hindu Religious Endowments Board. If the information on the points raised is required in respect of any particular district or districts, it will be called for."

Speech made by Mr. Gentle.

* 3 Q.—SRI B. BHIMA RAO: Will the Hon. the Premier be pleased to state—

(a) whether the Government have perused the speech made by the retiring Chief Justice Mr. Gentle on the occasion he bade farewell to the members of the Bar on or about 15th January 1948;

(b) whether there was any interference by the Ministry in the matter of administration of justice by the High Court; and

(c) whether there was any difference between the Ministry and the Chief Justice regarding the method of recruitment to the High Court Bench?

THE HON. DR. T. S. S. RAJAN (on behalf of the Hon. the Premier):—" (a) Yes.

" (b) No.

" (c) No."

SRI B. BHIMA RAO:—"Does not the speech imply that there has been some interference by Ministers or the Ministry in the matter of the administration of justice in the Province?"

THE HON. DR. T. S. S. RAJAN:—"It is not at all true; there is no such thing as that."

SRI B. BHIMA RAO:—"Have the Government perused the recent judgment of the ex-Chief Justice and of another Judge in the matter of the appeal petition of the S.R.V.S. Company *versus* the Government wherein they have observed that Government is interfering with the statutory functions of the Central Traffic Board and the subordinate authorities which are judicial in character?"

THE HON. MR. DANIEL THOMAS:—"I would submit that in the judgment no such thing has been said. The whole question was about the scope and extent of the validity of rule 150 of the Motor Vehicles Rules, under which the Government have taken powers to give instructions to those authorities. It was held after an examination of the whole structure of the Act that rule 150 is not within the powers of the Legislature and an amending Act is being brought in and that is being regularized. It is merely a difference of opinion regarding the construction and the validity and scope of rule 150 which is, in fact, based on the model by-laws given to us by the Central Government."

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SRI B. BHIMA RAO :—“ Have not the High Court laid down that rule 150 is *ultra vires*, invalid and inoperative? ”

(The Hon. Mr. Daniel Thomas rose.)

MR. PRESIDENT :—“ Is the Hon. Minister going to answer the question? I feel that this question does not arise out of the main question. ”

SRI R. SURYANARAYANA RAO :—“ Was there any case in which the High Court objected to Government giving directions to subordinate magistracy? ”

THE HON. DR. T. S. S. RAJAN :—“ As far as we are aware this Government have not been giving any further direction to the magistracy beyond what is legally possible. ”

SRI B. BHIMA RAO :—“ The answer to clause (c) is in the negative; may I know why then the Chief Justice thought it fit to resign though he had elected to serve the full term of ten years? ”

THE HON. DR. T. S. S. RAJAN :—“ I believe the question has to be put to the ex-Chief Justice and not to the Government. ”

Road-rollers owned by the Highways Department.

* 4 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Minister for Public Works be pleased to state—

(a) the number of road-rollers owned by the Highways Department;

(b) how many of them are in working order and how many are under repairs; and

(c) whether the Government have placed orders for road-rollers?

THE HON. SRI M. BHAKTAVATSALAM :—“ (a) The total number of road-rollers owned by the Highways Department is 244.

“ (b) Two hundred road-rollers are in working order and 44 are under repairs.

“ (c) An indent for the supply of 350 road-rollers was placed on the Director-General of Industries and Supply Department, New Delhi, of which 112 numbers have so far been received and the balance of 238 are awaited. ”

SRI P. R. K. SARMA :—“ May I know whether road-rollers have been brought down from Australia? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ I would like to have notice of that question. ”

SRI P. R. K. SARMA :—“ May I know whether road-rollers have been bought from foreign countries to Madras in parts and assembled in the Public Works Department Workshops? ”

[21st February 1948]

THE HON. SRI M. BHAKTAVATSALAM :—“ Again I would like to have notice, Sir. ”

SRI P. R. K. SARMA :—“ May I know whether facilities are available in the Government Public Works Department Workshops, Madras, for the manufacture of road-rollers and their parts? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ I submit, Sir, that this question does not arise out of the present question. ”

Extent of land newly brought under cultivation in the Cauveri-Mettur Project area.

* 5 Q.—SRI K. MANATHUNAINATHA DESIGAR: Will the Hon. the Minister for Public Works be pleased to state—

(a) the extent of land newly brought under cultivation in faslis 1354 and 1355, in the Cauveri-Mettur Project area in Tanjore district;

(b) the amount of subsidy paid in each of those two faslis;

(c) the extent of land, for which subsidy has been paid in faslis 1354 and 1355, that has been cultivated in fasli 1356;

(d) the amount of water charge realized by the Government in 1356 from these lands, and the extent assessed for water charge;

(e) the quantity of paddy procured in that area before 1354 fasli and in faslis 1354, 1355 and 1356; and

(f) whether it is a fact that a large extent, for which subsidy has been paid, has not been cultivated in 1356 and whether the Government will enquire into the reasons for the same?

THE HON. SRI M. BHAKTAVATSALAM :—“ (a) to (f) The answer^a is laid on the table of the house. ”

SRI K. NATARAJAN :—“ In view of the answer to clause (f) (2) may I know whether the Government would consider the desirability of re-introducing the special staff which has been wound up for persuading the cultivators? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ I would suggest that a separate question might be put. ”

SRI K. NATARAJAN :—“ Regarding leases mentioned in the answer to clause (f) (3) will Government consider the desirability of guaranteeing renewal for some further period or of introducing a more stable tenure? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ That is a question relating to revenue and I would like to have notice. ”

Number of evictions of tenants in the City since October 1946.

* 6 Q.—SRI S. B. ADITYAN: Will the Hon. the Minister for Prohibition be pleased to state—

(a) the number of evictions of tenants ordered by the Rent Controllers in Madras City since October 1946 (monthwar);

[21st February 1948]

(b) how many of the above evictions were based on non-payment or non-tender of rent alleged to be due from the tenants;

(c) whether the tenants were given an opportunity in the above cases to pay or tender the rent after the case was brought before the Controller; and if not, why not;

(d) whether it is a fact that evictions of tenants of houses ordered in 1947 were abnormally high in number compared to any average year before the war;

(e) if so, what are the reasons for the abnormality; and

(f) whether the Government have any, and, if so, what proposal to give relief to tenants against landlords who evade receiving rents for the purpose of creating a technical 'default' in payment?

THE HON. MR. DANIEL THOMAS :—

" (a) 1946—			1947—cont.		
October	..	118	June	..	239
November	..	290	July	..	181
December	..	97	August	..	251
1947—			September	..	252
January	..	94	October	..	299
February	..	51	November	..	356
March	..	36	December (up to		
April	..	31	2nd December		
May	..	56	1947)	..	29

" (b) 1946—			1947—cont.		
October	..	62	June	..	196
November	..	175	July	..	106
December	..	54	August	..	209
1947—			September	..	190
January	..	61	October	..	233
February	..	36	November	..	219
March	..	8	December (up to		
April	..	9	2nd December		
May	..	29	1947)	..	14

" (c) No. There is no provision in the Act for such a procedure.

" (d) Yes.

" (e) The reason is due to the fact that a specific provision was made in the new Rent Control Act for eviction of tenants for being in arrears of rent which is not tendered in due time under the Act.

" (f) Yes. The Government propose to make provisions in the Rent Control Act making it obligatory on the landlord to give the tenant a registered notice of default of payment and also for deposit of rent in the Office of the Rent Controller."

SRI S. B. ADITYAN :—" Are Government aware that a good number of tenants are paying illegally increased rents rather than face a legal eviction? "

[21st February 1948]

THE HON. MR. DANIEL THOMAS :—" I think, Sir, tenants have to take moral courage into their hearts and enforce their rights."

SRI S. B. ADITYAN :—" May I know when the amended Bill is expected before the House? "

THE HON. MR. DANIEL THOMAS :—" The Bill has already been drafted and awaits approval of the Committee; after approval, it will be introduced."

SRI R. SURYANARAYANA RAO :—" Before the Bill is introduced, would Government consider the desirability of including a provision in it to give an opportunity to the tenant and the landlord to come to an agreement before the Rent Controller, as was being done when the House Control Order was in force? "

THE HON. MR. DANIEL THOMAS :—" To bring them together every time would be rather difficult."

SRI R. SURYANARAYANA RAO :—" But that provision was working satisfactorily under the House Rent Control Order. If the Hon. Minister has got statistics of cases under the Order, before the Act was passed, he would see how many cases were settled; it is a very healthy provision conducive to better relations between the landlord and tenant."

THE HON. MR. DANIEL THOMAS :—" I will go in detail into the procedure adopted according to the information furnished by the hon. Member in olden times and see if that can be done."

SRI S. B. ADITYAN :—" Now that the Government have admitted that evictions have been abnormal for the year 1947, could the Government consider the desirability of introducing a provision to review eviction which has been ordered for the past one year by the Rent Controller? "

THE HON. MR. DANIEL THOMAS :—" There is a provision in the amending Bill by which a certain retrospective period is fixed for revision to the High Court? "

Grant of cultivable land in the Vizagapatam district.

* 7 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Minister for Land Revenue be pleased to state—

(a) the extent of uncultivated land fit for cultivation in the Vizagapatam district;

(b) whether there is any proposal to grant such lands to Harijan agricultural labourers; and

(c) whether steps are being taken in that direction?

THE HON. SRI KALA VENKATA RAO :—" (a) to (c) The Government have no information but have called for a report."

[21st February 1948]

Tax on palmyra trees on patta lands.

11.15 a.m. * 8 Q.—SRI S. B. ADITYAN: Will the Hon. the Minister for Land Revenue be pleased to state—

(a) whether any tax is levied on palmyra trees standing on patta land;

(b) if so, the rate of the tax;

(c) whether the tax is levied throughout the Province or only in a few districts and, if so, in what districts;

(d) whether the tax is assessed year after year, and, if so, in what manner;

(e) whether the palmyra tax on patta land was part of the last re-settlement in or about 1908 in Tinnevely and Ramnad districts;

(f) if so, whether the tax continues to be collected in respect of trees which have ceased to exist since the date of the re-settlement; and

(g) whether the Government have under consideration the proposal to abolish the tax, as part of land revenue reform?

THE HON. SRI KALA VENKATA RAO :—“(a) to (f) A tax is levied on palmyras standing on lands included in holdings in the Tinnevely district and in the Sattur and Srivilliputtur taluks of the Ramnad district, which originally formed part of the Tinnevely district. For the purposes of the levy, the villages in these areas have been divided into three groups, according to the general quality of the palmyras contained therein and palmyras have been divided into two classes, namely, smooth and rough, according as they are found to be in a condition suitable for being climbed regularly or not. The rates of tax are as follows :—

Area.	Village group.	Rate of tax per tree.	
		Smooth. Pies.	Rough. Pies.
Tinnevely district	I	8	3
	II	6	3
	III	4	2

Sattur and Srivilliputtur taluks of the Ramnad district: There is no village belonging to group I. Same rates for II and III group villages.

At the time of the resettlement of these areas in 1908–1913, all grown palmyras on each field were counted, the assessment due thereon at the rates mentioned above was calculated, rounded to the nearest anna and entered in the patta of the land of pattadar. The assessment so fixed is unalterable during the currency of the re-settlement, even though the number of trees may increase or decrease subsequently.

“(g) Yes.”

SRI S. B. ADITYAN :—“Will Government consider refunding of tax collected in respect of non-existing trees?”

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THE HON. SRI KALA VENKATA RAO :—“I have stated the principle, and I see no reason why it should be refunded. Because it is hard to collect a tax on sandy soil land this system was adopted. When we review the whole question we shall consider this question.”

SRI S. B. ADITYAN :—“Is the revenue derived from this district earmarked for that district for its improvement, or is it treated as part of the general revenue?”

THE HON. SRI KALA VENKATA RAO :—“It forms part of the general revenue as there is no other tax for such lands there.”

Recognition of M.B.B.S. Degree of the Andhra University.

* 9 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Public Health be pleased to state—

(a) whether the M.B.B.S. Degree of the Andhra University has been recognized by the British Medical Council;

(b) if the answer to (a) is in the negative, why such recognition has not been accorded;

(c) whether the British Medical Council insist on fulfilment of certain conditions precedent to such recognition;

(d) whether the Andhra Medical College does not fulfil those conditions, and, if so, why;

(e) whether the provision of a deep X-ray therapy plant is one of the conditions imposed by the British Medical Council; and

(f) whether provision has been made for a deep X-ray therapy plant for the Andhra Medical College in the budget for 1947–48?

THE HON. SRI A. B. SHETTY :—“(a) The answer is in the affirmative.

“(b) This question does not arise in view of the answer to clause (a) above.

“(c) & (d) No information is available on these points.

“(e) No; but this is one of the main deficiencies pointed out by the Inspectors of the Indian Medical Council in 1938.

“(f) The question of providing a deep X-ray apparatus during 1948–49 for the King George Hospital, Vizagapatam, is under consideration.”

SRI R. SURYANARAYANA RAO :—“May I know, Sir, now that budget copies are being distributed, whether any provision is made in the budget for a deep X-ray therapy plant for the Andhra Medical College?”

THE HON. SRI A. B. SHETTY :—“The hon. Member may refer to the budget copy.” (Laughter.)

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SRI B. BHIMA RAO :—“ May I know why no provision has been made for that apparatus in the Vizagapatam Hospital? ”

THE HON. SRI A. B. SHETTY :—“ The question of providing that apparatus is under consideration. The hon. Member may kindly wait for the budget.”

Condition of the Teppakulam tank at Trichinopoly.

* 10 Q.—SRI S. B. ADITYAN : Will the Hon. the Minister for Public Health be pleased to state—

(a) whether the Teppakulam tank at Trichinopoly in its present filthy condition, constitutes a potential danger to public health;

(b) whether any scheme had been prepared for circulating fresh water in the tank and converting it into a place of public attraction;

(c) if so, what are the details of the scheme; and

(d) how soon will the scheme be taken on hand for execution?

THE HON. SRI A. B. SHETTY :—“ (a) Yes.

“ (b) A scheme has been prepared by the Municipal Health Officer.

“ (c) Two alternative remedies have been suggested. One is to construct a closed conduit channel replacing the present open channel and to avoid the tanks through which the present channel runs. The second scheme is to abandon the present inlet channel and source, and to pump up the water from the Cauvery near about the Chintamani Cauvery bridge and to bring in the water through pipes to the Teppakulam along the shortest route from the Cauvery bridge. Both the schemes require detailed investigation.

“ (d) The Teppakulam tank is the property of the Rock Fort Devasthanam. The Municipal Council has agreed to take over the tank under its control with the consent of the Hindu Religious Endowments Board. A draft agreement in this regard is under scrutiny by the Legal Adviser of the Municipal Council. After the execution of the agreement, steps will be taken by the Municipal Council to work out the details of the scheme and to execute it.”

SRI P. R. K. SARMA :—“ May I know whether the Teppakulam tank now serves the object for which it was created? ”

THE HON. SRI A. B. SHETTY :—“ I am not aware of the objects for which it was constructed.” (Laughter.)

SRI P. R. K. SARMA :—“ Will Government undertake a survey of all such ancient tanks in the province so that they may be renovated and repaired? ”

THE HON. DR. T. S. S. RAJAN :—“ The fact is the tank adds to the beauty of the town and whoever devised the tank were very wise people, because the tank adds to the

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amenities of the city. The Rock Fort and the tank together form one of the beauty spots of Trichinopoly, and I am sure it will be maintained.”

SRI S. B. ADITYAN :—“ Is it not possible to keep the beauty spot of the town and at the same time remove the danger to the public health of the city? ”

THE HON. DR. T. S. S. RAJAN :—“ The matter is under examination, as the Hon. Minister informed just now, and as soon as a settlement is being arrived at the whole thing will be looked into and proper sanitary conditions will be restored.”

MR. PRESIDENT :—“ The hon. Member wants the tank to be filled up and the place used as a park.”

SRI S. B. ADITYAN :—“ No, I believe the Hon. Minister mentioned some other scheme.”

THE HON. DR. T. S. S. RAJAN :—“ The scheme is not to close it up. The dispute is between the municipality and the temple which owns it. After an agreement has been reached, steps will be taken to maintain the tank in a sanitary condition.”

SRI P. R. K. SARMA :—“ May I know, Sir, whether the tank is a religious institution or a secular institution? ” (Laughter.)

THE HON. DR. T. S. S. RAJAN :—“ It does not matter what the nature of the institution is as long as it adds to the beauty of the town.” (Laughter.)

SRI S. B. ADITYAN :—“ Has the municipality funds to carry out the scheme? ”

THE HON. DR. T. S. S. RAJAN :—“ Evidently they have funds; otherwise they would not have entered into agreement with the Endowments Board.”

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—ELECTION OF MEMBERS TO THE HOUSE COMMITTEE.

MR. PRESIDENT :—“ I have to announce to the House that the following candidates were nominated for election to the House Committee :—

- (1) Sri B. Bhima Rao.
- (2) Sri H. M. Jagannatham.
- (3) Dr. Syed Tajuddin Sahib.
- (4) Sri L. Subbarama Reddi.
- (5) Mrs. Mona Hensman.
- (6) Sri C. Perumalswami Reddiyar.
- (7) Mrs. M. N. Clubwala.

Sri L. Subbarama Reddi has since withdrawn his candidature. As the number of candidates now remaining is equal to the number of vacancies to be filled, namely, six, I hereby declare them to have been duly elected to the House Committee.

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“ In addition to the above, under rule 143 of the Madras Council Rules I nominate the following two members to be members of the said Committee :—

- (1) Sri M. K. Sundararama Ayyar.
- (2) Sri C. Veerabhadra Rao.”

III.—MESSAGES FROM THE ASSEMBLY.

MR. PRESIDENT :—“ I have to announce to the House the following messages, dated the 30th January 1948, received by me from the Hon. the Speaker of the Madras Legislative Assembly :—

(1) I transmit a copy of the following motion passed to-day by the Madras Legislative Assembly concurring with the Madras Legislative Council in setting up a Joint Select Committee of both the Chambers to consider the Madras Aliyasanthana Bill, 1947 :—

‘ That this House concurs in setting up a Joint Select Committee of the two Houses consisting of 12 members (8 members from the Assembly and 4 members from the Council) to consider the Madras Aliyasanthana Bill, 1947, and that the following members of this House be nominated to the said Joint Select Committee :—

- (1) The Hon. Dr. P. Subbarayan.
- (2) The Hon. Sri A. B. Shetty.
- (3) Sri K. R. Karanth.
- (4) Dr. U. P. Mallayya.
- (5) Mr. L. C. Pais.
- (6) Mr. H. S. Hussain Sahib.
- (7) Sri K. Ishwara.
- (8) Sri M. P. Govinda Menon.’

(2) I transmit a copy of following motion passed to-day by the Madras Legislative Assembly concurring with the Madras Legislative Council in setting up a Joint Select Committee of both the Chambers to consider the Madras Weights and Measures Bill, 1947 :—

‘ That this House concurs in setting up a Joint Select Committee of the two Houses consisting of 21 members (14 members from the Assembly and 7 members from the Council) to consider the Madras Weights and Measures Bill, 1947, and that the following members of this House be nominated to the said Joint Select Committee :—

- (1) The Hon. Dr. P. Subbarayan.
- (2) Sri N. S. Varadachari.
- (3) Sri Guntur Narasimha Rao.
- (4) Sri C. M. Kothari.
- (5) Mr. M. A. Majid Sahib.
- (6) Sinna Kaziar Haji Moulvi S. A. F. Ibrahim Sahib Bahadur.
- (7) Sri B. Parameswaran.
- (8) The Hon. Sri H. Sitarama Reddi.
- (9) Mr. B. W. Batchelor.

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- (10) Sri N. M. R. Subbaraman.
- (11) Mrs. Ammanna Raja.
- (12) Sri Salem Subramaniam.
- (13) Mr. A. K. Khader Kutty Sahib.
- (14) Sri M. P. Damodaran.

(3) In accordance with rule 111 (2) of the Madras Assembly Rules, I transmit a copy of the motion passed to-day by the Madras Legislative Assembly, desiring to obtain the concurrence of the Council in setting up a Joint Select Committee of both the Houses consisting of 18 members to consider the Madras Re-enacting and Repealing (No. I) Bill, 1948 :—

‘ That under rule 111 of the Madras Assembly Rules, the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of 18 members to consider the Bill, 12 members from the Assembly and 6 members from the Council.’

“ I have to announce to the House the following message, dated the 17th February 1948, received by me from the Hon. the Speaker of the Madras Legislative Assembly :—

In accordance with rule 111 (2) of the Madras Assembly Rules, I transmit a copy of the motion passed to-day by the Madras Legislative Assembly, desiring to obtain the concurrence of the Council in setting up a Joint Select Committee of the two Houses to consider the Madras Agriculturists' Relief (Amendment) Bill, 1947 :—

‘ That, under rule 111 (2) of the Madras Assembly Rules, the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of 18 members to consider the Bill, 12 members from the Assembly and 6 members from the Council.’

“ I have to announce to the House the following message, dated the 18th February 1948, received by me from the Hon. the Speaker of the Madras Legislative Assembly :—

(1) In accordance with rule 111 (2) of the Madras Assembly Rules, I transmit a copy of the motion passed to-day by the Madras Legislative Assembly, desiring to obtain the concurrence of the Council in setting up a Joint Select Committee of the two Houses to consider the Madras Re-enacting and Repealing (No. II) Bill, 1948 :—

‘ That, under rule 111 (2) of the Madras Assembly Rules, the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of 18 members to consider the Bill, 12 members from the Assembly and 6 members from the Council.’

(2) In accordance with rule 94 of the Madras Assembly Rules, I transmit a copy of the Madras Suppression of Disturbances Bill, 1947 (L.A. Bill No. 5 of 1948) as passed by the Assembly on the 18th February 1948 and signed by me for the concurrence of the Council.

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MESSAGES FROM HIS EXCELLENCY THE GOVERNOR.

"I have to announce to the House the following message, dated the 29th January 1948, from His Excellency the Governor:—

'In pursuance of section 82, sub-section (3) of the Government of India Act, 1935, I, Archibald Edward Nye, Governor of Madras, hereby recommend to the Madras Legislative Council, the consideration of the Madras Weights and Measures Bill, 1947.'

"I have to announce to the House the following message, dated the 26th January 1948, from His Excellency the Governor:—

'In pursuance of section 82, sub-section (3) of the Government of India Act, 1935, I, Archibald Edward Nye, Governor of Madras, hereby recommend to the Madras Legislative Council the consideration of the Madras Re-enacting and Repealing (No. I) Bill, 1947.'

"I have to announce to the House the following message, dated the 10th February 1948, from His Excellency the Governor:—

'In pursuance of section 82, sub-section (3) of the Government of India Act, 1935, I, Archibald Edward Nye, Governor of Madras, hereby recommend to the Madras Legislative Council the consideration of the Madras Re-enacting and Repealing (No. II) Bill, 1948.'

IV.—GOVERNMENT BILLS.

(1) THE MADRAS ALIYASANTHANA BILL, 1947 (L.C. BILL NO. 1 OF 1948).

* THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I move—

'that the following four members of this House be nominated to the Joint Select Committee appointed to consider the Madras Aliyasanthana Bill, 1947 (L.C. No. 1 of 1948):—

- (1) Sri D. Manjaya Hegde.
- (2) Sri R. Suryanarayana Rao.
- (3) Sri M. Narayana Menon.
- (4) The Mover (the Hon. Sri K. Madhava Menon).'

"Sir, the Bill was introduced in this House, and this House passed a resolution requesting the Assembly to concur in the setting up of a Joint Select Committee. The Assembly has selected its members and it has now come to this House for the selection of the members."

The motion was put and carried.

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(2) THE MADRAS WEIGHTS AND MEASURES BILL, 1947
(L.C. BILL NO. 2 OF 1948).

* THE HON. SRI K. MADHAVA MENON:—"Sir, I move—
'that the following seven members of this House be nominated to the joint select committee appointed to consider the Madras Weights and Measures Bill, 1947 (L.C. Bill No. 2 of 1948):—

- (1) Sri M. Sudarsanam.
- (2) Sri K. Venkataswami Nayudu.
- (3) Mrs. Mona Hensman.
- (4) Mr. K. T. M. Ahmed Ibrahim Sahib.
- (5) Sri N. Venkatachalamaji.
- (6) Sri M. K. Sundararama Ayyar.
- (7) The Mover (the Hon. Sri K. Madhava Menon).'

"Sir, this Bill also was first introduced in this House, and on a motion from this House to the Assembly, the Assembly has selected its members for the select committee.

"Sir, I have tried as far as possible to select in a measure dealing with the standardization of weights and measures only those who are in business to be on the select committee."

MR. PRESIDENT:—"You have taken into consideration the weight of members!" (Laughter.)

The motion was put and carried.

(3) THE MADRAS SUPPRESSION OF DISTURBANCES BILL, ^a 1947
(L.A. BILL NO. 5 OF 1948).

11-30
a.m.

* THE HON. SRI K. MADHAVA MENON:—"Sir, I have got the permission of the Hon. Dr. P. Subbarayan to move the Bill on his behalf. I move—

'that the Madras Suppression of Disturbances Bill,^a 1947, as passed by the Legislative Assembly be taken into consideration at once.'

We are living in unusual times. The tragic happenings in the North after August 15th, have made it necessary for every Provincial Government in India to take certain special powers to deal with emergent situations. In view of the disturbances in other parts of the country which have led to considerable loss of life and property, this Government consider it essential to arm themselves in advance with power to suppress any disturbances with the utmost promptitude. The Bill received almost unanimous support from the other House in spite of its drastic nature. Some papers have said to-day that the Bill, though alarming, is necessary. It is not at all our intention that we will have occasion to use it. Luckily for this province, there has not been much of that trouble which disfigured the northern part of our country. Recently

^a Printed as Appendix II on page 112-113 infra.

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we have had certain warnings that we should be very careful and arm ourselves with sufficient powers to meet any unforeseen contingencies. On the 30th of January, there was communal disturbance in Tiruvannamalai which led to severe loss of property. This and similar unfortunate happenings in Erode, Rajapalayam, and Edapalayam are a pointer that we should be very careful in the present circumstances. This Bill was published in November last year but the Government thought that there would not be any necessity for it. But we have found from experience that it is better to be armed with powers to prevent mischief, as prevention is better than cure. Drastic diseases require drastic remedies. Certain offences committed in the course of disturbances, which are not punishable with death in normal times, are sought to be punished with death. The offences are dealt with in sections 307, 363 to 368, 376, 392, 394, 395, 397, 398 and 436 of the Indian Penal Code. They are attempt to murder, kidnapping or abducting in order to murder, kidnapping or abducting with intent secretly and wrongfully to confine person, kidnapping or abducting woman to compel her marriage, etc., kidnapping or abducting in order to subject person to grievous hurt, slavery, etc., wrongfully concealing or keeping in confinement kidnapped or abducted person, rape, robbery, voluntarily causing hurt in committing robbery, dacoity, robbery or dacoity with attempt to cause death or grievous hurt, attempt to commit robbery or dacoity when armed with deadly weapon, and mischief by fire or explosive substance with intent to destroy house, etc. We find in the papers appeals by leaders to surrender kidnapped or abducted persons. The punishment provided in the normal law may not be a sufficient deterrent and unless more drastic punishments are provided the consequences will be serious. Let us hope that there may not be any occasion to use the powers sought under this Bill; but if the need arises—God forbid—let us not be taken unawares. That is the object of the Bill. It is a small Bill with six clauses and no further elucidation is necessary. The Bill as introduced in the Assembly gave power to order the opening of fire or even causing death to any police officer not below the rank of head constable. Later on it was changed into any police officer not below the rank of Sub-Inspector of Police.

“I hope the House will give its support to the Bill.”

* SRI R. SURYANARAYANA RAO :—“ Mr. President, Sir, I am sure the House feels that it is labouring under a disadvantage due to the absence of the Hon. Home Minister who piloted the Bill in the other House. Whatever may be the equipment of Hon. the Minister in charge of the Bill for piloting a Bill of this sort, I am sure the presence of the Hon. Minister would have enabled us to know what the necessity for this Bill is. First of all, I would like to be convinced as to how far the existing laws have proved inadequate to meet situations of the kind envisaged to be dealt with in this Bill. The provisions of this Bill come into effect only after an area is declared a disturbed area. Unless the Government declare the whole Province as a disturbed area, the provisions cannot

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come into effect immediately throughout the province. After a disturbance takes place, after mischief is done, an area is declared a disturbed area. So far as offences committed before the declaration of an area as a disturbed area are concerned, I do not think this enactment will serve the purpose for which the Government intend this Bill to serve. The Bill says that for certain offences committed in a disturbed area, the punishment will be different from the punishment provided for in the existing law. If the Government really feel that they have not got sufficient power to prevent disturbances, I do not think this Bill will enable them to obtain such powers in spite of awarding the extreme punishment of death for offences referred to in section 4.

“I take strong objection to section 5. It says:

‘Any Magistrate, and any Police Officer not below the rank of Sub-Inspector, may, if in his opinion it is necessary so to do for restoring or maintaining public order, after giving such warning, if any . . .’

Under the present laws, the police are required to give previous warning to the public before fire is ordered to be opened and certain other preliminaries have to be gone through. As I read the section, they will not be bound to give any warning in future. Evidently this provision is intended to do away with those preliminaries.

“Again, section 5 begins with the words ‘Any Magistrate, and any police officer not below the rank of ‘Sub-Inspector’ and continues ‘after giving such warning, if any, as he may consider necessary . . .’ There are two officers, a magistrate and a police officer, and I do not know to whom the word ‘he’ refers. Does it refer to the magistrate or the police officer or both? It may be that they both must consult each other and then issue an order to open fire.”

MR. PRESIDENT :—“ ‘and’ means ‘or’. Is it correct, Mr. Madhava Menon? ”

THE HON. SRI K. MADHAVA MENON :—“ Yes, Sir.”

SRI R. SURYANARAYANA RAO :—“ It may be but I am not sure whether ‘and’ can ever mean ‘or’ and ‘or’ can be read for ‘and’.

“About the use of fire arms, in the year 1921, the Rt. Hon. V. S. Srinivasa Sastri moved a resolution in the old Imperial Legislative Assembly because at that time firing was resorted to very frequently often indiscriminately without least provocation and without taking proper precautions. The conditions that he then stipulated were as follows :—

‘(i) No fire-arms should be used except on the written authority of a magistrate of the highest class that may be available on the spot;

(ii) in cases of grave emergency when no magistrate is available in the neighbourhood, the chief police or military officer present on the spot may, if he considers that the riot or unlawful assembly

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cannot be suppressed otherwise, employ fire-arms; but the onus of proving the emergency and the impossibility of securing the presence of a magistrate within the proper time shall lie on the officer so acting;

(iii) before resorting to fire-arms, the magistrate or other civil or military officer responsible shall read or cause to be read a proclamation both in English and in the local vernacular similar to that contained in the English Riot Act;

(iv) fire-arms shall not be used for one hour after such proclamation has been read unless in the meantime, the assembly or crowd actually causes serious damage to person or property;

(v) before the crowd is actually fired upon, the fullest warning shall be given;

(vi) the magistrate or other civil or military officer responsible shall take all reasonable precautions to see that no more injury is inflicted on the crowd or assembly than is absolutely necessary;

(vii) the sanction of the 'Governor-General-in-Council (Here I would like to substitute the words 'Provincial Government' for the word 'Governor-General-in-Council' should not be a condition precedent to the institution of a criminal prosecution against officers or other persons who have acted illegally in the suppression of riots; and

(viii) every such prosecution shall be instituted in and triable by the Sessions Court having territorial jurisdiction, with the previous leave of such court or the High Court of the Province.'

11-45 a.m. "These were the conditions urged to be adopted before firing was restored to in the year 1921. We are now in the year 1948 and also we are supposed to have attained independence. Now the Government want to give powers to Police officers to use fire-arms without giving fullest warning and also without providing the necessary safeguards for those affected by it, to seek remedy after the use of fire-arms by introducing clause 6 in this Bill. I think the whole of clauses 5 and 6 simply place the ordinary citizen at the mercy of the police. Is it wise for the Government, however panicky they might have become, to give such wide powers to the police without affording any scope for the citizen to seek redress, if the power is misused by the police officer?

"Then Sir, I feel that clauses 5 and 6 are retrograde, undemocratic and unworthy to be brought forward by a popular Government for the sanction of the legislature. They take away the valuable right of a citizen to seek redress in a court of law when a police officer commits a grave mistake in firing at an armed or unarmed crowd, without sufficient provocation and without giving due warning which is required to be given under the police orders. At present a certain procedure has to be adopted before firing is resorted to by the police. Under this Act no such procedure need be adopted. I feel very diffident to subscribe to a proposition of the kind contained in clause 5 of the Bill. I would not say that

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every police officer would misuse his powers deliberately, but if anyone does so, I would not deprive the legitimate right of a citizen to seek his remedy by instituting legal proceedings.

"Then Sir, as I have already stated, clause 6 gives protection to the police officer who misuses the power given under clause 5. Instead of protecting the citizen against the misuse of the power, it is sought to protect the person who misuses the power. I do not think I can be a party to this Bill as it stands and I do not think, Sir, that the Government really needs these powers. As I said at the beginning unfortunately the hon. Minister in charge of the Bill is not here to disclose to us what difficulties he has experienced to maintain law and order and to keep peace with the help of the existing laws and with the help of the existing police, armed with the powers that are already contained in the various codes and statutes. In the absence of this information, I hesitate to say this Bill is necessary; and even if it is passed, I do not think it will be used in practice, because action has to be taken only after an area has become disturbed and only after declaring it to be a disturbed area. To empower the police officers to use fire-arms and kill persons, without affording the valuable privilege to the citizen to seek redress against any misuse of that power appears to me unjust and improper. I do not think I can subscribe to a legislation of this sort and I, therefore, oppose it, Sir."

SRI B. NARAYANASWAMI NAYUDU:—"Mr. President, Sir, we have got before us a number of hon. Members who are lawyers. The hon. Member from Bellary, the hon. Member from Anantapur, and the hon. Member from Tanjore are all lawyers. My hon. Friend representing the Indian Christian constituency is also an advocate. The hon. Minister who piloted this Bill is himself a lawyer and the hon. Minister in charge of the Bill is also an advocate and I dare say they have not realised the full implications of this Bill, and especially clause 5 of the Bill. I am not at present concerned with clause 4 at all, or for that matter any other clauses of the Bill, except clause 5. Clause 4 makes certain offences punishable with death. The man who commits the offence under this clause goes before a court of law. He is alive and evidence is let in before the court and the court decides whether he is to be punished with imprisonment or death. Here, there is no interference with the jurisdiction of the court by the Government.

"But that is not the case with clause 5. I ask the Government, what is their policy in regard to these Government Bills? Have they got different policies for different Bills? Have they got one policy for vital and important Bills and another for non-vital and non-essential Bills? Which are the Bills which are referred to the Select Committee and which are not? Is this Bill vital or not? With regard to the Weights and Measures Bill, which is after all a routine and non-essential Bill, there was a Select Committee consisting of seven members from this House and fifteen members from the other House constituted to consider it. There were ever-so-many other unimportant and non-essential

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Bills which were referred to Joint Select Committees consisting of 15 and 30 members of both Houses. In a matter of this kind, where the lives of men can be taken, when men can be shot dead or hanged, there is no Select Committee to examine and consider the various clauses of the Bill. The Government simply want to rush through the Bill. The Bill was not even placed on the table of the House. Is it the policy of the Government to constitute Select Committees only for non-essential Bills and not for what may be called vital Bills? This is a Bill affecting all parties. It is going to affect not only our party, but every individual and every citizen in the Presidency. Is it not your duty to take members of all parties into confidence and see how far they are agreeable to a measure like this? That is my criticism and that is my protest, so far the procedure adopted for passing this Bill is concerned.

"Now Sir, take section 5. What does it say? It says:

'Any Magistrate and any Police Officer not below the rank of head constable, may, if in his opinion it is necessary so to do for restoring or maintaining public order, after giving such warning, if any, as he may consider necessary, fire upon, or otherwise use force, even to the causing of death, against, any person who in a disturbed area is acting in contravention of any law or order for the time being in force in such area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons.'

"It makes no mention about the jurisdiction of the Magistrate. Any Magistrate sitting at Madras or Chingleput can order fire to be opened against a crowd in Madura or Tinnevely. Is that the idea? I ask the Minister in charge, what does he mean by it? Is it any Magistrate or any Police officer that is given the power to shoot, or is it the Magistrate or Police officer having jurisdiction in the matter and having jurisdiction over the territory alone that can resort to firing? I pause for a reply. (There was no reply.) (An hon. Member: 'No reply will be given.') No reply will be given! Yes, it will be given in due time. I say, Sir, it is wrong. If the Government say that that is not the intention, then I shall abide by it. But the clause as it stands, does not say that. It gives power, as if the Saidapet Magistrate can fire or give orders to fire the citizens in Tuticorin, if in his opinion, they cause disturbance to public peace. It is quite wrong. You should withdraw that clause altogether. I should like to be enlightened, if that is the idea.

"Then the clause says, 'Any Magistrate and any Police Officer . . .' It does not say whether it is a First-class Magistrate, or a third-class magistrate or an honorary magistrate. May I ask the Hon. Minister a plain question? Can an honorary magistrate use the power? Please answer me. (No reply.) I ask, even without reading the section, can a third-class magistrate or an honorary magistrate give orders to shoot? Then what is the use of consulting a magistrate? What is the use of giving a warning? Who is to order the police to fire and what is the magistrate for? The whole clause is wrong.

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"Then again, Sir, the clause says, that if a man goes in a street with a stick in his hand, which is a prohibited area, he can be shot dead, by any Magistrate or Police officer. Is that the intention of the section? If that is so, I shall not be a party to the passing of this measure. I say, it is most criminal; it is ignominious.

"Then, what is the definition that is given to the term 'weapon'? What is it that he must not carry in the street? Can he not carry even a stick? If there is an order saying that no man should carry a stick, and if a man carries a stick for helping himself to walk, according to this section, he can be shot dead. I hope that is not the intention.

"Then again, if five or more persons walk along the street in a disturbed area, they form an unlawful assembly and they come within the mischief of the law. The next thing prohibited is, that they must not carry any weapon, or anything which is capable of being used as a weapon. Has this clause been really considered and thought out? I say, Sir, the consequences of this Bill have not been thought out.

"If you say that you are not going to use this Bill at all, then why do you want to pass this Bill? I cannot suppress my feelings in this matter. How are you going to work this legislation? My hon. Friend said that it is undemocratic. I say, it is not only undemocratic, but it is a foolish Bill.

"Therefore, Sir, my submission is that it is criminal—I am deliberately using that word and have no desire to provoke you—but this is my feeling in this matter—it is criminal on your part to pass a legislation like this. People will curse you for this Bill and I shall certainly not vote for it, but shall oppose it tooth and nail."

* DR. V. K. JOHN :—"Mr. President, Sir, I am deeply in sympathy with the Government taking powers to maintain order in disturbed area and I think they should be armed with sufficient power to maintain peace and order when an area is disturbed. We know very well that any area might be disturbed at any time in these abnormal times. I have not the slightest objection to the provision in clause 4, which provides that any man who commits an offence under this clause, may, in lieu of the punishment to which he is liable under the Indian Penal Code, be punished with death, for attempt to murder, abduct, or rape or arson or commit other offences covered by this section. The jurisdiction of the court is not excluded and it is for the Court to decide whether in a particular case, a person should be punished with death or let off with a lesser punishment. I do not think that anybody can seriously object to such a provision being made in clause 4, but it must be said that clause 4, which merely provides for punishment by death, is not sufficient to maintain order in a disturbed area and that something more is required. But, Sir, if you read carefully, clause 5 of the Bill, you will find that any police officer, not below the rank of a police sub-inspector may open fire. I do not think, Sir, that is necessary at all to make a provision under

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which a police officer can shoot a man to death, if in his opinion, the man is carrying a weapon or is a member of an unlawful assembly. Even the wording here is unfortunate. It says: 'After giving such warning, if any, as may be considered necessary . . . I am not quite sure whether the warning is required. The words 'if any' are there. Is he bound to give a warning or not? The words, 'if any' show that he is not bound to give a warning. He can shoot down men if in his opinion it is necessary to do so for maintaining public order. I think this is a very large power to be reserved for Government, for Ministers and for higher officers or magistrates. This power is not to be conferred on police officers about whom we cannot be quite sure whether they will exercise that power with justice or correctness. Therefore, it would be quite sufficient to make a provision conferring this power on magistrates, whether they be first-class, or second-class or even third-class. He should order the police to open fire. I do not see why in a piece of legislation like this, we must do the extraordinary act of allowing a sub-inspector of police to decide for himself whether a man is carrying a weapon, whether he is a member of an unlawful assembly, and, in the interests of preserving order whether that man should be shot down. I think the purport of this legislation is in clause 5 and not in clause 4. Although clause 4 is there, the legislation substantially is to the effect that power is conferred on a sub-inspector of police under clause 5 to order the opening of fire when he considers it necessary, even without a warning, and kill men. If that clause stood alone, it would look very atrocious that a Legislature should pass such a Bill. I want to put this Bill in its correct perspective. It is provided that Government could declare an area as a disturbed area, and then any police inspector can shoot down a man or use any force against him and kill him, if in his opinion he considers it necessary to do so. Sir, this is very extraordinary. This is worse than declaring an area as a 'Martial law' area. Even in a Martial law area; it is a senior officer who can act, and we can expect that he would act in accordance with justice which the situation demands. You give unlimited powers to a police officer of the rank of a sub-inspector first to decide for himself whether there is a case to shoot down a man, and then shoot him down without any liability whatsoever. Particularly when he can easily get a general order from the magistrate, if desired. Now, without any order, whether the magistrate is near him, or far away from him, a sub-inspector of police can decide for himself whether it is necessary to shoot a man down. That is a most extravagant power that can be given by the Legislature to a sub-inspector of police. We have to look at this piece of legislation with some detachment. I do not have the slightest objection to investing power on a popular Government to decide for themselves whether a particular area is a disturbed area or not, because we have every confidence in them, that they will not declare unnecessarily an area as a disturbed area. I have no objection to the magistrate taking a decision on the spot before he asks the police to order the shooting down of men. (Interruption.) I have no objection to the

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magistrate after taking a decision, to order the police to open fire in a disturbed area in order to maintain order. But I certainly have very serious objection to a police sub-inspector deciding for himself and then opening fire on people. I have no doubt that many members of this House, although they may be unable to vote with me, will find this a most extravagant piece of legislation which confers power on a sub-inspector of police to decide for himself and then shoot down men without any liability.

"Sir, clause 6 provides 'no prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Provincial Government, against any person in respect of anything done or purporting to be done in exercise of the powers conferred by section 5.' Even the words which we usually find in clauses like this 'in good faith' we do not find here. He need not shoot in good faith. He is only purporting to act under this Bill, in exercise of the powers conferred on him under this Bill. The powers conferred on him are that he should decide for himself without consulting anybody and, without even taking orders from the magistrate, shoot down men in a disturbed area most unjustly. Who can say that he did not purport to act in exercise of the powers conferred on him by clause 5? The power to decide for himself is there. Sir, this is a most atrocious piece of legislation for a democratic Government and this Council to pass. As far as the Government are concerned, they must take ample power to keep order and maintain order in a disturbed area, particularly at this time. I know that the Government will act equitably and justly, because I have every confidence in them. But, it will be atrocious if sub-inspector of police in a disturbed area should shoot down anybody out of private malice or so. Why cannot they take permission from magistrates even third-class magistrates? I am quite sure that this Bill is going to be passed into law. I ask the Hon. Minister concerned to see that the words 'Police Officer' are omitted from clause 5 and the words 'in good faith,' are inserted in clause 6. Then every member of the public will co-operate with Government in enabling the Government to maintain order in a disturbed area. I hope my appeal will have some effect on the Hon. Ministers who are present here and who are not present here."

* SRI N. RANGA REDDI :—"Mr. President, Sir, while not subscribing to the arguments that have been advanced by the previous speaker, I submit for the consideration of this House that there are some difficulties in enacting a legislation of this sort. The difficulties that have been mentioned by my hon. Friends arise only after a portion of this province or the whole province has been declared to be in a disturbed state. Therefore, the first thing that has to be taken into consideration is whether the Government have taken sufficient precautions and whether the Government have given sufficient indications in this Bill to say whether a particular area is a disturbed area or not. My submission to this House is that the phrase 'disturbed area' has not been defined and it has

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been left to the sweet will and pleasure of the Provincial Government that is actually administering the affairs of the province to decide that. I know, Sir, from actual experience that some of the enactments which have been put on the Statute Book with the very best of intentions have been prostituted and for purposes other than those for which they were originally intended. I may invite the attention of this Hon. House to an enactment which has been placed on the Statute Book as early as 1861 (Central Act V of 1861) which is meant to prevent disorders in the province or in any part of India. Under the Act of 1861, power can be taken by Government under section 15 of the Act to impose punitive taxes on the inhabitants of an area which is considered to be in a dangerous or disturbed state. The term that has been used is:—

'It shall be lawful for the Provincial Government, by proclamation to be notified in the Official Gazette, and in such other manner as the Provincial Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.'

Unfortunately even in that enactment, no definition has been given of the phrase 'disturbed area'. In the same way, in this Bill also, there is no definition of the phrase 'disturbed area'. I fully realize the difficulties that have been mentioned by the Hon. Minister who introduced this Bill. I know the happenings in North India. We are really fortunate that we are not witnessing such things in the South. I hope that we shall not witness such things in the South. I cannot appreciate the argument of my hon. Friend Mr. Suryanarayana Rao who says that there is not much advantage in forging a legislation of this sort, because it can only come into force after an area can be declared as a disturbed area, and after some tragic happenings have taken place. We know such happenings can take place. It is not necessary that such happenings should actually take place for the introduction of this measure. If this Bill is intended to prevent such tragic happenings in Northern India, I have not the least objection. My objection is, when once this Act is placed on the Statute Book, it will be very difficult to resist the temptation, and it will be very difficult to overlook the recommendations of the local officials that a particular area is a disturbed area. Thereupon, the powers given to the magistrates and police officers will follow. Therefore, my submission to Government is, before declaring an area as a disturbed area, as much attention as possible should be given to the subject.

12-15 p.m. "It should not be done only on the recommendation of the local officials. Even now, under the District Police Act, they can levy a punitive tax. So, We shall consider what area should be notified as a disturbed area and then ask the inhabitants to pay the tax and thus make them responsible for breaking the peace. If the procedure as is stated in the Bill is to be followed, then, there will not be much safety either to the life of citizens or for their property."

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DR. V. K. JOHN :—" Anyhow you are going to vote for the Bill."

SRI N. RANGA REDDI :—" My hon. Friend need not put the question to me whether I am going to vote for the Bill or not. I am only bringing for the consideration of this House certain practical difficulties which would be experienced." (Interruption by Dr. V. K. John.)

MR. PRESIDENT :—" We would ask the hon. Member to wait and see."

SRI N. RANGA REDDI :—" What I submit is that there is safety for the public. I may also submit that if this enactment is for a limited duration as mentioned in section 3, there is no difficulty. As I said when the Act is to be applied, if the disturbed area is to be notified by the Provincial Government under these provisions, there will be no difficulty. But if this power of notifying is to be left to Police officials, there, there will be much difficulty, because, there are various places in this Presidency where factious fights take place and they take place for a long time and in some cases for a number of years. If they say under the Police Act, that it is a disturbed area and if the Police Officer or Magistrate who is there is going to shoot all the people in that village, then there is great danger. I therefore submit for the consideration of the Hon. the Minister that as few a number of officials as possible should be invested with this power under this Act. Great care should be taken in the Selection of these Police Officers and Magistrates who should exercise this power, in the particular area described as a disturbed area.

" Then, Sir, there is another difficulty and it has also been expressed by my hon. Friend, Mr. Narayanaswami Naidu, and that is with regard to the definition of the word " Magistrate." If you look into the definition of the word in the Criminal Procedure Code you will find that there two kinds of Magistrates. The House also is aware that there are two kinds of Magistrates, one the salaried Magistrates and the other, the non-salaried or the honorary Magistrates. There are also what are called Honorary Bench Magistrates who function only as such; there are also Magistrates who act individually. The point to be considered is whether the honorary Magistrates should be invested with this power. As mentioned by my hon. Friend, Dr. V. K. John, this power may be used by some to satisfy their own private grudge. I need not actually bring instances before the House to show how some Police officials misuse their powers for satisfying their own private grudge against certain individuals. Of course, the only consideration is that there is section 6 which says that only with previous sanction of the Government, a prosecution or suit or legal proceedings can be instituted. When a man has been shot down and when that man is dead and gone, can we bring him back? His family may get some compensation. But, the Police official has misused the power. what is the use? Therefore, I submit that I do not entirely agree with the arguments that have been advanced by my hon. Friend. I would say that

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before the Provincial Government takes action under this section 5. to notify any particular area as a disturbed area, they should be very cautious and very circumspect. They should not declare or notify any particular area as a disturbed area without taking both the Houses of the Legislature into confidence. They should constitute a Committee of both Houses to decide whether a particular area ought to be declared a disturbed area or not."

MR. PRESIDENT:—"I find a number of hon. Members eager to speak on this Bill. I request for permission of the House to leave now. I may be absent on Monday also on account of some domestic, personal inconvenience. I hope the House will pardon my absence. The Deputy President will act in my place."

(The Deputy President then occupied the Chair.)

SRI B. BHIMA RAO:—"Sir, I want to say a few words with regard to this measure."

(Some hon. Members: "Please speak on the mike.")

SRI B. BHIMA RAO:—"My voice is audible and so, I thought it was not necessary for me to use the mike."

THE HON. DR. T. S. S. RAJAN:—"When the mike is there, the hon. Member may use it."

SRI B. BHIMA RAO:—"Yes, Sir. If at all any district will be affected by this measure, I think, Sir, it would be first applied to my district, Bellary, and then probably the District of Kurnool and then probably the district represented by my hon. Friend, Mr. Narayanaswami Naidu. So, Sir, it is necessary to ponder over the provisions of this Act very carefully before we lend our support to this measure. Sir, in the first place, there is this punishment of death which is provided for in section 4 of this Bill. It is really a very drastic sentence to be imposed. There have been cases, Sir, which I may quote in this House in which similar provisions obtained and were exercised during the disturbances of 1942. I may quote the case of one who was Public Prosecutor in Anantapur District. On a certain day in August 1942, that gentleman had made a speech in the local Ceded Districts College presided over by the then District Magistrate who is now one of the Secretaries to Government. He was suspected of having said something like setting fire or burning of house. The next day he was arrested. Then there was similar provision for imposing sentence of death. That gentleman had to stand prosecution and was fortunately acquitted by a really very good judge. The Jurors also who were good returned a verdict of 'not guilty'. In spite of all these, that gentleman was interned for a number of years till he was finally released. The release took place in 1945 and he was re-instated. Before 1942, he was a Public Prosecutor and now also he is. That instance shows, how such a provision will be misused and how innocent persons may be implicated. This is a very drastic sentence put in legislation like this. After all, even when abnormal conditions prevailed, this sentence of death has been looked down upon by all the civilized nations; civilized nations

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are now doing away with this capital punishment. At this time, after we have achieved Independence, to introduce this punishment in this measure, is against all canons of civilization.

"Then, Sir, coming to the provision in section 5, it says:

'Any Magistrate, and any Police Officer now below the rank of a Sub-Inspector, may, if in his opinion it is necessary so to do . . . etc., etc.'

"The word 'and' implies that there should be a combination of the Magistrate and Police Officer. If such a combination is intended, then there is no necessity to say in the second line, 'if in his opinion'. So, I believe, 'any Magistrate or any Police Officer' would have been all right. I do not know what learned Dr. Subbarayan might say in defence of the Police. I have not got such confidence in the Police as he seems to have. It is very strange that a Police Officer of the rank of Sub-Inspector should be invested with such drastic power as are contained in section 5 of this measure. You may also note that this clause covers all people who are about to commit any offences enumerated in section 4 of this measure. Some of those hon. Members who are lawyers might know what it means. It says that whoever in a disturbed area attempts to commit, or abets the commission of any offence punishable under any section of the Indian Penal Code, referred to in sub-section (1) namely, murder, abduction, rape, robbery, etc., may be fired upon. It means that anybody about to commit any of these offences may be shot. I can understand a magistrate being invested with these powers. But section 5 is quite general. The Sub-Inspector in a disturbed area in a district may not be acquainted with local conditions. For instance, there are obstructions caused by some Brahmins to Harijan processions in spite of all the measures that we enacted. There are obstructions caused to the passage of processions by Harijans. Especially in the village of our Hon. Minister, Sri Sitharama Reddi, there was a disturbance caused like that. In another village, obstructions is caused not by Brahmins, but by Lingayats. There is no member of the Lingayat community represented in this House but in the other House, there is a representative. The District Magistrate or the District Superintendent of Police should be approached for taking out the procession. There are also processions by Lingayats with some kind of insignia which gives offence to the Brahmins. There has been litigation on this for the last half a century, and thus there are laws laid down by the High Court for the taking of processions. Ordinarily in such cases, there is strife between sections of people. I do not know whether such apprehended disturbances or disorders are contemplated by this measure. I think it is a tremendous power that will be vested in the Police Officer if such things are also included in this measure. I think it is not at all safe to invest the Police Officer with such powers. As my hon. Friend Dr. John said, a place should be declared a disturbed area only in bona fide cases and only after giving due warning. That is why he said that this measure requires some

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revision. Again, it is a measure which ought to have been considered by a Joint Select Committee. I do not know why such a procedure has not been adopted in this case."

12-30 * DR. SIR A. LAKSHMANASWAMY MUDALIYAR:—
P.m. "Mr. President, I join with the hon. Member Mr. Suryanarayana Rao in taking serious exception to such an important measure as this being moved in the absence of the Hon. the Home Minister, who is responsible for it. I have time and again expressed the view that when important measures of this kind are concerned it should be the duty of the Leader of the House not to bring in such measures before the House unless the Member in charge of them is in a position to be present here to answer any doubts or difficulties that may arise. More than that, it is certainly not in keeping with that amount of respect, the minimum of respect that is due from the Treasury Bench to the House—that important measures of this nature should be brought before the Council and attempted to be passed as if they were measures of no importance or significance. I cannot possibly imagine on this occasion, although on a former occasion the Hon. Minister Mr. Madhava Menon tried to justify it, what urgency there was for this measure to be brought forward here to-day when it could be brought three or four days later when the Hon. Home Minister had returned from Delhi. I quite realize that important matters concerning State and Administration may have precluded the Hon. Minister from being here to-day, but I maintain, Sir, that it is neither fair nor courteous, nor even equitable that a measure of this description should be placed before the House in this manner. I had hoped that if Hon. Dr. Subbarayan had been here to move that this House go in camera so that we may obtain from him all the relevant information that is so necessary for a legislation of this nature to be understood, appreciated and willingly passed. Do the Government suggest that when such a serious measure affecting the vital interests of the public is being considered, it is not of some consequence that they must take everybody into confidence and carry with them all those who do not want purposely to oppose any measure of the Government? I need not recapitulate the speeches of hon. Members now sitting on the treasury benches in those halcyon days when they were fortunately in the opposition and they raised a shout against the inequities of those in the seats of power, a shout which drowned even the mighty noise of the ocean.

"Sir, I am afraid that the Government have got into a panic. There are perhaps some reasons why they should be agitated as everybody is agitated. But no Government should get into a panic particularly when legislative measures are being enacted. Let us look at similar measures which were enacted in the past—The Rowlatt Act, the Criminal Law (Amendment) Act and the Defence of India Act. In none of these do you find a provision similar to the one sought to be enacted in this Bill. I am not going into the details of those legislation or to point out as has

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been point out times without number that unfortunately it has become a habit with this Government to introduce ill-digested, ill-written and ill-understood legislation without a proper consideration of the effects of that legislation.

"Sir, various criticisms have been passed by hon. Members pointing out how absurd it would be if this legislation was passed and how it will lead to incongruities in the course of its administration. Apart from all that, I wish to ask the Government: 'Do the Government really believe that the situation in this country will be controlled by mere punitive measures, or have they got any other purpose behind, anything else in view to remove the necessity for the punitive measures so that there will be better reapproachment among all the people? Sir, it is not humiliating that almost within six months of the declaration of independence we who have shed all foreign control from our country should be in the unfortunate position of having to pass such a legislation affecting our people and our own countrymen, our own citizens and our own brothers and sisters. What has brought about this situation? The Hon. Minister who moved this Bill should have explained it and he should also have told us what steps the Government are going to take to improve the situation.' Sir, I agree that times are bad, that there are elements which are trying to get into power, that there are small little groups which are trying to control the destinies of this empire. Therein lies the great danger.

"The hon. Member said that prevention is better than cure, a maxim with which I am undoubtedly 100 per cent in agreement for more reasons than one. But what are the preventive measure that Government contemplate? Not this Draconian legislation. The history of every country in the world abound in instances where legislation of this nature far from preventing the evil has only aggravated it more and more.

"Sir, I do not want for one moment to stand in the way of the Government maintaining peace and order and protecting the law-abiding citizens. I am afraid there is to-day a great deal of lawlessness which has to be controlled. But there are measures like the Curfew Order and the Martial Law which the Government can resort to at any time. With these two, there is not one single situation that cannot be controlled. But granted that there are such situations, granted that legislation is necessary from the point of view of the Government, if they had given us an idea of the steps they are proposing to take to see that there is better understanding amongst the people, that these hatreds are not let loose, that there is a sincere attempt to bring about a reasonable understanding for the good of the country among those who have unfortunately gone astray, I think that would have been better approach than what this legislation alone can achieve, whatever its merits or demerits.

"I am afraid Sir, that the history of political parties in this country has always been such as to promote rivalry among them

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for imitating the worst rather than the best features of each other. Those who started some of the things might have had different views, but to-day unfortunately, flag hoisting, raising of volunteers, parades, salutes and all these things have led to a state of affairs when groups of people have come to believe that they could raise private armies openly or secretly and threaten the safety of the country. It is the duty of the Government to root out this evil not merely by punitive legislation, but also by a certain amount of persuasion, co-ordination and co-operation, by calling all the people for a straightforward discussion and doing their level best to see how far a concrete understanding can be arrived at among them.

"Sir, I speak with a certain amount of feeling in the matter, because I know that hon. Members, some of them at any rate, though they may move with the people, do not exactly know all the things that are going on in the minds of the people. The Hon. Ministers when they go on tour are naturally surrounded by those who are their party men and who agree with them. Those who do not agree with them do not meet them and do not have opportunities to contact them. You do not know what their feelings are. Even a small grievance is made into a big thing and tremendous influence is brought to bear on them. Have they considered what are the causes which have resulted in such violence, in difference between community and community and section and section and even between linguistic areas, which I have anticipated sometime back and which I am afraid will take a worse turn in a very short time?

"Sir, I would not end with appealing to the Government alone. I would appeal to the leaders of all political parties, to my hon. Friends on my right, to realize where we are. Think of the bitterness, the fights, the suspicion and the distrust which will end in a general deluge, where none of us will be safe, where the whole country will not be safe and where once more the things which happened in the 17th and 18th centuries will be repeated and the chequered history of India will be staged again.

"Sir, it is no use of Government saying that they know how to run the Government. Sufficient evidence is already before the public to show that a party which had been for a quarter of a century in the opposition is not exactly the party which will have all the attributes necessary for a good Government of the country. We sympathise with them in that position. But I do feel, Sir, that this legislation whatever its fate may be—I am sure it will be passed—will not be taken as empowering the Government to do what they like—but as setting the Government thinking as to what they should do to prevent rather than cure the malady, and in the words of the Hon. Minister Mr. Madhava Menon, to see that the legislation is a dead letter. If people are approached in a proper spirit there will be good response. Courtesy begets courtesy, faith begets faith and tolerance begets

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tolerance and good-will enriches the possibility of good-will. It is only in that sense I hope the Government will realize that this legislation is accepted by this House as a punitive measure not for all time but only for a time in spite of its grotesque absurdities. Sir, we cannot rest content with a legislation of this nature. I must ask the Government, the leaders and the prominent people all over the country to bring about a better state of things in this country, if only because we wish to live as a nation, to live as one country bridging all the differences."

* SRI K. NATARAJAN :—"Mr. President, Sir, I really mean no disrespect to my Hon. Friend Dr. Lakshmanaswami Mudaliyar when I say that the statements he made lend support to a measure of this kind. I have been very carefully taking notes of the very phrases he used and this is what he has said :

'I am afraid there is very great deal of lawlessness.' I hope I am doing no violence to the excellent language employed by him in repeating his ideas in my own way. He said :

'I am afraid there is a great deal of lawlessness. . . There are private rival organizations with some kind of violent methods. . . There are violent differences between communities and between different areas.'

I think that in his own estimate of the state of affairs in the country, there is necessity for a measure of this kind. The next thing is what is to be done by the Government. Even in peaceful times, situations arise when strict control has to be maintained over the community to see that disorders do not arise. If Government wants to function as a Government it has to choose between two lines; it should not interfere with the liberty of the individual or the community or an organization and the second is, it should curb the licence, if any, taken by any particular individual, community or organization. The Government should hold the scales even and take action according to the trends of the time and the necessities of the hour. Unfortunately, we are in a very dangerous position now. Perhaps it is graver in the north, but not so grave in the south. Anyhow we should be forearmed and as my hon. Friend said : Prevention is better than cure.

"Sir, this Act does not give in the very first instance any authority to anybody—the District Magistrate or anybody else—to deal with any situation which may arise. The Government have first of all to notify an area as a disturbed area. The Government will notify an area as a disturbed area only if there is sufficient justification for it. They will not do so if a few deaths take place by violence, a few thefts take place or a few abductions take place. I am sanguine that the Government will not under those circumstances proclaim the area as a disturbed area. They will treat them as isolated instances of lawlessness and proceed to deal with them accordingly under the ordinary criminal law. But if these instances multiply in number, if the violence increases in intensity,

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the Government would be failing in their duty if they did not take adequate precautionary measures and waited till all the crimes accumulated.

12-45 P.M. " There was some objection raised by some hon. Friends that there is no definition of a disturbed area. But the sections which are quoted in clause 4 give us an idea of what are the offences which will be taken into consideration for proclaiming an area as a disturbed area. If there are frequent murders, if there are frequent kidnappings and the like, they will be taken to mean that sufficient material exists for proclaiming an area as a disturbed area. On the other hand, if the Government were to take one or two instances say in Tanjore and to proclaim an area as a disturbed area, the Government will not be exercising their discretion properly. I hope and trust that the Government will not notify an area as a disturbed area unless there is sufficient material for doing so. Therefore there is no meaning in saying that there is no definition of a disturbed area. I ask any hon. Friend here to define a disturbed area without serious objection being taken to some portion of the language used. 'Murder,' 'rape,' 'abduction,' etc., have been defined in the Penal Code. In spite of these definitions, there is room for High Court Judges to say that they are not correct. Even if there is a definition, there will always be room for deciding whether a particular offence comes under that definition. The Government must have sufficient material to decide that an area is a disturbed area. Some hon. Members desire that 'a disturbed area' should be defined. We can safely leave it to the Government to decide what a disturbed area is. They will not arbitrarily and unjustly call an area as a disturbed area.

" I shall deal with the next question which was dealt with by some hon. Members. In clause 4, the sentence of death penalty is prescribed. No doubt that penalty is prescribed. But there will be satisfaction that the matter will be taken to the ordinary Courts, that the procedure laid down in the Criminal Procedure Code will be followed and that the Sessions Judges will deal with the cases. It can be said that the maximum punishment need not be death but something less. It is left to the Government to decide whether they should prescribe the extreme penalty of death for certain offences. In certain cases, death sentences are awarded under the Penal Code. It is for the Government to decide whether they can do away with this extreme penalty of death they have prescribed for all the cases that are mentioned in clause 4 of this Bill. I do not know whether it is sufficient consolation to be told that the Sessions Judge, who will adopt the procedure prescribed in the Criminal Procedure Code, will decide whether death sentence should be imposed in all cases; he may impose a deterrent punishment which may fall short of the death penalty. I think the provision is there in the Bill not for the death sentence being imposed invariably in all cases but to instil terror in the minds of persons who are inclined to commit the offences. It is for the

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Judges who deal with the cases to go into the merits of the case and to impose the sentence of death or a deterrent punishment as is laid down in the Code.

" Clause 5 of the Bill says that any magistrate and any Police officer not below the rank of head constable may fire upon a person after giving warning. I would suggest that the wording may be 'any Magistrate or any Police Officer,' etc. The Legislative Assembly may adopt the amendment we propose here. The Hon. Minister in charge, Dr. Subbarayan, is not here; he may adopt the amendment I am suggesting. I think that it is not advisable to give joint jurisdiction to a magistrate and a Police officer. There may be differences of opinion among them. If power is given to either of these persons, it may go a great way to remove the apprehensions of my hon. Friends opposite. I believe that it is not the intention of the framers of the Bill to have word 'and'. I think some violent argument was advanced against that word. The word 'Magistrate' might include 'honorary Magistrate' also. If it is possible, you may decide the categories of Magistrates that should be given the power. The Government may adopt the words 'any Magistrate or any Police Officer'. If any Magistrate is not available on the spot immediately, power may be given to the Police officer not below the rank of a Sub-Inspector. I think that every magistrate cannot be given the power. There must be a definition of the particular magistrate who has to exercise his discretion.

" It is stated in the Bill that the officer may give warning if any such warning is necessary. It means that warning need not be given in all cases. Warning should be given in all cases if possible. Even in very disturbed areas, we see shots are fired in the air. The intentions of the Government should be that warning should be given in all cases. I do not know whether the Treasury Bench will adopt the suggestions I have made.

" I do not think there is any other difficulty in the latter portion of clause 5. It says that the Magistrate and the Police Officer may use force against any person who, in a disturbed area, is acting in contravention of any law or order for the time being in force in such area, prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons. The magistrate or the police officer must decide whether there has been any contravention of the law in force, such as prohibition of the assembly of 5 or more persons. The word 'weapons' is not defined. I think it has not been defined in any Code. The question what is a weapon has come before judicial tribunals; so far as my experience goes, there have been inconsistent decisions in the matter. What is a weapon? A stick may be a weapon. As far as my experience is concerned, the Courts have a rough and ready method of deciding what is a dangerous weapon. The cane I am using may be considered to be a dangerous weapon. A big stick or a bichuva may be considered to be a dangerous weapon. There are certain well-defined ideas current in the minds

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of Judges. Only if law and order for the time in force or if the prohibition of the assembly of 5 or more persons or the carrying of weapons is infringed, the magistrate or the police officer has to use force. In using his discretion, the magistrate has to consider the nature of the disturbance, its immensity or violence. I do not know whether a police officer below the rank of a Sub-Inspector will always be able to use his discretion well. The Members of the Treasury Bench may not be there in the disturbed area; even the District Magistrate may not be able to go to the disturbed area. There may be telephone or telegraphic dislocations, there may be dislocation of buses and motor cars. Action has to be taken in the matter only after a responsible officer has gone into the question. It is impossible to define grave dangers. But we find that disturbed situations occur. My hon. Friend, Mr. Mudaliyar eloquently pleaded that Members of the Treasury Benches should carry on propaganda to restore goodwill among people. Are they not doing so now? I see in the papers that, whenever a Minister goes about, he gives out his first thought in his mind that there must be amity between communities, that they should not take law in their own hands and that there should be no disturbances after obtaining our freedom. Every Minister repeats these ideas. Members of the Legislative Council and the Assembly are also doing so. But mere persuasion or eloquent appeals would not do. Some other sanction must be vested in the Government in order to supplement these efforts to bring about peace and goodwill. This may be a drastic measure but we have to deal with situations as they arise and we have to take drastic measures.

"The last clause—clause 6—of the Bill says that no prosecution shall be instituted without the previous sanction of the Provincial Government against any person exercising the powers given to him under this Bill. If a certain police officer or a magistrate misbehaves or resorts to force *mala fide* the Government will certainly sanction his prosecution. If he has acted in good faith, the Government will not sanction his prosecution. The Magistrate has to consider every aspect of the situation; when there is anarchy or violence, it is possible that the police officer may lose his balance or may use his discretion well. It is not for us who are away from the scene of the disturbance and who are discussing it after say 20 days, to say what the police officer should have done in the circumstances. We must make some allowance for the immensity and gravity of the situation. Even if the police officer went a little out of the way in using his discretion, the Government must support that officer. Otherwise where is the safety to the police officer? He will not deal with the situation and may not act according to the provisions of this Act, if the Government will not support him. We must leave it to the magistrate to consider all aspects of the situation. If some of the amendments I have suggested are accepted, I think this Bill will be supported by a large number of Members. The punishment of death may be the extreme penalty. But it need not be awarded as maximum punishment. Some less penalty—transportation for life—may be imposed.

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"We have a very painful incident from which we have not yet recovered. The temperament of the person who committed the act is responsible for the tragedy. Did he care for death? No, he did not care for his death.

"My hon. Friend Mr. Bhima Rao said that death sentences should be abolished altogether. Even though there is a fear of death sentence being awarded, it does not prevent a person from committing a serious offence. People committing such offences have a particular mentality. They think they are doing the right thing. They must be either lunatics or they think that they are serving a patriotic cause. Therefore, if any person commits such a serious offence, the maximum punishment that can be awarded should be transportation for life. Sometimes death sentence may be imposed. But there is the High Court to commute it. It is also to be considered that between the sentence and the execution, there is the possibility or the probability of the High Court's interfering. It does not seem appropriate that death sentences should be given in the first instance and then leave it to the accused person to take the matter in appeal to the High Court as a matter of mercy."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR:—"I most wholeheartedly echo the sentiments expressed by my hon. Friend Dr. Lakshmanaswamy Mudaliar that persistent attempts should be made to establish harmony and goodwill among the communities; that way lies real salvation. He also appealed to us, the members of the Muslim League Party, to co-operate with the Government in regard to the matter. I can remind him and the Members of this House that so far as we are concerned, from the very beginning we have been wholeheartedly co-operating with Government in matters regarding the maintenance of law and order and our co-operation and our help in this regard has been throughout acknowledged by the present Ministry as well as the Ministry which preceded it. Therefore, there can be no two opinions regarding the attitude of my party towards the question of maintenance of law and order. But what is the response to this wholehearted co-operation which we have been offering. Ex-Premier, Mr. T. Prakasam, has very often repeated that but for the co-operation from the Members of the Muslim League Party as well as the good sense exhibited by the various communities in this land, there would not have been complete maintenance of law and order in this Province at a time when riots were rampant in other parts of the country. But what is the position now? My Friend Mr. Lakshmanaswamy Mudaliar himself used the words 'this sort of suspicion'. Sir, the attitude of the present Government towards the Muslim minority which has been consistently co-operating with the Government in the matter of maintenance of law and order, has of late been actuated by 'this sort of suspicion,' to adapt the words of Dr. Lakshmanaswamy Mudaliar. I will recall to your mind the fact that a few weeks ago Muslims were arrested wholesale in certain parts of the Province merely on suspicion and they were detained under the Public Safety Act. There were house searches

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and searches of mosques and burial grounds. But nothing incriminating was found. Even domestic utensils were taken away as dangerous weapons and in spite of all that, they were detained. And on what basis were they detained? On mere suspicion! This suspicion has not been justified. Searches were made and these searches proved to the hilt that there was no basis for that suspicion. But still Government persist in their attitude. Then, there were searches in the City of Madras and also you know certain Muslim officials were dealt with in the Province in a particular manner on mere suspicion. And now, Sir, comes the treatment of the very persons who have been co-operating with the Government in the matter of maintaining law and order.

"The Government rightly or wrongly banned the Muslim National Guards Organization. At once the Convenor of the Indian Union Muslim League, who is also the President of the Provincial Muslim League and the Leader of the Opposition in the other House, said: 'You treat the organization as being disbanded and dissolved.' At the same time he also said that that organization has never been of a semi-military character. It has always been co-operating with the Government in the matter of maintenance of law and order and rendering help to the Government consistent with the attitude of their Party. I would, in this connexion, relate some instances to show this organization and its predecessor, the Muslim League Volunteers have conducted themselves in this Province. Government officials themselves have acknowledged the help they received from Muslim League Volunteers. When the 'Indian Express' and 'Dhinamani' offices in Georgetown were set fire to, it was the Muslim League Volunteers who wholeheartedly helped in extinguishing the fire and when evacuees were coming from Malaya and Burma, it was the Muslim League Volunteers who toiled night and day to render them all necessary help. I remember that the then Governor of Madras went to the extent of saying 'that the work that they have been rendering has been wonderful.' You would find these people in any place where there were disturbances and without caring for their lives and risking themselves they would rush to those places and try to appeal to the Muslims to keep calm and patient. It is on account of those efforts that the Muslims in various places have been maintaining patience and calm in spite of the greatest provocation at the hands of the majority community. Now, Sir, what has happened. The organization was banned and the Convenor of the Indian Union Muslim League said: 'You treat the organization as having been disbanded and dissolved'. But we find that members belonging to that organization and who have been co-operating with the Government in maintaining law and order have been arrested. The police people to go to their houses at the dead of night and they conduct searches, nocturnal searches and arrests. These men have not gone into hiding and they have been doing things in the open. I fail to see the need for night searches. I understand that some people have been arrested who have nothing to do with the Muslim National Guards Organization. People who have nothing

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to do with the organization and who are not members of the organization, have been kept under detention. Even those who have given the necessary undertaking dissociating themselves from its activities as instructed by the Convenor who is also President of the Provincial Muslim League have not been released. Why? It has been said on the floor of the other House in the old bureaucratic manner that cases are being looked into and they will be released if they are not dangerous to society. When did they become dangerous? Where is the ground to think them to be so; is it not based on mere suspicion? When the Public Safety Act was enacted for the purpose of restraining people from doing acts endangering peace, repeated assurances were given on the floor of the House that the provisions of the Act would be used cautiously and that cases of detention would be considered in a most dispassionate manner. I wish to ask how many months have elapsed since these arrests were made or since the necessary declarations and undertakings were given and what the Government have been doing all along? Does it require so much time to look into and dispose of these cases? Government have deprived people of their elementary and fundamental right but still you say that you have not considered the matter but that it will be looked into. Members of the Muslim League National Guards have not been released, while several members belonging to the R.S.S. have been released directly the undertaking dissociating themselves from the organization was given."

THE DEPUTY PRESIDENT:—"May I know how this is relevant to the Bill."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR:—"My point is that I want to tell the House, how the measure would be worked in actual practice and how such measures are being carried out in practice by this Government.

"This is how the Muslim National Guards have been arrested on mere suspicion. Have they been able to secure any kind of evidence before they were arrested, before house searches were conducted. Not at all. They are detained and we are told that their cases will be looked into. Not a single person arrested on the ground of belonging to the National Guards has been released while a certain number of R.S.S. people have been released.

"Then, coming to the provisions of the Bill, I am glad that it has been very well dissected not only by members on this side of the House but also from the other side. My hon. Friend, Mr. Madhava Menon says that prevention is better than cure and that they have formulated measures for that end. I do not know how this measure is going to 'cure' disturbances. This measure when it becomes an Act will come into operation only after the event, only after an area has been declared a 'disturbed area'. We are told that punishment with death will act as a deterrent. I would like to know how this section 4 will act as a deterrent and will

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prevent people from committing serious offences. Do these people who are going to commit these offences know that they will be punished with death even though under the Indian Penal Code, they will be awarded a lesser sentence? Is it going in any way to weigh with them? When it is put on the Statute-Book, is it going in any way to affect their mind? Will these miscreants know that it is going to cost them their lives?

"Regarding section 5, it is the most abominable piece of legislation I have ever come across with. Even an illiterate person entering as a constable is being promoted as head constable and, fancy, a head constable being empowered to take action under it. I cannot understand how it was originally thought that the head constable should be invested with such power. Can such people be given powers to shoot down human beings. Even now the Police officers can issue orders for opening fire according to their sweet will and pleasure. They need not comply with any requirements of law. I think we have not come across any such provision in any Statute-Book in any part of the world."

THE HON. SRI K. MADHAVA MENON :—"It was there in the Punjab."

1-15 p.m. K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—"That takes me to the days when we were all together in the movement, the days following the Jallianwalla Bagh massacre. General Dyer said: 'I shot and shot till the ammunition was exhausted'. The Enquiry Committee came to the finding that it was an error of judgment and it was against that error of judgment that we started the struggle of non-co-operation. It was at least a General in that case. Here, an ordinary Sub-Inspector is going to be invested with that power to order the opening of fire against human beings and he is not to comply with the requirements of any law. If he thinks that a necessity has arisen to open fire he can issue orders and he need not care for any one. Is that the way that human beings are intended to be dealt with after we have achieved independence? The Hon. Madhava Menon said that in view of certain warnings received in the province, they are bringing forward this measure. I have been receiving letters and people have come to me from the affected areas. I have also seen the devastation that has been caused; photographs have been brought to me showing the havoc caused on the very day on which the apostle of non-violence was assassinated. These things have taken place in Tiruvannamalai, Edapalayam, Erode, Rajapalayam and other places. Mosques have been demolished; tombs have been desecrated; tanneries have been burnt and many houses have been damaged and the damage caused runs to the tune of several lakhs of rupees. What has the Government done in regard to these things? Has any of the Ministers gone to those places and made any enquiries? These people have been running about without food and shelter. Yet, we find it stated now by some that the Muslims are proving dangerous to the Hindus of Tiruvannamalai."

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THE HON. SRI K. MADHAVA MENON :—"May I remind the hon. Member that occurrences of Edapalayam and Tiruvannamalai are *sub-judice*."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—"I am not dealing with individual cases which are pending before the Court; I am only dealing with the general occurrences that happened in those places and I do not think I am contravening the rules."

"Even if the measure is enacted, will you be able to prevent similar things taking place in any part of the country? You will put this Act into operation only after the event. I am very anxious that Government should do something in the matter. In the places I have mentioned, it went on as if the Police and the Magistracy had abdicated their functions. Does not the ordinary law of the land suffice to prevent such occurrence? Are there not Police stations in those places and if so, what did they do? When houses and shops were being burnt into ashes what were the Police doing? Even after the measure is passed, I fear the same thing may repeat itself unless proper steps are taken. I have to refer to another matter. A certain news item appeared in a certain section of the press and it contributed to those occurrences. We have been crying hoarse here and outside that it is the paramount duty of Government to keep a watch over the press and prevent them from spreading communal virus in the country."

SRI B. NARAYANASWAMI NAYUDU :—"Is it a press of this province?"

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—"It is."

SRI B. NARAYANASWAMI NAYUDU :—"May I know which press?"

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—"The Government knows."

SRI B. NARAYANASWAMI NAYUDU :—"I do not know."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—"Along with the news of the unfortunate and the most dastardly assassination of Mahatmaji, there also appeared in that paper—it was an A.P.I. message—a news item to the effect that while Pandit Jawaharlal Nehru was delivering a lecture at Amritsar two persons were arrested with hand grenades in their possession; one of them was dressed like a Hindu and the other like a Sikh and along with that there was another message to the effect that a Muslim was caught with a hand grenade at the meeting and both these were published in bold types. And from this people thought that it must have been a Muslim who was responsible for Gandhiji's death and that is the reason why all these troubles arose there. Even in the City of Madras when I was coming from my office I heard people saying that a Muslim had killed Mahatmaji and that is how sentiments had been worked up against Muslims."

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SRI B. NARAYANASWAMI NAYUDU :—" Which is the paper that circulated that news? "

THE HON. DR. T. S. S. RAJAN :—" Interpellations between hon. Members and answers thereto are going on while there is the Deputy President to regulate interpellations."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I was about to finish. We have been accustomed here in this House to such questions and answers."

SRI B. NARAYANASWAMI NAYUDU :—" Certain statements were made to the effect that certain news items were responsible for the flare up in certain places and I wished to know which paper it was, so that Government's attention might be drawn to it."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I am very anxious to see that newspapers in the province are kept under restraint in such matters and unless it is done this virus will spread. That is my last request to Government."

THE DEPUTY PRESIDENT :—" Mr. Farookhi Sahib. How long will you take? "

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" It is just twenty-five minute past one and I will require at least fifteen minutes. I believe we are going to continue this debate till Monday."

THE DEPUTY PRESIDENT :—" Yes."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I do not think I will even finish a few sentences."

THE DEPUTY PRESIDENT :—" Shall we adjourn? "

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" So I may be permitted to speak first on Monday."

THE DEPUTY PRESIDENT :—" Yes. The House will rise now and meet again on Monday, the 23rd February 1948."

V.—PAPERS LAID ON THE TABLE OF THE HOUSE.

The Madras Suppression of Disturbances Bill, 1947 (L.A. Bill No. 5 of 1948) as passed by the Assembly and received therefrom in the Council.

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APPENDIX I.

[Vide answer to starred question No. 5 asked by Sri K. Manathunainatha Desigar at the meeting of the Legislative Council held on the 21st February 1948, page 75. supra.]

(a) The extent of land newly brought under cultivation in the two faslis is as follows :—

	ACS.
Fasli 1354	52,223.77
Fasli 1355	12,495.40

(b) The amount of subsidy paid in the two faslis is as follows :—

	RS.	A.	P.
Fasli 1354	1,26,102	5	0
Fasli 1355	72,322	8	0

(c) The extent of land cultivated in fasli 1356 out of the extent in respect of which subsidy had been paid in faslis 1354 and 1355 is 14,374 acres and 78 cents.

(d) Amount of water charge realized in fasli 1356 is Rs. 92,313-7-0. Extent assessed for water charge in fasli 1356 is 16,505 acres and 37 cents. This includes lands which were newly brought under cultivation in fasli 1354 for which subsidy has not been paid.

(e) It is not possible to furnish information regarding paddy procured in the Cauvery-Mettur Project area alone, as most of the villages in the taluks commanded by the Cauvery-Mettur Project are also non-Cauvery-Mettur Project villages. Farther, the system of procurement in force in the district is one of competition among millers who are free to purchase in any part of the district. Therefore only figures for the whole Tanjore district are available. Further, prior to the introduction of intensive procurement and rural rationing in the district in March 1946, the Grain Purchasing Officers were purchasing from millers only the grain required for export to deficit districts. Therefore, for the period prior to March 1946 only figures for quantities of rice exported from the district are available and the figures for quantities of rice actually procured in the district are available only for the subsequent period. The figures are as follows :—

Kharif year.	TONS OF RICE.
1942-43	216,548
1943-44	251,300
1944-45	236,076
1945-46	232,253
1946-47	282,469

Fasli-war figures are not available.

(f) Extent of land for which subsidy has been paid and which has not been cultivated in fasli 1356 is 5,467 acres and 72 cents. The reasons for non-cultivation are the following :—

(1) There was delay in the supply of water in fasli 1356;

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(2) these include lands that did not come up well on account of saline soil, the samudayan lands and lands of disputed ownership that were originally cultivated by persuasion (and occasionally by requisitioning) of the special staff. On the winding up of the special staff in fasli 1356, the ryots slackened their enthusiasm and the old disputes were revived and other difficulties cropped up; and

(3) compact blocks of lands of 50 acres and above in ryot-wari villages were not disposed of outright, but let on lease for five years. These lands require a large outlay to bring them under effective cultivation. Some of the lessees who took these lands on lease in fasli 1354, as a result of the efforts of the special staff, were reluctant to spend a material amount on the lease lands in which they had no absolute title.

APPENDIX II.

[Vide item IV (3) on page 85 supra.]

A Bill to make better provision for the suppression of disorder in the Province of Madras.

L.A. BILL No. 5 OF 1948.

(As passed by the Assembly.)

WHEREAS it is expedient to make better provision for the suppression of disorder in the Province of Madras; It is hereby enacted as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Madras Suppression of Disturbances Act, 1947.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, "disturbed area" means an area for the time being declared to be a disturbed area by a notification under section 3.

Power to
declare
areas to be
disturbed
areas.

3. The Provincial Government may, by notification in the *Fort St. George Gazette*—

(a) declare that the whole of the Province, or any part thereof specified in the notification, is a disturbed area; and

(b) add to, amend, vary or rescind any such declaration.

Certain
offences to
be punish-
able with
death in
disturbed
areas.

4. (1) Whoever in a disturbed area commits any offence punishable under any of the following sections of the Indian Penal Code, namely, 307, 303, 304, 305, 306, 307, 308, 376, 392, 394, 395, 397, 398 and 434, may, in lieu of the punishment to which he is liable under that Code, be punished with death.

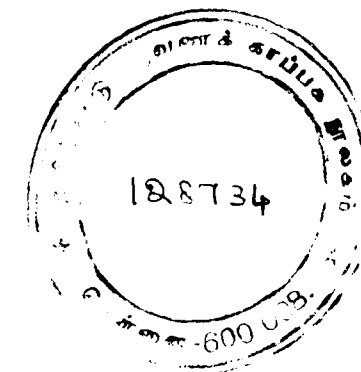
Central Act
XLV of
1860.

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(2) Whoever in a disturbed area attempts to commit or abets the commission of, any offence punishable under any section of the Indian Penal Code referred to in sub-section (1) may, notwithstanding anything contained in that Code, be punished with death or with the punishment provided in that section for the offence.

5. Any Magistrate, and any Police Officer not below the rank of Sub-Inspector, may, if in his opinion it is necessary so to do for restoring or maintaining public order, after giving such warning, if any, as he may consider necessary, fire upon, order fire to be opened, or otherwise use force, even to the causing of death, against, any person who in a disturbed area is acting in contravention of any law or order for the time being in force in such area, prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons.

6. No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Provincial Government, against any person in respect of anything done or purporting to be done in exercise of the powers conferred by section 5.



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