

THE
CONSTITUENT ASSEMBLY OF INDIA

(LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

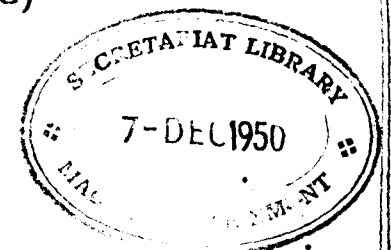
Official Report

Volume VI, 1948

(9th August to 31st August, 1948)

THIRD SESSION
OF THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE)

1948 .



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THE CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Official Report

Volume VII, 1948

(1st September to 7th September, 1948)

THIRD SESSION

OF THE

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) 1948



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CORRIGENDA

In the Constituent Assembly of India (Legislative Debates (Part II—Proceedings other than Questions and Answers), August-September Session, 1948 :—

In Volume VI,—

1. No. 1, dated the 9th August, 1948,—

- (i) Page 9, for existing line 18, read “member who has dissented. I am sorry that the Select Committee Report has”;
- (ii) Page 15, for existing line 15, read “Mr. R. K. Sidhva : I have put a dissenting note and I have signed it. So,”;

2. No. 2, dated the 10th August, 1948,—

- (i) Page 89, for existing line 19, read “(Interruptions)”;
- (ii) Page 158, insert in column (1) as Serial No. 2 “2. No. 28/AGH, date the 17th January, 1948.” and in column (2) before the words “a party” insert “On the 20th December, 1947, the Tahsildar of Madhira together with”.

3. No. 3, dated the 11th August, 1948;—

- (i) पृष्ठ १७२, पंक्ति १७, “है” के स्थान पर “हैं” पढ़ें।
- (ii) पृष्ठ १७४, पंक्ति ९ “लो” के स्थान पर “लोग” पढ़ें।
- (iii) Page 205, line 7 from bottom, after “Prof. Ranga” insert “is”;
- (iv) पृष्ठ २११, [हिन्दी विभाग] पंक्ति २, “में” के स्थान पर “में” पढ़ें।
- (v) पृष्ठ २१४, पंक्ति ३, “में” के स्थान पर, “म” पढ़ें।
- (vi) पृष्ठ २१५, पंक्ति २, “मने”, “सामन”, “दिये” तथा “ह” के स्थान पर क्रमशः “मैं ने”, “सामने”, “दिये”, तथा “हैं” पढ़ें।

4. No. 4, dated the 12th August, 1948,—

- (i) Page 218, line 17 from bottom, before “EXTERNAL” insert “MINISTRY OF”;
- (ii) Page 231, for existing line 9 from bottom, read “The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr.”;
- (iii) Page 237, line 13, for “stories” read “stores”, in line 30, for “Karchi” read “Karachi”, and omit line 31;
- (iv) Page 248, line 4, for “R80 millions” read “£80 millions”;

5. No. 5, dated the 13th August, 1948,—

Page 302, for existing line 3, read "and delicate, we will be failing in our duty if at the same time we do not";

6. No. 6, dated the 16th August, 1948,—

(i) Page 324, for existing line 13, read "Central taxation. Once a Board comes into existence there is no question of";

(ii) पृष्ठ ३३४, [हिन्दी विभाग] पंक्ति ५, "(Industries)" के स्थान पर "(Industries)" पढ़ें ।

(iii) पृष्ठ ३३५, पंक्ति २३, "दूसरी" के स्थान पर "दूसरी" पढ़ें ।

(iv) Page 336, line 21, for "persuaded" read "pursued";

(v) पृष्ठ ३३७, नीचे से पंक्ति २, "काल्ज" के स्थान पर "क्लाज" पढ़ें ।

7. No. 7, dated the 17th August, 1948,—

(i) Page 380, line 16, between "lot" and "rivalry" insert "of";

(ii) Page 386, line 18 from bottom, insert "this" at the end, and in line 16 from bottom, insert "such" at the end;

(iii) Page 397, line 16, for "product" read "produced";

(iv) पृष्ठ ३९६, अन्तिम पंक्ति, "हव" के स्थान पर "वह" पढ़ें ।

8. No. 8, dated the 18th August, 1948,—

(i) Page 408, omit line 3;

(ii) Page 431, line 18, for "India sh be" read "India shall be";

9. No. 9, dated the 20th August, 1948,—

(i) Page 448, line 7, for "country" read "contrary";

(ii) Page 454, line 25 from bottom, for "certian" read "certain";

(iii) Page 458, for existing line 10, read "The words are:";

(iv) Page 468, line 22 from bottom, for "does" read "do";

(v) Page 472, line 10, insert "acceding" before "States";

(vi) Page 474, for existing line 6 from bottom, read "At this stage Mr. Speaker vacated the Chair, which was then occupied";

10. No. 10, dated the 23rd August, 1948,—

(i) Page 505, line 1, for "persual" read "perusal";

(ii) पृष्ठ ५०८, पंक्ति ३६, "सकत" के स्थान पर "सक्ते" पढ़ें ।

पंक्ति ३९, "विस्तृत", "लिय", "क" तथा "लिय" के स्थान पर क्रमशः "विस्तृत", "लिये", "के" तथा "लिये" पढ़ें

पंक्ति ४०, "आ" के स्थान पर "हुआ" पढ़ें

"ह" के स्थान पर "है" पढ़ें

"मालम" के स्थान पर "मालूम" पढ़ें ।

(ii) पृष्ठ ५०९, पंक्ति १, "महीने" के स्थान पर "महीनों" पढ़ें
पंक्ति २, "ह" और "थोड़" के स्थान पर क्रमशः "है" और "थोड़े" पढ़ें
पंक्ति ४, "लिय" के स्थान पर "लिये" पढ़ें ।
पंक्ति १७, "उसका" के स्थान पर "उनका" पढ़ें
अन्तिम पंक्ति में "कहगे" के स्थान पर "कहेंगे" पढ़ें ।

(iv) पृष्ठ ५१०, पंक्ति २५, "हमार" के स्थान पर "हमारे" पढ़ें ।

(v) पृष्ठ ५११, पंक्ति १, "वहां" के स्थान पर "यहां" पढ़ें

पंक्ति १०, "यह" के स्थान पर "इन" पढ़ें ।

पंक्ति ११, "कहगे" के स्थान पर "कहेंगे" पढ़ें ।

पंक्ति १६, "वहां" तथा "क" के स्थान पर क्रमशः "यहां" और "एक" पढ़ें ।

पंक्ति २४, "पर" के स्थान पर "में" पढ़ें ।

(vi) पृष्ठ ५१२, पंक्ति २९, "जल" के स्थान पर "जेल" पढ़ें ।

पंक्ति ३३, "गो" के स्थान पर "होगा" पढ़ें ।

11. No. 11, dated the 24th August, 1948,—

(i) पृष्ठ ५६१, पंक्ति १, "बात" तथा "थी" के मध्यस्थ "हुई" पढ़ें ।

पंक्ति २, "स" के स्थान पर "से" पढ़ें ।

पंक्ति ३ और ६, "अधीन" के स्थान पर "आधीन" पढ़ें ।

(ii) पृष्ठ ५६३, पंक्ति १३, "करेंगे" के स्थान पर "करेंगे" पढ़ें ।

12. No. 12, dated the 25th August, 1948,—

(i) पृष्ठ ५९१, [हिन्दी विभाग] पंक्ति ९, "का" के स्थान पर "को" पढ़ें

पंक्ति १०, "पुलिश" के स्थान पर "पुलिस" पढ़ें ।

पंक्ति १२, "होगा" के स्थान पर "होगी" पढ़ें ।
 पंक्ति १४, "मौजूद" के स्थान पर "मौजूदा" पढ़ें ।
 पंक्ति १८, "यह" के स्थान पर "यहाँ" पढ़ें ।

(ii) Page 597, line 22 from bottom, for "superstitions" read "superstitious", and line 17 from bottom, for "marriage" read "marriage";

(iii) पृष्ठ ६०१, नीचे से पंक्ति ५, "जिसके" के स्थान पर "जिनके" पढ़ें ।

(iv) पृष्ठ ६०२, पंक्ति १ और ३, "तन्दुरस्ती" के स्थान पर "तन्दरुस्ती" पढ़ें ।

पंक्ति ६, "अैसी" के स्थान पर "ऐसी" पढ़ें ।

पंक्ति ८ "मेंवू वृद्धि" के स्थान पर "में वृद्धि" पढ़ें ।

(v) صفحہ ۶۸ - سطر ۹ - لفظ "دھم" کو کات دیں -

(vi) Page 618, for existing line 10 from bottom, read "Mr. R. K. Sidhva (C. P. and Berar : General) : Madam, I beg to move for", and in line 5 from, bottom for "Amendments" read "Amendment";

13. No. 13, dated the 26th August, 1948,—

(i) Page 633 for existing line 4 from bottom, read "The Assembly re-assembled after Lunch at Half Past Two of the Clock";

(ii) Page 651, line 18, for "5 P. M." read "5 A. M."

14. No. 14, dated the 28th August, 1948,—

(i) Page 696, for existing line 5 from bottom, read as follows :

Prof. N. G. Ranga : Question I

Mr. Naziruddin Ahmad : Love and affection will excuse such faults.

(ii) Page 700, line 13, insert "also" in the beginning ;

15. No. 15, dated the 30th August, 1948,—

(i) صفحہ ۷۱۵ - سطر ۸ - "اچھی" اور "دجور" کے درمیان دوطرح دیکھ سکتے ہیں۔

پڑھیں -

(ii) صفحہ ۷۱۶ - نیچے سے سطر ۳ - "دک" کے بجائے "دکا نہ" پڑھیں -

(iii) صفحہ ۷۱۷ - سطر ۴ - "دکثر" کے بجائے "دکس" پڑھیں -

(iv) Page 759, line 25 from bottom, for "that the attempt" read "that the first attempt";

(v) Page 762, after line 26, insert "Act, 1947 (Second amendment) be taken into consideration", and omit line 2 from bottom ;

16. No. 16, dated the 31st August, 1948,—

(i) पृष्ठ ७८६, पैरा २, पंक्ति १ और ८ "म" के स्थान पर "में" पढ़ें ।

(ii) पृष्ठ ७८८, [हिन्दी विभाग] पंक्ति ३, "म" के स्थान पर "में" पढ़ें ।
 पंक्ति ५, "पुस्तकालय" के स्थान पर "पुस्तकालय" पढ़ें ।

(iii) पृष्ठ ७९२, [हिन्दी विभाग] पंक्ति ४, "चल" के स्थान पर "चले" पढ़ें ।
 पंक्ति ६ "सकार" के स्थान पर "सरकार" पढ़ें ।

पंक्ति १४, "खब" के स्थान पर "खूब" पढ़ें ।

(iv) पृष्ठ ७९४, पंक्ति २, "नेनशल" के स्थान पर "नेशनल" पढ़ें ।

(v) صفحہ ۷۹۹ - نیچے سے سطر ۴ - "دے" کے بجائے "دے" پڑھیں -

(vi) Page 803, line 22, for "then" read "them";

In Volume VII,—

17. No. 1, dated the 1st September, 1948,—

(i) पृष्ठ ८३५, [हिन्दी विभाग], पंक्ति १२, "पकिस्थिति" के स्थान पर "परिस्थिति" पढ़ें ।

(ii) पृष्ठ ८३६, पंक्ति २, "हमार" के स्थान पर "हमारे" पढ़ें ।

(iii) Page 841, between lines 3 and 2 from bottom, insert "Territorial Force shall not vacate the seat of any member returned to serve in any Legis." ;

(iv) Page 849, omit line 1 ;

18. No. 2, dated the 2nd September, 1948,—

(i) Page 872, line 10 from bottom, for "Mr. A. P. Portani" read "Mr. A. P. Pattani" ;

(ii) पृष्ठ ८९८, पंक्ति ५, "म" के स्थान पर "में" पढ़ें ।

पंक्ति ५, "पेस" के स्थान पर "पेंस" पढ़ें ।

पैरा २, पंक्ति १, २, ३ और ४ में "क" "न" "स" "ह" के स्थान पर क्रमशः "के", "ने", "से" और "हे" पढ़ें ।

पैरा ३, पंक्ति २, "बनान" के स्थान पर "बनाने" पढ़ें ।

पंक्ति ५, "हमार" के स्थान पर "हमारे" पढ़ें ।

अन्तिम पंक्ति, "चाहुत" के स्थान पर "चाहते" पढ़ें ।

(iii) पृष्ठ ८९९, पंक्ति ११, "क" तथा "म" के स्थान पर "के" और "में" पढ़ें ।

पंक्ति १५, "हमशा" के स्थान पर "हमेशा" पढ़ें।

पंक्ति २३ "मुझ" के स्थान पर "मुझे" पढ़ें।

अन्तिम पंक्ति, "देख" के स्थान पर "देखे" पढ़ें।

(iv) पृष्ठ ९१० अन्तिम पंक्ति, "कपि" के स्थान पर "कृषि" पढ़ें।

19. No. 3, dated the 3rd September, 1948,—

(i) पृष्ठ ९६१, पंक्ति ३, "पये" के स्थान पर "रुपये" पढ़ें।

पंक्ति ४, "च" के स्थान पर "पांच" पढ़ें।

पंक्ति १४, "मल्क" के स्थान पर "मुल्क" पढ़ें।

पंक्ति १७, "मालूस" के स्थान पर "मालूम" पढ़ें।

पंक्ति २१, "से" के स्थान पर "में" पढ़ें।

पंक्ति २५, "स्टे" के स्थान पर "स्टेट" पढ़ें।

(ii) पृष्ठ ९६२, पंक्ति १ तथा ४, "म" के स्थान पर "में" पढ़ें।

पंक्ति २, "मिटा" के स्थान पर "मिट" पढ़ें।

20. No. 4, dated the 4th September, 1948,—

(i) Page 1004, line 13 from bottom, insert "has" in the beginning ;

(ii) पृष्ठ १०१७ - अन्तिम सطر में "सारी" के स्थान पर "दिया" पढ़ें -

(iii) Page 1018, line 3 of English portion, for "be" read "by" ;

(vi) पृष्ठ १०२० - सطر २ - अन्तिम सطر के बाद "सब" के स्थान पर "सब" पढ़ें -

(v) पृष्ठ १०२३, पंक्ति ३, "वाचस्तति" के स्थान पर "वाचस्पति" पढ़ें।

(vi) पृष्ठ १०२४, नीचे से पंक्ति ३ और ४, "devise" के स्थान पर "device" पढ़ें।

(vii) Page 1027, lines 6 and 7 from bottom, for "was moved" read "must move" ;

(viii) Page 1028, line 15 from bottom, for "pie" read "pice" ;

(ix) Page 1030, line 12 from bottom, for "fishion" read "fashion" ;

(x) Page 1038, line 24 for "geneal" read "general" ;

21. No. 5, dated the 6th September, 1948,—

(i) पृष्ठ १०६२, पंक्ति १, "परा" के स्थान पर "पूरा" पढ़ें।

(ii) पृष्ठ १०६४, पंक्ति ३, "displaced" के स्थान पर "displace" पढ़ें।

अन्तिम पंक्ति, प्रथम शब्द "हैं" पढ़ें।

(iii). पृष्ठ १०६५, पंक्ति २, "कि" तथा "हमारा" के मध्यस्थ शब्द "कि" को काट दें।

(iv). पृष्ठ १०७० - निचले सطر ३ - अन्तिम सطر के बाद "दस" के स्थान पर "दस" पढ़ें।

शुद्ध रूप में पढ़ें -

(v) पृष्ठ १०७१ - अन्तिम सطر - अन्तिम सطر के बाद "दस" के स्थान पर "दस" पढ़ें।

शुद्ध रूप में पढ़ें -

No. 6, dated the 7th September, 1948,—

(i) Page 1127, line 29, for "no" read "not" ;

(ii) Page 1132, line 13, for "ovservance" read "observance" and in lines 9 and 1 from bottom, for "States" read "Stato" ;

(iii) Page 1136, line 1, for "wishes m to" read "wishes me to" ; and

(iv) Page 1146, transpose lines 8 and 9.

DOMINION LEGISLATURE
CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The Speaker

The Honourable Mr. G. V. Mavalankar.

The Deputy Speaker

Shri M. Ananthasayanam Ayyangar, M. C. A.

Panel of Chairmen

Mr. Hossain Imam, M. C. A.

Pandit Thakur Das Bhargava, M. C. A.

Shri K. Santhanam, M. C. A.

Shrimati Ammu Swaminadhan, M. C. A.

Secretary

Mr. M. N. Kaul, Barrister-at-Law.

Assistants of the Secretary

Mr. A. J. M. Atkinson.

Mr. N. C. Nandi.

Mr. C. V. Narayana Rao.

Committee on Petitions

Mr. Hossain Imam, M. C. A.

Shri K. Santhanam, M. C. A.

Mr. B. K. Sidhva, M. C. A.

Shrimati Dakshayani Velayudhan, M. C. A.

Shri, B. Das, M. C. A.

GOVERNMENT OF INDIA
MEMBERS OF THE CABINET

The Honourable Pandit Jawaharlal Nehru—Prime Minister and Minister for External Affairs and Commonwealth Relations.
The Honourable Sardar Vallabhbhai J. Patel—Deputy Prime Minister and Minister for Home, Information Broadcasting and the States.
The Honourable Maulana Abul Kalam Azad—Minister for Education.
The Honourable Dr. John Matthai—Minister for Railways and Transport.
The Honourable Sardar Baldev Singh—Minister for Defence.
The Honourable Shri Jagjivan Ram—Minister for Labour.
The Honourable Mr. Rafi Ahmed Kidwai—Minister for Communications.
The Honourable Rajkumari Amrit Kaur—Minister for Health.
The Honourable Dr. B. R. Ambedkar—Minister for Law.
The Honourable Mr. R. K. Shanmukham Chetty—Minister for Finance.
The Honourable Dr. Syama Prasad Mookerjee—Minister for Industry and Supply.
The Honourable Shri N. V. Gadgil—Minister for Works, Mines and Power.
The Honourable Shri K. C. Neogy—Minister for Commerce.
The Honourable Shri N. Gopalaswami Ayyangar—Minister without Portfolio.
The Honourable Shri Jairamdas Doulatram—Minister for Food and Agriculture.

MINISTER NOT IN THE CABINET

The Honourable Shri Mohan Lal Saksena—Minister for Relief and Rehabilitation.

THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE) DEBATES

**OFFICIAL REPORT OF THE THIRD SESSION OF THE CONSTITUENT
ASSEMBLY (LEGISLATIVE)**

Volume VI—1948

**CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES**

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Monday, 9th August, 1948

The Assembly met in the Assembly Chamber of the Council House at New Delhi, at a Quarter to Eleven of the Clock, being the first day of the Third Session of the Constituent Assembly of India (Legislative), pursuant to sub-section (2) (a) of Section 19 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Orders, 1947. Mr. Speaker (The Honourable Mr. G. V. Mavalankar) was in the Chair.

QUESTIONS AND ANSWERS
(See Part I)

11-45 A.M.

DEATH OF MR. DAMBER SINGH GURUNG

Mr. Speaker: Before we proceed further, I have to refer to the sad demise of one of our colleagues in this Assembly, Mr. Damber Singh Gurung. He was the only Gurkha member of this Assembly and the part he played in the battle for Indian independence is well known. I request the House to stand in silence to respect the memory of the deceased.

Mr. Speaker: About the adjournment motion, it is not going to be moved, I understand.

Shri H. V. Kamath (C. P. and Berar: General): I do not propose to move it.

GOVERNOR GENERAL'S ASSENT TO BILLS

Mr. Speaker: The Secretary will lay on the table of the House a statement showing the Bills which were passed by the Dominion Legislature—Constituent Assembly of India (Legislative)—during the Budget Session 1948 and which have been assented to by His Excellency the Governor General.

Secretary of the Assembly: Sir, I lay on the table a statement showing the Bills which were passed by the Dominion Legislature—Constituent Assembly of India (Legislative)—during the Budget Session 1948 and which have been assented to by His Excellency the Governor General.

Statement

- (1) The Code of Civil Procedure (Amendment) Act, 1948.
- (2) The Cotton Textiles Cess Act, 1948.
- (3) The Pharmacy Act, 1948.
- (4) The Dock Workers (Regulation of Employment) Act, 1948.
- (5) The Insurance (Amendment) Act, 1948.
- (6) The Minimum Wages Act, 1948.
- (7) The Rehabilitation Finance Administration Act, 1948.
- (8) The Railways (Transport of Goods) (Amendment) Act, 1948.
- (9) The Damodar Valley Corporation Act, 1948.
- (10) The Industrial Finance Corporation Act, 1948.
- (11) The Dentists Act, 1948.
- (12) The Indian Army and the Indian Air Force (Amendment) Act, 1948.
- (13) The Protective Duties Continuation Act, 1948.
- (14) The Indian Tea Control (Amendment) Act, 1948.
- (15) The Indian Finance Act, 1948.
- (16) The Indian Railways (Amendment) Act, 1948.
- (17) The Indian Power Alcohol Act, 1948.
- (18) The Taxation on Income (Investigation Commission) (Amendment) Act, 1948.
- (19) The Indian Aircraft (Amendment) Act, 1948.
- (20) The Provincial Insolvency (Amendment) Act, 1948.
- (21) The Junagadh Administration (Property) Act, 1948.
- (22) The Control of Shipping (Amendment) Act, 1948.
- (23) The Delhi and Ajmer-Merwara Rent Control (Amendment) Act, 1948.
- (24) The Atomic Energy Act, 1948.
- (25) The Indian Lac Cess (Amendment) Act, 1948.
- (26) The National Cadet Corps Act, 1948.
- (27) The Road Transport Corporations Act, 1948.
- (28) The Calcutta Port (Pilotage) Act, 1948.
- (29) The Employees' State Insurance Act, 1948.

PAPERS LAID ON THE TABLE

REPORT OF INDIA DELEGATION TO FIFTH SESSION OF ECONOMIC AND SOCIAL COUNCIL OF UNITED NATIONS

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Minister for External Affairs and Commonwealth Relations): Sir, I beg to lay on the table the Report† of the India Delegation to the Fifth Session of the Economic and Social Council of the United Nations, 1947.

†Not printed in the day's Debates. Copies placed in the Library of the House.—Ed. of D.

PAPERS LAID ON THE TABLE

SUMMARY OF WORK DONE BY GEOLOGICAL SURVEY OF INDIA DURING PAST FIVE YEARS

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power): Sir, I beg to lay on the table the Summary† of the Work done by the Geological Survey of India during the past five years.

WHITE PAPER ON STERLING BALANCES NEGOTIATIONS

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance): Sir, I lay on the table the White Paper† containing the documents relating to the recent Sterling Balances Negotiations with the United Kingdom.

I might inform honourable members that it is my intention to move on the 12th instant for a supplementary vote for the payment of the amount involved in these negotiations, and it is the intention of the Government that a discussion on the negotiations should take place in connection with that vote.

An Honourable Member: Will it be circulated to us?

The Honourable Shri R. K. Shanmukham Chetty: The documents are printed and will be circulated to all honourable members.

ALLOTMENT OF A DAY FOR DISCUSSION ON HYDERABAD AND KASHMIR

Shri H. V. Kamath (C. P. and Berar: General): Before we proceed further, may I request the Leader of the House to allot a day for discussion of Hyderabad and Kashmir, in camera if need be?

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): The Government are willing to accede to the wishes of the House; but it is not clear to me what the House will have to discuss for a full day on Kashmir and a full day on Hyderabad. If I may suggest, at some later stage in the session, certainly if the general policy governing these matters is to be discussed, we shall give some time for it. The desire to allot a day to each question separately shows that they are considered separately mentally. That is a wrong way of approach.

Shri H. V. Kamath: One full day for both.

Mr. Speaker: Whatever it is, the matter will be taken into consideration.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF EXTERNAL AFFAIRS AND COMMONWEALTH RELATIONS

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Minister for External Affairs and Commonwealth Relations): Sir, I beg to move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of External Affairs and Commonwealth Relations, *vice* Diwan Chaman Lall, who has resigned from the Assembly."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of External Affairs and Commonwealth Relations, *vice* Diwan Chaman Lall, who has resigned from the Assembly."

The motion was adopted.

†Not printed in the day's Debate. Copies placed in the Library of the House.—Ed. of D.

DIPLOMATIC AND CONSULAR OFFICERS (OATHS AND FEES) BILL

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Minister for External Affairs and Commonwealth Relations): Sir, I beg to introduce the Bill to provide for the administration of oaths by diplomatic and consular officers and to prescribe the fees leviable in respect of certain of their official duties.

Sir, as a natural consequence of the independence of India, our consular officers have to perform these duties. There is nothing controversial about it and I trust that it will be passed when the time comes without any difficulty.

Mr. Speaker: Next Bill, further to amend the Indian Merchant Shipping Act.

An Honourable Member: You have not put the motion, Sir.

Mr. Speaker: The Bill has been published in the Gazette. This is not a motion for leave to introduce; it is introduction of the Bill.

INDIAN MERCHANT SHIPPING (AMENDMENT) BILL

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Minister for External Affairs and Commonwealth Relations): Sir, I beg to introduce the Bill further to amend the Indian Merchant Shipping Act, 1923.

The House will be surprised that any Bill dealing with Indian Merchant Shipping should be introduced by me and not by the Honourable Minister for Commerce. As a matter of fact, this deals with Haj Pilgrimage for which I am supposed to be personally responsible. Up till now, there was a clause in this Act requiring a certificate of vaccination every three years. Now, it is proposed to increase that period to five years, according to certain international sanitary conventions. So, the whole Bill consists of an amendment that five years be substituted for three years in a particular clause.

CENSUS BILL

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I beg to introduce the Bill to provide for certain matters in connection with the taking of census.

CONTINUANCE OF LEGAL PROCEEDINGS BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): There seems to be some mistake in the agenda papers. I have to ask for the leave of the House first and then introduce the Bills.

Secretary of the Assembly: There is no mistake in the list of business. These Bills were published in the Gazette under Rule 18 of the Constituent Assembly (Legislative) Rules and as such no motions for leave to introduce the Bills are necessary.

The Honourable Dr. B. R. Ambedkar: I see.

Sir, I beg to introduce the Bill to provide for the continuance of certain legal proceedings by or against the Secretary of State.

INDIAN MATRIMONIAL CAUSES (WAR MARRIAGES) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I beg to introduce the Bill to confer upon Courts temporary jurisdiction in certain matrimonial causes.

INDIAN REGISTRATION (AMENDMENT) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I beg to introduce the Bill further to amend the Indian Registration Act, 1908.

DISPLACED PERSONS (INSTITUTION OF SUITS) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I move for leave to introduce a Bill to make certain special provisions for the institution of suits by displaced persons.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to make certain special provisions for the institution of suits by displaced persons."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, I introduce the Bill.

TAXATION ON INCOME (INVESTIGATION COMMISSION) (SECOND AMENDMENT) BILL

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance): Sir, I move for leave to introduce a Bill further to amend the Taxation on Income (Investigation Commission) Act, 1947.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Taxation on Income (Investigation Commission) Act, 1947."

The motion was adopted.

The Honourable Shri R. K. Shanmukham Chetty: Sir, I introduce the Bill.

RESERVE BANK (TRANSFER TO PUBLIC OWNERSHIP) BILL

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance): Sir, I move for leave to introduce a Bill to bring the share capital of the Reserve Bank of India into public ownership and to make consequential amendments in the Reserve Bank of India Act, 1934.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to bring the share capital of the Reserve Bank of India into public ownership and to make consequential amendments in the Reserve Bank of India Act, 1934."

The motion was adopted.

The Honourable Shri R. K. Shanmukham Chetty: Sir, I introduce the Bill.

GANDHI NATIONAL MEMORIAL FUND DONATIONS (COMPANIES) BILL

The Honourable Shri K. O. Neogy (Minister for Commerce): Sir, I move for leave to introduce a Bill to enable companies to make donations to the Gandhi National Memorial Fund.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to enable companies to make donations to the Gandhi National Memorial Fund."

The motion was adopted.

The Honourable Shri K. O. Neogy: Sir, I introduce the Bill.

ESTATE DUTY BILL

PRESENTATION OF PRELIMINARY REPORT OF SELECT COMMITTEE

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance): Sir, I beg to present the Preliminary Report of the Select Committee on the Bill to provide for the levy and collection of an estate duty in the provinces of India.

EXTENTION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance): In presenting the above Report I also beg to move:

"That the time appointed for the presentation of the Report of the Select Committee on the Bill to provide for the levy and collection of an estate duty in the provinces of India, be extended upto the last day of the first week of the next Budget Session of the Assembly."

The Interim Report of the Committee that I have just now presented to the House will contain the reasons for my moving the motion that the date granted for the presentation of the report be extended up to the last day of the first week of the next Budget Session of the Assembly.

When the Select Committee started consideration of the measure it was found that some of the anticipations that were entertained regarding this measure had not been fulfilled. Honourable members might remember that on the discussion of my motion for the reference of this Bill to the Select Committee, various honourable members referred to the difficulties in the application of the provisions of the Estate Duty in the context of the Mitakshara Law of Inheritance prevailing in certain parts of India. Government expected that the Hindu Code Bill introduced by the Honourable the Law Minister, if adopted by this House, would solve one of the main difficulties encountered in the applications of an estate duty to a joint undivided Hindu family. When the Select Committee met we found that the Hindu Code Bill had not yet been adopted by this House and it was felt that after knowing the fate of this Hindu Code Amendment Bill, the Select Committee would be in a better position as to what exactly should be the provisions relating to the applications of an Estate Duty to an undivided Hindu family. Apart from this, it was brought to my notice that this Bill does not apply to agricultural land which is within the jurisdiction of the Provincial Governments. If an Estate Duty is to be applied to properties excluding agricultural land, it will create a great deal of anomaly, if not a great deal of hardship. There is one other factor also to be taken into consideration. As the Constitution stands at present, the provisions of the Estate Duty Bill will not be applicable to Indian States. A possible consequence of this might be the flow of capital from the Provinces of India to the Indian States. That would be a very undesirable feature. It has therefore been decided that the Government should immediately address the Provincial Governments with a view to getting their consent to enable the Central Government to bring within the purview of this Bill all agricultural land situated in the provinces. It is also my intention to move the Ministry of States to persuade as many of the States as possible to take the necessary steps so as to enable the application of this Bill to properties situated in Indian States also.

For these reasons the Select Committee thought that it would be advisable to postpone the detailed consideration of the Bill and ask for the permission of the House for a postponement of the date for the presentation of the final report. It might be urged that all these considerations to which I have made reference are not new factors that have cropped up, but must have been in the minds of Government even when I moved the motion for reference of

this measure to the Select Committee. I must certainly confess that these factors were in my mind but I thought when I introduced this measure in this House that we should keep alive in the country the interest in a measure like the Estates Duty Bill, and for that purpose I thought the quickest way of achieving our objective would be to introduce a measure of this kind in the Legislature and simultaneously take the necessary steps to get the concurrence of the Provinces and also to persuade the States to come into line with us. I am sure the House will agree with me that a measure of this kind has very far-reaching implications and we should not hurry up with such a measure. I therefore suggest, Sir, that the House might agree to the motion for postponement of the date for the final presentation of the report of the Select Committee.

Mr. Speaker: Motion moved:

"That the time appointed for the presentation of the Report of the Select Committee on the Bill to provide for the levy and collection of an estate duty in the provinces of India, be extended upto the last day of the first week of the next Budget Session of the Assembly."

Shri B. Shiva Rao (Madras: General): Sir, one is under a certain handicap in not having the Interim Report placed on the table of the House by the Honourable the Finance Minister, but the reasons that he has urged for postponing further consideration of the Bill to the next Session do not seem to me to be particularly convincing. If you look at the Estate Duties Bill as placed before the Select Committee, you will find that there is only one reference to the Mitakshara school in that Bill and this is in Clause 6. I will read to the House the clause to which I have just referred:

"Interests ceasing on death.—Property in which the deceased or any other person had an interest ceasing on the deceased's death shall be deemed to pass on his death to the extent to which a benefit accrues or arises by the cesser of such interest,—

(and I want the House to note the following words):

including, in particular, a coparcenary interest in the joint family property of a Hindu family governed by the Mitakshara school of law, but exclusive of property in which the deceased or other person had an interest only as holder of an office or recipient of the benefits of a charity or as a corporation sole."

The words "... including, in particular, a coparcenary interest in the joint family property of a Hindu family governed by the Mitakshara school of law" which occur in Clause 6 are strictly speaking redundant, because property passing by survivorship is covered by the preceding general words of the clause. The words which I have repeated before the House can easily be omitted, in which case the Estate Duties Bill would be quite independent of the Hindu Law Code and even if they are retained for the present, I think all that would be necessary is to omit them if and when the Mitakshara school is replaced by the Dayabagha.

There is no other reference to the Mitakshara school in the body of the Bill. There is a reference to it in the note on clause 30 on page 27. In that note one of the items suggested for exemption is interest in ancestral property passing on the death of a minor coparcener in a Mitakshara joint family who has a male ascendant living. It will be noticed that the exemption is to be made by a notification under clause 30 after the Bill is passed. Therefore, if at the time the Bill is passed the Mitakshara school is still in existence, the proposed exemption could be made if and when the school is abolished by subsequent legislation. Then the exemption can be withdrawn and therefore it seems to me that so far as the present Bill is concerned, it is immaterial whether the Mitakshara school is or is not in existence.

The Finance Minister also referred to two other considerations which seem to be operative so far as he and the members of the Select Committee are concerned. I do not know whether he is confident of securing the consent of

[Shri B. Shiva Rao]

the Provinces and the States by the time the Select Committee is convened, again. I cannot help expressing the fear that if this course is adopted, the Bill will be postponed, not to the next Session of the Assembly, but indefinitely.

Shri K. Santhanam (Madras: General): It is certainly regrettable that the Bill should have been postponed but there was no alternative. I am not particularly impressed by the reasons given by the Honourable the Finance Minister but one conclusive fact which weighed with the Select Committee was that the Finance Ministry was not ready for the consideration of the Bill. It had to be ready but somehow for some reason or other it was not ready and unless it was ready there was no purpose in proceeding with the Bill.

Mr. Shiva Rao pointed out the implications about the Hindu joint family. The mere exclusion of that clause will not solve the problem, because so long as the joint Hindu family is there the problem will be there too but it was a matter to be considered by the Select Committee. I do not think any consideration by an outside body will solve the matter in any particular manner. It is essential that this measure should be passed at an early date so as to supplement the finances of the provincial governments and I earnestly hope that there will not be any occasion to come before this House for a further postponement.

Secondly, in a federal system this difficulty about the position of the provincial units will always be there for one reason or another. This was so in the Income-tax legislation. Agricultural land is not subject to income-tax yet I think the Central Government has succeeded very well in establishing a system of income-tax and proceeding with it. And there is also a further consideration *viz.*, that agricultural land, whatever you may do, will be a separate category. For instance, there will have to be fragmentation of holdings. Therefore, even if agricultural land is brought within the purview of the central legislature, so far as fragmentation is concerned the provincial legislatures will have to be given power to supersede all succession laws. Similarly in the matter of alienation. Absentee landlordism will have to be abolished. That will require prevention of succession to absentee landlords. Therefore in either case this problem of agricultural land will remain as a problem, whatever constitutional arrangements may be made. So we must take the situation as it is and solve all problems as best we can and not try to complicate them further by adducing one thing or another as reason for postponing the measure. The Estates Duty stands more or less, so far as constitutional and other considerations are concerned, on a par with income-tax and all the limitations which are there in the income-tax act must be accepted by the legislature in the Estate Duty Bill also. Therefore I plead that early steps should be taken to have the measure considered and the Bill placed before this House.

Mr. B. K. Sidhva (C. P. and Berar: General): Sir, I am not satisfied with the arguments advanced by the Honourable the Finance Minister for a long postponement of this Bill. The points that he has raised, as he admitted himself, were already before the House when he introduced the Bill. When the Select Committee met on the 2nd of this month it was surprising that the Honourable Minister was not prepared to proceed with the Bill. If the provisions of the Bill had not been studied or thoroughly looked into by him or his Ministry I must say that it does no credit to his ministry. Four months have passed since this Bill was introduced and this was a sufficient period for the ministry to put themselves in communication with the provincial governments in regard to the requirements that they wanted to be fulfilled. But for four months the ministry did nothing of the kind and members of the Committee are called here only to waste public money and go home.

As far as the agricultural question is concerned my friend Mr. Santhanam has dealt with it very ably. I do not want to dilate on this point. This question will always remain there and similarly the question of the Hindu Code as well. I understand (I am speaking subject to correction) that part of the question has been discussed by the Select Committee and the report is going to be presented to the House. Whatever it may be, even if the report is not going to be presented in this House, today we are taxing the Hindu joint family under the Income-Tax Act and if there are some contentious matters in this Bill it is for that purpose that it was sent to the Select Committee. All the points which the Honourable Minister has brought out may have been placed before the Select Committee. The Select Committee was meant for that purpose. All these four points that he has raised could have been brought before the Select Committee and the members should have been given an opportunity to discuss and give their opinions. Somehow for the reason best known to himself there was no programme to proceed with the Bill. Of course he had the support of the majority of the members of the Select Committee. I do not dispute that. I am a member of the Committee and I am the only

Shri M. Ananthasayanam Ayyangar: Therefore, more than the honourable not been presented. I signed it this morning at 10-45 A.M. It would be only fair that this report should have been in the hands of the members and they would have studied it and given their views on the matter. It is really regrettable that this Bill which was introduced two years ago met with a similar fate. Again it was brought and we are asked to postpone it. I could have understood a postponement at the end of this session. If the Finance Minister wanted a clarification of the Hindu Code by that time he would have known it and the period could have been extended up to the end of this month. Why go up to the end of the next Budget session? We might meet again in October or November. I do not know whether we will be able to finish all the business before us in this session. We might have to meet again in October or November. Why is this long adjournment wanted? If the Finance Minister had these points before him he should not have introduced the Bill. It looks very bad. I do not mind a little postponement. This Bill was welcomed on all sides of the House. I therefore feel that it is not proper that the Government have not studied the Bill, the Finance Ministry has not studied the Bill, it should be postponed indefinitely. In the Select Committee we would have been given an opportunity to study and discuss this matter and then after fair deliberations the Select Committee report could have been brought before this House. Although this is a majority report I was the single member who dissented. I think it my duty to bring this matter to the notice of the House, because it is most improper that this Bill has been held over and the Select Committee has not been given an opportunity to consider the Bill and present a very acceptable report in this House. No doubt there are many points. There is a point about the Succession Act. That is also a matter for consideration. All these points were before the Select Committee for consideration. Today we are in the month of April. I am telling you that we will be again in the month of March next. I do not know whether on that occasion we shall be able to submit a report. I therefore feel that whatever my single voice may be I should protest against this kind of postponement.

Prof. N. G. Ranga (Madras: General): Mr. Speaker, Sir, I am afraid that the Finance Ministry has put a very poor show indeed in this matter. My honourable friend has said that he has not proceeded with the presentation of this Bill, not because he himself and his Ministry were not completely prepared with all the material, but because he wanted to keep the interest in this Bill. That is extraordinary because the interest in this Bill has been nearly five years old. Nearly five years ago when Sir James Grigg was here he put a poser to the Opposition at that time; we were all in the Opposition then and we accepted his challenge and asked him to introduce the Bill i

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[Prof. N. G. Ranga] he had the Bill up his sleeve. But for reasons best known to himself he did not proceed with that. Ever since, this problem has been before the public. The people knew that this thing was in the offing and that the Finance Ministry would be expected to introduce it at any time that might be considered convenient. Later on Sir Archibald Rowlands came forward with a Bill. That too met with the same fate. He did not give us any reasons. Then Mr. Liaquat Ali Khan introduced it, I think. He said he was going to impose this duty. We all welcomed it in that Budget session. But nothing has happened. Then came this Bill from Mr. Shammukham Chettiar. What is the elementary duty of a Department, a Ministry, in a case like this? What is it that they had done earlier when a similar Bill of equal importance, like the Insurance Act (Amendment) Bill, was brought before this House? Even before the Bill was actually introduced here, conferences were held with the concerned interests; opinions were obtained from various companies as well as from the Provincial Governments; and then, fortified with all these things, the Government framed their Bill, came forward and placed it before this House, and thereafter it had taken its own due course. Similar procedure was taken in the case of the Indian Companies Act (Amendment) Bill. Then why is it that the Finance Ministry has not taken similar steps in regard to this? That is the first question.

Secondly, even after this Bill had been introduced in this House, what is it that had prevented the Finance Minister from calling these two conferences—may be at one and the same time—the conference with the Provincial Ministers and also the conference with the concerned Ministers of the Indian States and asking their views, ask for their co-operation, obtain their co-operation and go forward to the Select Committee with their definite proposals?

Shri B. Das (Orissa: General): It is not so easy.

Prof. N. G. Ranga: My honourable friend Mr. B. Das says it is not so easy in view of the fact that the Committee on which he had been a Member had not met—the Economy Committee. It was not easy for that Committee also to meet and transact work for several months. I do not wish to say anything about other Ministries at this juncture, but this Finance Ministry does not evidently seem to be taking its own tasks and responsibilities. That is what it appears to me.

Thirdly, I wish the Finance Minister had not given the reasons he has given for this postponement. Instead, if he had contented himself with the reasons—I do not know what the reasons are—that the Select Committee is supposed to have given for this postponement, it might have been better. He has mentioned the Hindu Code. How long it is going to take to be passed in this House? We know it has had a chequered career for a number of years. It is going to come from the Select Committee—we do not know whether it is going to come during this session. Anyhow, the Honourable Minister is not in charge of it. It is hanging on in suspended animation. Then, are we to understand that because of that the consideration of this Bill should be postponed?

Secondly, there is the question of the Indian States. Is it going to be such a simple thing after all? First of all he has to make them agree to this. Secondly there is the question of settlement with them as regards the sharing of the proceeds that would be collected in the States—whether all the proceeds should be handed over to them or a portion taken for Central revenues here and a portion given over to them. All these things have got to be thrashed out. Is he quite sure that his almanac will hold good there? We do not know.

Thirdly, there are the provinces themselves. I quite agree with him in regard to one thing. That is that the Indian Provinces are to be taken hand in hand with the Central Government in regard to Estate Duties on landed

properties so that the incidence would be uniform on all kinds of properties. But could not the desired agreement have been achieved during the last four months? There is one relevant answer to this and that is that the Honourable Minister could not be in this country and had to be abroad. I quite see the difficulty. But what was his Ministry doing? That is what I wish to know. Does it mean that when the Minister is not here it would not be possible for him to leave instructions to his own Department and that there are not good enough or big enough officers in his Department to be able to call for a conference with Provincial Ministers and try to come to a provisional agreement at least and prepare the ground for the Honourable Minister to take the strings up? Evidently nothing has been done. I do not know whether the Honourable Minister had the authority of the Select Committee for the speech he has made and the reasons he has given. I do not know whether the reasons he has given are the reasons which the Select Committee have themselves given in their report. I owe an apology to the House. I am a Member of the Select Committee and I am very sorry I could not attend that Select Committee meeting. Therefore I hope the House will accept my unconditional apology for not having discharged my duty. At the same time it is up to the Finance Ministry also to make a clean breast of the matter and say "We have not done our duty; we have failed to do it".

Lastly, there is this additional danger. We have been dangling this before the public, "Oh, we are not a capitalist government or organization; we are really for the people; we are going to take these capitalists in hand and are going to deal with them as they deserve and see that some of these war-time made fortunes are disgorged to the extent that is possible by this Bill." What is it we find?—a kind of a prospect where there does not seem much chance of this Bill ever coming up before this House in the next few months, may be one, two or three years. And in the meanwhile, as we know our own people here, there will be any amount of efforts made by a number of ingenious people, aided by more ingenious lawyers and others to divide and sub-divide their profits, so that it might not be possible for my honourable friend the Finance Minister to collect half as much as he should have been able to, if only his Ministry had gone on with this Bill as expeditiously as could have been expected. Sir, I express my deep regret at the way these things have taken a turn.

Shri B. Das: Sir, I was a little wonder-struck at the speeches made by the last two socialist minded friends. Why my honourable friend Mr. Sidhva, who is now worshipping socialism in this country, is in such hurry I was not impressed. My friend Prof. Ranga's reasons I could not understand. He wanted that Government should have hustled this measure in the Honourable Minister's absence in U.S.A.—although my honourable friend failed to attend the Select Committee of which he was a member.

I welcome this motion. Unless the Governments in the Provinces and here have had time to examine their own position it is not possible to proceed further with this Bill. My honourable friend Prof. Ranga has already pointed out that this had a British start, that England wanted to take all the money that our capitalists and zamindars had in those times. Somehow they could not catch. Mr. Liaquat Ali Khan wanted to catch a portion of it—he could not do it.

But where are those estates which my honourable friend Mr. Shammukham Chetty will catch two or three years hence? The Estate Duty Bill affects only the rich people of whom there are two classes: one the industrialists, the other the zamindars. By their conspiracy the Labour Ministers of the Government of India and the Provincial Governments are creating a situation by which in a year or two there will be no industries left,

[Shri B. Das.] much less thrive in a prosperous condition. So, there will be no industrialist who will pay the duty. As for the *zamindars*, the Revenue Ministers of all the Provincial Governments have conspired; they want to take up all the *zamindaris*, and I understand the Honourable the Finance Minister has agreed to give them loans for the purpose. I do not know where the Provincial Governments would find money to pay interest on those loans as purchase price of those *zamindaris*.

If the monied class, the *zamindars* and the industrialists are eliminated from this vast sub-continent, then what purpose will be served by the Estate Duty Bill? We would never get a thing examined in the proper atmosphere. It was always examined with the British arrogance which, of course, had the support of my honourable friend Prof. Ranga. At that time he thought that all monied men in India, all industrialists, *zamindars*, and capitalists, were devils, and he wanted to ally with the British, and would have liked the Britishers to exploit the wealthy class. But today, in spite of the great change, he wants the rich to be exploited, but there will be nothing left to be exploited by the Minister of Finance.

Sir, for these reasons I welcome the motion that the Bill be further investigated. I am sorry my friend on my left, Prof. Ranga, passed the remark that the Government did not investigate. The Finance Department being a part of the old Finance Department, how and why should it investigate, when it has found honourable members, and members of the reputation of my friend Prof. Ranga, supporting it for the last five years from the moment Sir James Grigg brought the Bill on the floor of the House and whispered to my friend Prof. Ranga in the Lobby of the House?

Sir, my honourable friend the Finance Minister may legislate, and this House may pass the Estate Duty Bill into an Act. But there will be nobody to pay those taxes. There will be no property left. As for that particular point whether the agricultural property should come under the purview of the Centre or whether it would be under the purview of the Provinces, that is another matter; the Provincial Ministers should hold conferences to decide it; it is not a matter for the Select Committee to decide. I have been alarmed at the way the Labour Minister of the Government of India has been legislating and putting heavy burdens on the Provincial Governments. I do not want the Finance Minister to lay further burdens on the Provincial Governments and at the same time touch on the autonomy of the Provincial Governments. Therefore, Sir, I like this motion. I do hope that sufficient enquiry will be made, not from the socialistic point of view as my friend Prof. Ranga or Mr. Sidhva would like, or from the capitalists' point of view, because in this House there is not a single man who is an industrialist who can say that he will pay three years hence Estate Duty as the Bill designs.

Sir, this is the situation. Let us examine it fully. Let the country examine it. And I hope the Finance Minister will also consult the various Chambers of Commerce—I believe they have been consulted—and also the Trade Union Congresses and *Kisan—Mazdur* Associations, of which my honourable friend Prof. Ranga is the President and leader, so that all views could be collated.

An Honourable Member: *Kisans* have no estates!

Shri B. Das: But *kisans* want what little I possess!

Therefore, I welcome the measure and I hope that nothing should be done in a hurry.

Prof. Shibban Lal Saxena (U.P.: General): Sir, I do not know whether the disapproval by many members of this House of this motion will induce

the Honourable Minister to withdraw it, but still I do think I must do my duty and tell him that the motion should not have been made here.

Probably the reasons he has given do not convince him also, but he has to give some reasons. I feel these are not the real reasons, but I suppose the fact is that the Honourable Minister is not prepared to proceed with the Bill. What will it cost our Provincial Governments if the Bill were postponed for another six months? I think if this Bill is passed soon enough our Provincial Governments will be able to get crores of rupees which will be used for national development which is so urgent. From that point of view I think we must bring home to the Honourable Minister that he must see that the Bill is passed and placed on the Statute Book without a moment's delay. It should not be made contingent on the passing of the Hindu Code Bill or any other Bill. As many friends have pointed out methods like income-tax, methods can be devised for the realisation of this tax, but time is the essence of the situation and the Provincial Governments should be given the right to collect the duty forthwith so that they may proceed to finance their development schemes with the money which they get. I thought that the money was urgently required and that the Finance Minister would be only too eager to grasp at any source of income that was pointed out to him. But here we find our Minister who has thrown away this chance of getting plenty of money and filling his exchequer. I feel that if we adopt this motion, the charge levelled against us that ours is a capitalist Government will be strengthened. I therefore hope that the Honourable Minister will sense the feeling in the House that it does not wish that this motion for postponement of the Bill should be passed. He may take some time, but the House is anxious to see that this Bill should be passed at once otherwise it will mean the loss of several crores of rupees which will be very useful to the Provinces for their work of development. I therefore earnestly desire that the Honourable Minister should withdraw this motion.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I was not a little surprised when some Members said that the Honourable the Finance Minister gave certain reasons which do not find a place in the Committee's Interim Report that he presented. Word for word even the very expressions that have been used by the Honourable the Finance Minister here in supporting the motion for keeping this matter to lie over till the next Session, have been borrowed from the Select Committee's Report. Every argument that has been advanced by him finds a place here. I am not a protagonist of his, as he too well had occasion to say that I was going out of the way and quarreling with him. Therefore, I do not hold any brief for the Honourable Minister. My only interest in this is that I also was a Member of the Select Committee; Mr. Santhanam was a Member of the Select Committee, and both of us and some others have signed this Report. I shall read it.....

Shri M. Tirumala Rao (Madras: General): Is the rest of the House not to know the contents of the Select Committee's Report while the Members of the Select Committee quote before the House

Mr. Speaker: The honourable member knows that the Report is presented to the House and he is reading from it.

Shri M. Tirumala Rao: It is not circulated.

Mr. Speaker: That is another matter. It is open to every Member to have a loan of it for the time being.

Shri M. Ananthasayanam Ayyangar: Sir, I am aware that my friend is a high parliamentarian, but after the presentation of the Committee's Report there is nothing secret about it. As I got it from the Secretary, he could also

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have taken it from him, and if he wants debate on this important matter adjourned, he could have moved the Speaker to ask it to lie over particularly in view of the fact that the Honourable the Finance Minister will be prepared to have the Report circulated. Therefore, it is not quite a good reason to be given against this motion.

The points raised are two or three. Before I come to them, I think there is ample justification for making this lie over. For, who are we trying to catch? After all, we want to levy this duty to ensure equality between man and man. That is one of the chief objects of the Estate Duty. It is certainly a taxation measure, but it is also intended for the purpose of removing inequalities of birth. For instance, one man inherits an estate worth Rs. 10 lakhs or one crore. Another man inherits a small estate. The one man may be very intelligent and the other man may be a dullard; all the same, he inherits a very large property which has been handed down by his father. It is to give the same start and to remove all inequalities in the social structure that this and other similar taxation measures are introduced. Income-tax is not only a tax but it is intended to adjust social and economic inequalities. That is a much greater and much more important aspect than the few chips that are sought to be raised by its levy or by this tax.

There is one other point which the honourable members in this House must note. This is not a taxation measure intended to enrich the coffers of the Central Government. It only goes to the various Provinces.

An Honourable Member: That is of greater importance.

Shri M. Ananthasayanam Ayyangar: Therefore, more than the Honourable member and I, the Provinces must be interested in this measure. Under the present Government of India Act, the Provinces can always apply to the Centre whenever there is a measure of taxation or a piece of legislation which affects the Provinces. They can certainly send in an application and ask the Department here concerned to take up that measure and pilot it on their behalf. No such thing has yet been done. Not only do they not seem to be anxious.....

Prof. Shibban Lal Saksena: Who?

Shri M. Ananthasayanam Ayyangar: The Provinces. Where is the proof that the Provinces are anxious about it? You and I are not the representatives of the Provinces here exclusively. Each Province has got its own legislature. There are popular Ministries there. Are we absolutely representatives of the entire continent of India of 30 millions? I do admit that we have a sense of responsibility, but the urge must come from the Provinces, because this measure is going to strengthen their sinews. That is number one.

Prof. Shibban Lal Saksena: Has the honourable member forgotten that we have been elected by the members of the Provincial Legislatures and we have, therefore, to safeguard their interests?

Shri K. Santhanam: May I point out that we here are the people to vote sums for the Provincial expenditure?

Shri M. Ananthasayanam Ayyangar: But my honourable friend knows only too well that we are only collection agents for this purpose as in various other matters also. After all, who are the persons that enjoy? Certainly, the ass that bears the gold does not enjoy it: We are only collection agents.

An Honourable Member: Who is the ass?

Shri M. Ananthasayanam Ayyangar: I am the ass; I have no objection. Let us not import emotion. As one is a socialist, the other is a Rowlands. Rowlands was very much interested in the welfare of India. He was a socialist of socialists. He wanted to throw this country along with others into the Bay of Bengal. I would not take a leaf out of that. The reason

why I stand up is I am a poor man. I have got consideration for a poor man. This measure is not going to affect my estate at all. But if a European starts some measure, however good it may be, I would only take it with a pinch of salt. On that ground alone, I would ask him to put it off for some time.

Now, let me go to the agricultural land. I will read out that portion of the Select Committee's Report which is common to all of us. My honourable friend Mr. Sidhva has also signed the Report.

Mr. R. K. Sidhva: I have of course signed, but was the honourable member present at the meeting?

Shri M. Ananthasayanam Ayyangar: Well, I signed the Report and I stand by what I signed; my friend does not. (Interruption). Let us not carry on conversations across the table. I am entitled to speak and convince my friend.

Mr. R. K. Sidhva: I have of course signed, but was the honourable member he has not read it fully.

Shri M. Ananthasayanam Ayyangar: I have read it fully. It is in a corner and understandable to nobody except himself.

Now, I will read out the relevant portion:

"We have given anxious consideration to the proposal of the Finance Minister. We realize that to a very large extent the points raised by him were present to the mind of the members of the Legislature when it passed the motion to refer the Bill to the Select Committee and therefore cannot be said to raise questions which are new. Nevertheless the Committee with the exception of Mr. Sidhva felt that the arguments advanced by the Honourable the Finance Minister in support of his proposition that the consideration of the Bill by the Select Committee be postponed are weighty and should be allowed."

I do not know if the word "weighty" allows of superlative or comparative. It is sufficiently strong in itself. That is the considered opinion of all members except my honourable friend Mr. Sidhva.

Now, let me come to the merits. My friend Mr. Santhanam said, it is a lame excuse to say that this does not affect agricultural property. With great respect to him, I would say this, that the comparison of income-tax and this does not fit in. It is true that agricultural land is not liable to Central income-tax, but more than this income-tax every inch of land in this country is taxed to the hilt. If income-tax is imposed on agricultural land also, poor agriculturalists who own ten cents or one acre or one and a half acres will be free from taxation. They will all be free from taxation. But the land tax is a taxation measure much more onerous than any measure which has been conceived of. A man who owns ten cents has to pay out of proportion to his income, while a man getting Rs. 2,000 by salary or income or property other than agricultural land is now exempt from taxation. Under these circumstances, there is no analogy between the one and the other. It is true that it ought to be brought in line with the rest, but the exact reason is that till now income-tax legislation has also been dealt with at the Centre and every inch of land is liable to taxation somewhere or the other. What about death duty? If we pass legislation here exempting agricultural property, is death duty recovered in any form or shape by way of revenue or otherwise in any part of any of the Provinces in this country? No. There is no correspondence. Whereas agricultural land is exempt from central income-tax it is liable to some tax or revenue which is more than this. There is no correspondence here. I am repeating this argument for this reason. Let us take a person who has got a lakh of rupees he has earned. His property is not agricultural property. Another man has invested all his property in agricultural land. We will assume he has 5 or 10 lakhs. The one man will be exempt from taxation, the death duty, the measure which we want to

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introduce, which we want to hurry through. So far as the other man is concerned, his one lakh of rupees will be reduced to fifty thousand or even less. He may have a dozen children. Therefore, there is inequality of income; inequality of estate and difference in start, which is one of the main objects of this Bill to adjust. If I am a socialist, I must urge that there should be equalisation of property, so that no one man or group may have a start in life over the other man. But here the very object is frustrated. I do not know how my friends are bringing in the analogy of income-tax. It is absolutely different. It does not suit the position under the Estates Duty Act.

Now, let me come to my honourable friend Mr. Shiva Rao. He thinks of Clause 6 as it affects only the Joint Hindu Mitakshara family. It is like removing the key stone and asking the arch to stand. What is the community other than the Hindu Mitakshara except in a corner of Bengal? Still we are groups of family everywhere. Even the Marumakkathayam law retains the qualities of the Joint family in some form or other. This is like putting a piece of salt in a pot of milk. I have no objection. Mr. Shiva Rao may do so. Let him do so. The whole thing will curdle. Where it was the Joint Hindu family before, we are by side-tracking and by another round-about method trying to destroy that family. Let us have a vote of this House whether our structure should be destroyed or not. I do not disagree that there are friends here who have absolute contempt for Hindus, contempt for Hindu law, contempt for Hindu culture. I do know that some people have become so Anglicized, they have contempt for everything Indian. They think they were born of scratch and we have to just once again re-impose all our institutions from the West. A motor car which has become useless and obsolete in the West becomes the starter of a new engine in India. Likewise, absolute individualism—father does not care for the son; the son does not maintain the father. If such an institution is brought into this country I have got very grave objections. I have very serious objections to the disruption of the Joint Hindu family. It may be with great respect to those who have introduced revisions in Hindu Code, but I will have my say and I will try to the best of my ability to oppose the passing of that measure or whatever other such measures might come up. So far as marriage, there may be need for interference here and there but not with respect to the Joint Hindu family. It is an institution which has served. It is an institution which takes the place of social security in this country.

Shrimati Renuka Ray (West Bengal: General): May I raise a point of order? Can we have a discussion of the Hindu Code before the Select Committee has sat?

Mr. Speaker: I was just thinking of reminding the honourable member that he is going beyond the scope of the present discussion.

Shri M. Ananthasayanam Ayyangar: I will come back to the scope. If I have erred on marriage, I will come back to property.

Now, Sir, I was only addressing myself to the importance of clause 6. Mr. Shiva Rao said that the Joint Hindu Family is after all only one class and is not going to affect the very structure of this Bill. Clause 5 says what is the property which can be taxed.

Shri T. A. Ramalingam Chettiar (Madras: General): Are we discussing the merits of the Bill or whether further time should be allowed to the Select Committee if further time is not given it should be superseded by some other Select Committee or this House should take charge of the Bill by itself? That is the question that has to be decided.

Mr. Speaker: The proposition before the House is simple. One of the reasons given by the Honourable the Finance Minister was that the question

f the structure of Hindu family under the Mitakshara is an important point or which they want some time to consider. It is from that point of view that the honourable member, I believe, is trying to point out the importance of the social structure and therefore the necessity for longer time of course, he should not go into further details and that is why I said, he was going beyond the scope.

Shri M. Ananthasayanam Ayyangar: I was pointing out to clause 5 as to what the property is. Are we to be satisfied that the Honourable the Finance Minister is not a socialist? So far as this matter is concerned, I humbly submit to the members of this House that we should not do anything hastily. One of my friends said: "Why, war profits will escape"? War profits won't escape until the man is alive. Why should you expect these people will die immediately? Let them live for and multiply their profits also; let them live happily, acquire more wealth, so that by the time the Estate Duty comes into operation we will have large chunks of gold from them. I heartily support this motion for the Select Committee being given further time to consider this matter till the next session of the Assembly.

Mr. R. K. Sidhva: The Honourable Mr. Ananthasayanam Ayyangar stated that he signed the report. May I ask him whether he placed all these views before the Select Committee?

Mr. Speaker: That point is irrelevant.

The Honourable Shri R. K. Shanmukham Chetty: Mr. Speaker, the motion that I have placed before the House is only recommendation of the Select Committee and not a motion for which I am solely responsible, but I am glad that my honourable friend Mr. Ananthasayanam Ayyangar brought out this point. The Select Committee was charged with the duty of presenting a report to this House within a specified time. The Select Committee has presented an interim report in which they have recommended that the House should be requested to grant more time and I have simply translated that recommendation into the form of a definite motion. But I do not want to shirk my responsibility in persuading the Select Committee to accept such a decision. I pointed out to the Select Committee the reasons that should weigh with them in coming before the House and making a request for the grant of further time and the Select Committee saw the force underlying my arguments and they accepted my recommendation. Some charge has been made more or less in an indirect manner that it is probably my intention by means of these dilatory tactics to postpone indefinitely the passing of this measure into law. If Honourable Members who have any such suspicion will take the trouble of understanding the genesis of this measure, they will find it is a totally unjustifiable suspicion. This Bill was introduced some time back in the old Legislative Assembly and after the constitutional changes the Bill lapsed. There was no Bill before this House. If I had the slightest intention of obstructing the passage of such a measure, the course open to me was very simple. I should simply have desisted from introducing this Bill before this House. But I felt, Sir, that a measure of this kind to bring about a more equitable distribution of wealth in this country is eminently desirable. At the same time when I read the provisions of the Bill as was drafted, I realized it was defective in many respects. But I felt that the best way of expediting the passage of this Bill is not to indefinitely take time to reconsider all these defects, but to bring it before the House and to ask my Ministry simultaneously to study the various implications of the measure in the light of the criticisms expressed in this House and in the Select Committee, and in the face of this attitude, I would leave it to the House to decide whether I was actuated with the intention of stifling this measure or

[Shri R. K. Shanmukham Chetty]

was actuated with a motive of doing my best to expedite the passage of this measure.

My honourable friend, Professor Ranga levelled certain accusations against the efficiency of the Ministry of Finance. Sir, I have only to say this. As Minister in charge of that Department, I would welcome any criticism levelled against me. I, as a responsible minister am prepared to take all the consequences of the working of the Ministry of Finance, but I will not tolerate any such unjustifiable criticism against the officers of my Ministry.

Prof. N. G. Ranga: As a matter of personal explanation, I had no officer of his Department in my mind at all. When I was criticising his Ministry, I was criticising him and the whole of the Ministry for which he is responsible.

The Honourable Shri R. K. Shanmukham Chetty: I am glad that the honourable member has elucidated the point. I take the fullest responsibility for any delay that might have occurred in the examination of this Bill. The officers of my Ministry have discharged their task and their responsibility in the most satisfactory manner.

Prof. N. G. Ranga: It is your opinion and we have another opinion.

The Honourable Shri R. K. Shanmukham Chetty: And if any delay is caused, I take the fullest responsibility for that delay. I have given very valid explanations which I am glad to say the Select Committee conceded when I pleaded for the postponement of the consideration of this measure.

Mr. Speaker: The question is:

"That the time appointed for the presentation of the Report of the Select Committee on the Bill to provide for the levy and collection of an estate duty in the provinces of India, be extended upto the last day of the first week of the next Budget Session of the Assembly."

The motion was adopted.

Mr. Speaker: There are only five minutes left. Now the Honourable Minister may move his motion and then we may adjourn.

The Honourable Shri R. K. Shanmukham Chetty: Sir, I want a little longer time to move the Bill.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

DECLARATION BY MEMBERS

The following member made the Declaration under Rule 2C:

Shri Prabhu Dayal Himatsingka (West Bengal: General).

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF EXTERNAL AFFAIRS AND COMMONWEALTH RELATIONS

Mr. Speaker: I have to inform honourable members that for the purpose of election by means of the single transferable vote of a member to the Standing Committee for the Ministry of External Affairs and Commonwealth Relations, the programme of dates will be as follows:

Nomination to be filed in the Notice Office up to 12 Noon on Wednesday, the 11th instant.

Election, if necessary, will be held on Friday, the 13th August in the Assistant Secretary's room (No. 21) in the Council House between the hours of 10-30 A.M. and 1 P.M.

FACTORIES BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Shri Jagjivan Ram (Minister for Labour): Sir, I beg to present the report of the Select Committee on the Bill to consolidate and amend the law regulating labour in factories.

BANKING COMPANIES BILL

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance): Mr. Speaker, I move:

"That the Bill to consolidate and amend the law relating to banking companies, be referred to a Select Committee consisting of Dr. B. Pattabhi Sitaramayya, Shri T. A. Ramalingam Chettiar, Shri Arun Chandra Guha, Shri Prabhu Dayal Himatsingka, Shri Bikramlal Sondhi, Prof. K. T. Shah, Srijut Kuladhar Chaliha, Mr. Hossain Imam, Shri T. T. Krishnamachari, Shri T. Channiah, Shrimati G. Durgabai, Dr. Dharam Prakash, Shri U. Srinivasa Mallayya, Shri M. Ananthasayanam Ayyangar, Shri Jaspal Roy Kapoor and the Mover, with instructions to report on or before the 18th August, 1948 and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, honourable members might remember that towards the end of January 1948, I moved a motion for withdrawing the Bill to regulate Banking in India. In moving that motion I explained what my intention was. I then said that it was purely with a view to facilitate discussion in this House. When I adopted the course of withdrawing the Bill that was then before the House, I intended to move for the introduction of a Bill consolidating all the amendments made by the Select Committee and a few consequential amendments necessitated by a change in the constitution. The Bill before the House now is really a Bill that has consolidated for the sake of convenience the report of the Select Committee which examined the measure in very great detail. I have also taken this opportunity to incorporate certain special amendments due to the changes in the constitution and also certain amendments of a verbal nature, and one amendment based on the report of the minority of that Select Committee.

Banking law in this country has formed part of the general company law. It was felt for a very long time that a separate Banking law was necessary to regulate Banking. The object of the Indian Companies Act is primarily to protect the interests of the stock-holders whereas the object of a Banking legislation must be primarily intended to protect the interests of the depositors and the public. The fundamental conception underlying the company law is therefore different from the conception underlying banking legislation, and the need for such legislation, as I said, has been felt in this country for a very long time.

The Central Banking Enquiry Committee which conducted a very detailed and elaborate enquiry on the question of banking during the years 1929-1931 made some very elaborate recommendations for the enactment of the banking law of this country. I happened to be a member of that Commission and it is therefore a matter of pleasure to me that I should have this opportunity of piloting this measure through this House and give effect to some of the main recommendations of that Commission. No immediate action was taken on the recommendations of the Banking Commission. In 1938, however, certain recommendations of the Banking Commission were incorporated in the Indian Companies Act. There the matter rested. In 1938, a banking crisis occurred in South India and the attention of the public was once again concentrated on the need for a comprehensive banking legislation. The Government of the day, in 1940, drafted a Bill and circulated it for eliciting public opinion; but on account of the preoccupations connected with the war, no further steps were taken. During 1942 and 1944, certain interim measures

[Shri R. K. Shanmukham Chetty.]

were passed to remedy some of the defects in the capital structure and management of banks. Beyond this, the fundamental points arising out of banking legislation were not touched. It was in 1944 that a comprehensive Banking Bill was introduced in the Central Legislature. Unfortunately, soon after that, in 1945, the legislature was dissolved and the Bill lapsed.

In March 1946 a new Bill based on the opinions received so far was introduced and referred to a Select Committee of the Legislature. This Select Committee gave an opportunity to experts and various interests concerned to represent their views, and after a very close and detailed scrutiny of all the clauses, the Select Committee finally submitted its report.

The present Bill, as I have stated, is merely a consolidation of the recommendations of the Select Committee. Ordinarily the old Bill, with the report of the Select Committee, would have been taken up for consideration of this House and there would have been no need to refer the matter again to another Select Committee. But as I indicated also in my speech, such a procedure would have been very cumbersome, because on every clause a motion would have to be made embodying the amendments made by the Select Committee, and these amendments being one of substance, it would have been very difficult for the Honourable Members of this House to understand the full implications of a clause or the amendments proposed by the Select Committee. I am sure that under these circumstances the House will agree with me that the procedure that I have adopted will be more welcome to the House and more convenient from the point of view of an intelligent consideration of the measure.

In consolidating the amendments of the Select Committee into a comprehensive measure I also took the opportunity of introducing certain amendments necessitated by a change in the Constitution that occurred in the meantime. For example, in the old Bill and in the report of the Select Committee the phrase "British India" occurs. In place of that we have substituted "Provinces of India." In consultation with the Reserve Bank, we have also made certain amendments more of a drafting nature intended to improve the drafting of the Bill, and as I indicated earlier I have also included a clause incorporating one of the recommendations of the Minority of the Select Committee placing a limitation on the dividends that might be paid by banks constituted after a certain date.

It is not necessary for me, Mr. Speaker, at this stage to go into any great detailed exposition of the various clauses of the Bill. The Bill is a very comprehensive measure. It attempts the primary task of defining what a banking company is. Until now we have no legal definition of the words "banking company".

I remember that when this problem was considered by the Banking Enquiry Commission various difficulties were encountered in devising an accurate and suitable definition of the phraseology. I am reminded of the saying of a gentleman who used to say that the difference between a moneylender and a banker is that while a moneylender lends his own money a banker lends other people's money. That popular conception however is very nearly a fair expression of what banking practice is, but that would not serve a legal definition. The Select Committee has to my mind given what might be regarded as a very fair working definition of what a banking concern is. The Bill contains provisions for improving the standards of management and to prevent the inter-locking of banking directors which has been almost a curse in banking system in our country, and to which might be traced many of the frauds and malpractices committed by banks. Elaborate provisions have been made to ensure a suitable capital structure. We have also made provisions for effective and adequate

inspection of banks by the Reserve Bank and we have also taken this opportunity of enlarging the powers and the functions of the Reserve Bank in relation to the banking system of the country, so that the Central Bank might be in a position not merely to give effective help but to offer sound advice at the appropriate moment. I have also taken this opportunity to incorporate a clause under which the banks situated in Indian States, which have acceded to the Union, will also come under the general banking structure of our country. The banks which are situated in Indian States and which are outside our jurisdiction have been a fruitful source, not merely for the refuge of black-market money but for the perpetration of many of the evils connected with tax evasion, and one of the greatest handicaps of our income-tax administration has been our inability to trace an account to the Indian banks situated in the Indian States, and I am confident that with the incorporation of this clause in the new measure that loophole will once and for all be closed for malpractices.

These, Mr. Speaker, are the main features of the Banking Bill. I have suggested that the Select Committee should report on or before 18th August, only nine days hence. It may be considered that this is too much of a hurry, but as I said the work of this Select Committee will be comparatively simple because a previous Select Committee has gone into very great details in examining the provisions of the legislation and sufficient opportunity was given both to the public and to the experts to represent all their points of view.

With all these facts before them, it would be possible for the Select Committee to conclude its deliberations quickly and to present its report before the 18th August as I contemplate. I am particular that this measure should be placed on the Statute Book at the earliest possible moment, and with that end in view I would very much like that this measure should be passed during the current session of the House. Banking legislation is long overdue and I hope the House will appreciate the need for the legislation and the urgency of the matter.

Mr. Speaker: Motion moved:

"That the Bill to consolidate and amend the law relating to banking companies, be referred to a Select Committee consisting of Dr. B. Pattabhi Sitaramayya, Shri T. A. Ramalingam Chettiar, Shri Arun Chandra Guha, Shri Prabhu Dayal Himatsingka, Shri Bikramlal Sondhi, Prof. K. T. Shah, Srijit Kuladhar Chaliha, Mr. Hossain Imam, Shri T. T. Krishnamachari, Shri T. Channiah, Shrimati G. Durgabai, Dr. Dharam Prakash, Shri U. Srinivasa Mallayya, Shri M. Ananthasayanam Ayyangar, Shri Jaspat Roy Kapoor and the Mover, with instructions to report on or before the 18th August, 1948 and that the number of members whose presence shall be necessary to constitute a meeting of the committee shall be five."

Shri B. Das (Orissa: General): Sir, this is the third Banking Bill that I have the privilege of seeing introduced in this House. I opposed the last two Banking Bills with all the vehemence that I had in my command. Now that we are a free nation and the Reserve Bank to which I was very much opposed under the British regime is going to be a nationalised bank I wholeheartedly support the measure, which my honourable friend Shri Shanmukham Chetty has just now tabled. There was the suspicion in the past that the Reserve Bank being an instrument of the Bank of England wanted this Banking Bill introduced in India, so that it completely controlled banking in India, so that the money of India was placed at the disposal of the Bank of England. In 1939 by the mere amendment of Section 126A of Government of India Act, 1935, England did the worst thing possible. She took away completely the money, men and resources of India and exploited them to the full extent possible, thus making the Reserve Bank of India a cat's paw of the Bank of England and the British Raj. That sort of nightmare will not occur in future. The Reserve Bank is our own bank now. Any prejudice that we had in the past, any criticism that I have levelled on the floor of this House time without number

[Shri B. Das.]
that the Reserve Bank did not function as the national bank of India that charge I hope will not be levelled again at the Reserve Bank. When my friend will discuss the measure for nationalisation of the Reserve Bank later on he will say that it will function not only as a banker's bank but also as the taxpayer's bank, as the people's bank and will function in the interest of the people of India.

For one thing I wish to thank my friend the Finance Minister. He has rung the death knell of the sahuikars; his friends the Nattukottai Chetties of Madras used to command large private banking and private resources.....

An Honourable Member: He is not a Nattukottai Chetty.

Shri B. Das: Anyway he bears a similar name. Now that the Government is our own, we want all banking to be controlled by this Banking Act. It will cause hardship to many but the provincial governments have already passed a Moneylenders' Act, in every province and thereby they have controlled private moneylenders and sahuikars to a certain extent. My friend is now going to give the finishing touch to wipe off this institution, under which at the moment the nation groans.

I have to make only one suggestion to the draft. Last time I was not a member of the House and when I gave evidence before the Select Committee I was pleading the cause of the small banks. But nowhere do I find either the Finance Minister or his advisers in the Reserve Bank or the Finance Department suggesting how the circulation of money is to be increased in the country through the banks. In that I consider the Government of India and the provincial governments as the biggest culprits. They should not pay their salaries in cash. They should introduce cheques, not alone through the Imperial Bank or the Reserve Bank but through all Banks. The Imperial Bank will shortly be nationalised. My honourable friend has promised us that a Bill will come in the near future. If the Government is to control scheduled banks, through the Reserve Bank let all Government money, provincial government money as well as the Central Government money, be deposited in every bank that is on the list of the Reserve Bank and let the Government of India and the provincial governments pay their salary bills in cheques on various small banks and large banks. There will then be larger circulation of money. One often finds that it is the Government employees who do not encourage banking principles in the country. They go and patronise their former master's bank, the Imperial Bank. They do not go to other national banks. I hope my honourable friend who understands the mass mentality in the countryside will see that Government has accounts in every bank which will be in the list of the Reserve Bank and to which will be allowed inspection and control of the Reserve Bank, so that large amounts of money which lie hoarded in the Imperial Bank at present (in spite of its becoming a national bank in the future) will circulate through all the banks in the countryside and through co-operative banks, which at present is not the case. I appeal to my honourable friends in the Select Committee to pay attention to this aspect of the matter and to introduce a clause in the Bill so that the Government of India and the Reserve Bank will be forced to have a certain amount of money in every bank that will come under the jurisdiction of this Act and thereby money circulation will be increased and much more human benefit will accrue. With these few remarks I support the motion.

Mr. R. K. Sidhva (C. P. and Berar: General): Sir, I welcome this Bill for reasons. It safeguards the interest of the depositors. The interest of the depositors is the main feature of a bank. Before the Reserve Bank was established, in earlier days we know that many mushroom banks came into existence with the result that a large number of depositors suffered due to failure of banks. Even after the establishment of the Reserve Bank I feel that the

depositors' interests are not very secure. We know of two instances where even scheduled banks, which have to comply with the provisions of the Reserve Bank Act have come to grief. Neither the Reserve Bank has been helpful to these banks nor have those banks been able to safeguard the interest of the depositors, with the result that the depositors have lost their hard-earned money. I remember two banks which were asked to suspend acceptance of deposits from the public by the Reserve Bank on account of their improper management. That was good in a way. I shall mention the name of one bank, which was the Jwala Bank. The Reserve Bank asked them to stop payment. Rightly so if it was in the interest of the depositors. But the Reserve Bank was not helpful in the protection of the rights of the depositors with the result that this bank has been bragging that after this fiat was issued by the Reserve Bank they have been able to give 80 per cent. of their money. That is incorrect. This bank gave only 75 per cent. in some cases and 50 per cent. in some other cases but they are taking receipts for 100 per cent. from the depositors. I know of small depositors and public funds which have lost their money. The Reserve Bank which was meant to protect the interest of the depositors has not come to their rescue. So I find in the provisions of this Bill many clauses which strengthen the constitution further of the Reserve Bank. I welcome the Bill from that point of view, viz., the depositors' interests must be safeguarded fully. The depositors are not big people. The big people do not deposit money, they draw money. It is the small people who with their small savings are the largest contributors to banks, to the extent of crores of rupees. They save from their earning and keep the money in the banks under the impression that the Government is at the back of them. They consider the Reserve Bank as a Government bank. They feel that scheduled banks are now under Government protection and therefore they can deposit their money in scheduled banks as they offer higher interests. The poor depositors who are small people depend on the interest from their deposits for their maintenance also. Therefore they deposit their money in this manner. Some of these banks have simply been a failure as far as the interests of the small depositors are concerned.

Mention was made by my friend Mr. B. Das of small banking companies. I do not attach any weight to small banking companies. There should be substantial banking companies who should really have a thorough knowledge of banking and who could, when they accept money from the public—which is a trust with them—return pie to pie with interest. If small companies cannot manage successfully, they should not be allowed to start—leave alone the question of winding them up. There is a loophole even in this Bill and I hope the Select Committee will see to the strengthening of the Reserve Bank to such an extent that it could keep a vigilant eye on them. Today it cannot keep such a vigilant eye. It does, I admit but it has not got sufficient powers. Scheduled banks are supposed to be gilt-edged banks, but they are not so; they are speculating in shares. In my opinion that should be prevented. It is with the public money that they are speculating and I do not see any reason why speculation by these banks should not be stopped. Provision should be made to that effect. A bank can give loans, it can earn money from giving loans to persons, to industrialists, to any small man if they feel justified, and earn from the interest. They give $1\frac{1}{2}$ per cent. and they charge 4 or 5 per cent. interest. I think their earning is quite all right. Why should they speculate? One of the reasons for the fall of the Jwala Bank from my experience is the speculation in shares, to a very great extent.

I do not know what is meant by small banking companies. There are some businessmen who call themselves also bankers. They have got some money—a few lakhs of rupees. They call themselves bankers and the poor public go and deposit their money with them under the temptation of receiving more per cent. of interest. There should be a safeguard by which these bankers—let them call themselves bankers if they so choose—should be

[Mr. R. K. Sidhva]

precluded from accepting any deposit from the public. There should be no temptations, and temptations are always there now because people, generally pensioners, and retired persons invest their money in the hope of getting more interest in the small banks as they consider them to be good banks. Banks like the Imperial Bank, Central Bank or the United Commercial Bank or the Bank of India offer low interest, they give $1\frac{1}{2}$ per cent. So these other banks are an inducement to them and they go and invest their money there. They should be stopped from taking money from the depositors.

In regard to Directors I would like to have a provision. I think I made mention of it once before. We have introduced this provision in Co-operative banks. There the Directors used to borrow money for their own purpose. A clause was therefore inserted prohibiting them from borrowing any money. I do feel that the time has come when it should be prescribed by law that no Director can draw money in his own name or in the name of his near or far relative. It may be said that I am going too far. I may be going too far. I have the interests of the poor people who keep their deposits in the banks and I know how much they have suffered. They have lost their savings. They have realized ten, fifteen or sometimes 20 per cent. If the Directors want to serve the public they should be content with their fee. They get Rs. 50 when they attend a meeting—sometimes Rs. 100. They get all other expenses. As such I see no reason why they should be allowed to borrow money from the banks. I am told sometimes that they do not vote at the meeting at such times. I do not attach any importance to that because the Director remains mum there at the time when his own personal question comes up, but he indirectly influences the other Directors and these Directors vote for the payment of these amounts. From this point of view I would like to have a provision in the manner I have suggested.

I also feel that one Director should not be interested in any other bank. I have seen a Director interested in half a dozen banks. I have seen in Bombay, —he attends the Directors' meeting at one place for seven minutes, pockets the Rs. 50 cheque, goes to the other bank, attends that meeting for seven minutes and thus within half an hour he gets about Rs. 400, paying little attention to the affairs of the banks. I know of a person who was interested in twenty-seven concerns—I won't mention the name. But I would submit that this practice should be stopped because the Directors will then have no time to devote to the interests of the depositors and the general interests of the public. I would request the Honourable Minister to bear in mind this aspect of the question. The general interests of the depositor should be at the heart of all the banks. That could only be done when, as I have already stated, speculation by these banks is stopped. At the same time the Reserve Bank should keep a vigilant eye.

Even today in some of the good banks also I have seen that there has been a rush on account of some false rumour by certain interested persons. That is not hearsay but a fact. The best of the banks have been maligned by some interested persons. A rush has been made on the bank with the result that it could not meet the demands, and the Reserve Bank has not been able to come to its rescue at the nick of the moment. There is, on the other hand, a provision for the Reserve Bank to come to its rescue. It should have done so under the present Reserve Bank Act. Where the Reserve Bank is satisfied that the bank is run on business-like principles it should come to its rescue if there is a rush. People become panicky and if you or I invest money, we also at times become panicky; we would put in our withdrawals and draw the money with the result that the bank cannot cope with the demand. If the Reserve Bank or the Imperial Bank does not come to its rescue it will have to close its doors. Some of those banks in the past I know have paid back sixteen annas in the rupee to the depositors. Such banks should be fully protected.

These are some of the loopholes in the present Act and they will have to be amended. I support the Bill and I do desire and expect that the Honourable the Finance Minister will kindly see to it that the interests of the depositors, irrespective of any consideration, are fully borne in mind, and that a scheduled bank is such a bank where the depositor will have no kind of doubt when he deposits his money. To that extent the banks must be strengthened and the Reserve Bank should keep a proper eye on the day to day working of such banks. With these few words I support the provisions of this Bill.

Srijut Rohini Kumar Chaudhuri (Assam: General): Mr. Speaker, Sir, my honourable friend the Mover of this Bill has tried to make a distinction between a moneylender and a bank. He has said that a moneylender is one who advances money out of his own resources; he has also defined a bank as an institution which lends money which belongs to other persons. Sir, that is quite true. He has, however, failed to observe the distinction between a gentleman borrower and a trading borrower. The gentleman borrower is being simply extinguished by this sort of banking legislation. A gentleman borrower is one whose debts are fully realised, and a trading borrower is one who gets free advances from the bank either till it closes or till it goes into liquidation.

Now, the gentleman borrower also includes the ordinary agriculturist borrower. They have been simply thrown out of their gear on account of these banking institutions. You might think of co-operative banking. I have seen a number of co-operative banks in our rural areas most of which have gone to ruin; most of them have failed to satisfy the requirements of the poorer classes. It is only the richer classes who go to Commercial Bank who have liquid securities; they get the advantage out of this kind of a bank. The people who are not known to the bankers, who had generally got some assistance from the money-lenders, they are now in great difficulty. The more you are trying to protect this class of people, the more difficulties they have to encounter, with the result that we have to fall back upon the banking institutions.

I am very glad that for the first time in the history of banking bills, we have today been able to secure a representation in the Select Committee. I consider that to be very important because Assam is in an undeveloped condition so far as banking is concerned. It is quite right for you now to come forward with very tightening measures. A large number of outside banks had their branches in Assam and large amounts of local money were deposited in those branches. Most of them, I should say, had either closed their doors or gone into liquidation, with the result that the people of Assam now like to have their own banks. If the money which they deposit now in local banks is lost to them, it is lost to them in their own Province; it is their own people to whom they can go and whom they can chastise and criticise if they find that they have misused their money. But when the banks come from outside the Province and when they liquidate they have no practical remedy. So people have become very shy of keeping money in banks other than their own. At this time this legislation comes—and a hint of it was also given in the previous session—with all its restrictive clauses in order to prevent growth of undeveloped banks.

You say on the one hand that unless you have sufficient capital your bank will not be allowed to go on after two years. At the same time when people come to you for issue of capital you say, "We will not grant any more issue of capital". I am telling you from my own personal experience. The banks have not been allowed capital issue because on account of paucity of capital they could not give a proper account of themselves. Now, having refused them capital issues, you say under clause 12, "As you have not got so much capital you shall not be allowed to continue to do business". Sir, I think there should

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be some exemption in respect of banks which are established in undeveloped areas by indigenous people.

Secondly, you come to the opening of branches. That is a question to which I have referred previously also in another banking bill. In the smaller Provinces they have started banks and they want to have branches at least in their own Province—not to think of having branches outside the Province, they must have at least in their own Province. Then clause 22 comes in and says, "No, you cannot establish branches without the permission of the Reserve Bank."

Then these new banks which have been started in the Provinces—by "new" I include those established about twenty years ago—have not been able to come on the Schedule of the Reserve Bank because they have not been able in some cases to secure a sufficient amount of shares; though it is quite true, they have not been able to sell a sufficient number of shares and their capital is somewhat limited. But would you give them facilities to secure sufficient capital in those cases? Will you give them permission to sell more shares so that they may come under the Schedule or that they may have the requisite capital for purposes of expanding their business not only among people of the Province but also outside.

These are the exemptions which I should claim in favour of Provinces which have not got banking yet developed. But when I bring to the notice of the House questions like these, invariably it is considered to be provincial or parochial. But I should submit that when a Province is found to have been very dreadfully cheated by the branches of banks which had come from outside the Province and when the Province itself wants to develop its banking line, due facilities ought to be given to them. Therefore I would submit that the strict clauses like clause 12 or clause 20 or 22 should be somewhat modified in application in respect of those banking concerns.

Now, on account of the failure of so many banks in the country it has become very difficult to carry on the existing banks which have been found wanting in meeting the demands of the constituents. But there has been a general feeling in the country that there should be more Scheduled Banks. Unless there are more Scheduled Banks, the people do not like to invest money in other Banks, and when you think of investing in Scheduled Banks you find that most of these are from outside the Province. Would you not, Sir, in such a case help a bank of the Province itself if it can give you sufficient amount of capital, if it can show that it can really sell so many shares? Why are you so unwilling to give it the necessary permission to sell the shares or otherwise increase their capital? It will be said that it is a matter which is left entirely to the Reserve Bank. My experience of the Reserve Bank activities in this direction has been very unhappy; I have found that in most cases when you go out for any special consideration or any privilege in respect of a particular bank from the Reserve Bank, it is very difficult to get it, and the Government of India itself, with whom I think the final decision rests, do not care to interfere in a decision which is made by the Reserve Bank.

Therefore, I will most humbly request the Members of the Select Committee to take this aspect of banking into their consideration, particularly with regard to the Provinces where indigenous banking has not been developed. If this legislation stands in the way of development of indigenous banks, the people naturally would like to think that it is better they have no banks; it would be better that they go back to the original system of borrowing money from the moneylender who, although he charges a very high rate of interest, at least would come to the rescue of the people in real distress.

They would not demand liquid security which is almost impossible for ordinary labourers or small traders to furnish. Therefore, I would submit that

all facilities should be given for development of indigenous banks because indigenous banks, at least in a province, know their own constituents and they can be expected to be more sympathetic and more reasonable than the banks which come and establish business in a different province. I am not saying that those banks which are established in a different province and have branches in another province should be discouraged. I do not mean to say anything of the kind, but I would say that there should be room open for the backward provinces to develop in banking business.

Prof. N. G. Ranga (Madras: General): Sir, I am generally in agreement with the main principles underlying this Bill, but at the same time, I must confess my disappointment that no effort has yet been made to make a serious study of the possibility of nationalising the banking industry in this country. I think it is high time that the Honourable the Finance Minister should try to get necessary studies made and, if possible, a scheme also worked up, so that it might be possible within a short time to nationalise if not the whole of our banking industry, at least some of the most important sections of it. This morning when I heard from the Honourable the Finance Minister that he was introducing the Bill to bring the Reserve Bank of India under public ownership, I was a little disappointed because I was under the impression that along with the Reserve Bank of India at the same time and through the same Bill he would be trying to propose a similar procedure to be adopted for the Imperial Bank of India also. But that somehow that did not happen and I do not know when and how soon the Honourable the Finance Minister would be coming forward before this House with a Bill for the nationalisation of the Imperial Bank of India also. Secondly, there are these Exchange Banks, most of which are yet not in the hands of Indians, anyhow not under the predominant control of Indians. Some special steps have to be taken to bring these Exchange Banks at least under State control and State management at the earliest possible moment.

And yet there are certain very welcome features in this measure to which I wish to express my own personal approval. The Honourable the Finance Minister was good enough to accept the recommendation made by a "minority", as he called it, that there should be some limitation placed on dividends. I am glad he has accepted that suggestion. Along with it, I do hope that the Select Committee would also try to put some limitation on the salary that would be paid by the various banks in our country.

Shri T. T. Krishnamachari (Madras: General): Top salary is limited.

Prof. N. G. Ranga: I am glad. Then, there is the total percentage of expenditure that is to be incurred on establishment. It has to be examined whether any limitation can possibly be placed on that also. Thirdly, Sir, I am glad that the Reserve Bank is proposed to be given power to control, inspect, supervise and advise these various Banks. Now that the Reserve Bank is going to be nationalised, it is good that such powers are being given to this apex Bank, because that is one of the measures by which we can possibly try to safeguard the interests not only of the investors but also the general public who have to be served by these Banks.

When I speak about the public, I naturally have to consider the relationship between these ordinary banks and the co-operative banks in our country. I am not quite satisfied with the present conditions prevailing in our country. Too often, the Imperial Bank does not help the co-operative banks. Nor do the scheduled banks go out of their way to render any sort of assistance to the

[Prof. N. G. Ranga]

co-operative banks. These banks consider the co-operative banks as their rivals and try to discourage co-operative banking and when the Reserve Bank of India Bill was before the previous Assembly efforts were made by various members of the House and assurances were given by the then Finance Minister that every possible care would be taken to give special assistance to co-operative banking so that rural credit would be augmented by the assistance given by the Reserve Bank of India. But in actual practice, assistance that the Reserve Bank of India has been able to give till now has amounted to practically nil or to very little indeed, and it could not in any way satisfactorily help rural credit in our country. Therefore, some special steps will have to be taken by the Select Committee in order to see that this Bill would make it possible for the future banking in this country to assist cooperative banking and also never to thwart the progress of co-operative banking.

Lastly, Sir, there is this problem to which attention has been drawn just now by my honourable friend from Assam, namely, the interest of local banks versus Inter-statal or inter-Provincial Banks. If you concede the point that banks do come to have a key position in our national economy, then you necessarily have to admit that inter-statal banks would come to be much more powerful than the local banks. It might be possible for the local public to control the local banks but it would be impossible for them to control these inter-statal banks. Therefore, what with provincial autonomy and the autonomy that the various Indian States would be enjoying in this regard, it would be better, I think, on the whole to encourage these local banks and bring them under the direct control of the Reserve Bank instead of encouraging these inter-statal banks and thus make them a sort of a State within a State and indeed a bigger State than the Provincial Governments or the Indian State Governments. It is for these reasons that I wish to extend my support more for the local banks than for these inter-statal banks. It might be contended that the inter-statal banks would be able to command bigger financial resources, greater managerial skill and stability. Therefore, it would be possible for the investing public also to have greater confidence in them and place their funds there in larger quantities with the result that these inter-statal banks would be able to help these bigger industries on a larger scale. Sir, I have been contending for a long time that private enterprise ought not to be specially encouraged by the State and as far as it is possible, it is the State's duty to try to take under its own management directly or indirectly as many sectors of our economic structure as possible.

Under those circumstances I think it would be indeed better that inter-statal banks should not stop but encourage because such banks with such huge resources would indeed make it impossible for the State to control them and they might be able, if they so desire to thwart any future effort that the State might be making to take under its own control the various sectors of our economic life. We have seen it Sir, that in England banking came to be controlled by 5 or 6 apex banks. Those banks became so powerful that they were able to distinguish between one industry and another, between one set of companies and another and in that way discriminating in favour of certain groups of capitalists as against another group of capitalists, and indeed they had even gone to the extent of thwarting the very efforts of the State to develop certain sectors of economic life. We should guard ourselves against the development of such a position in our country. Therefore, if really we were to take into consideration the larger interests of the country and also the future interests of the country it would indeed be better not to encourage these inter-statal banks first of all. Secondly we must hasten with our schemes to nationalise the whole of this banking industry so that all those people who have some small funds to invest would be enabled not to put their money in these banks for the benefit of certain small section of capitalists alone, but to place their funds at

the disposal of the State banks or the co-operative banks and see that their credit goes to fertilize the social development of the country as a whole.

On one point I would seek enlightenment, Sir. It is quite possible that my Honourable friend the Finance Minister might say that he would give that information at a later stage when this morning's bill comes up for consideration, but I think it would indeed be helpful to this debate if he were good enough to tell us what he meant by the word "public". Did he mean by that "State" or did he mean by that "anybody and everybody as a sort of general public from whom shares could be invited"?

The Honourable Shri R. K. Shanmukham Chetty: By public ownership I mean "state ownership".

Prof. N. G. Ranga: I am glad he has given that assurance and I have nothing more to say at this stage on this Bill. I commend this Bill to the attention and support of this House.

Prof. Shibban Lal Saksena (U. P.: General): I felt glad when the Honourable the Finance Minister told us that he is incorporating in this Bill the recommendations of the Banking Commission as well as some of the points contained in the Minority Report thereon. I thought he would have incorporated in this Bill at least one of the main recommendations of the Minority Report about the most important need of the country. The rural population get credit at very high rates and sometimes for want of credit they suffer heavy losses. As stated in the Minority Report the co-operative movement has not yet enabled us to supplant bankers. It has only been able to supplement it. The Commission itself estimated that the rural population was indebted to the extent of 876 crores of rupees and since then, I think, the amount has increased and not decreased. This Bill so far as it goes is good in itself but it does not go far enough to provide for the main need of our country, that is, banking facilities to the crores of population who live in the villages. It is only intended to see that the banks in cities do not fail, that the depositors' money is properly safeguarded and that the Government looks after the affairs of the banks, so that they do not crash. It is all good, but we wanted a more comprehensive Bill. If the Honourable Minister has got another Bill up his sleeves to meet that most important need of the country, I will be only too glad. I hope he will tell us something in his reply what he proposes to do about that. The Minority Report of the Indian Central Banking Enquiry Committee have said:

"The co-operative movement would appear to be supplementing the finance provided to the rural districts by the money-lender rather than supplanting him.

Under existing rules, all requirements of members are not met, leaving, as in the Punjab, 40 to 60 per cent. of them in debt to the money-lender."

What is needed is that the Banking Bill should be able to provide some credit facilities to these people. In fact they have not got those kinds of assets which people in the city have and so we will have to treat as assets things such as land, grain and other similar things. But something must be done immediately to see that the rural areas get credit at a reasonable interest and at the proper time so that they may not get into the clutches of money-lenders and pathans to whom they pay the whole of their produce and income. Another defect of this Bill is that it does not provide for the nationalisation of Banks. Though the Reserve Bank is going to be nationalised yet I feel that it is high time that all the Banks were nationalised. The preamble to Bank of England Act says:

"An Act to bring the capital stock of the Bank of England into public ownership and bring the Bank under public control, to make provision with respect to the relations between the Treasury, the Bank of England and other banks and for purposes connected with the matters aforesaid....."

[Prof. Shibban Lal Saksena]

From this I find that all banks in England will now be more or less public-owned. I wish that this Bill were more wide in scope and that other banks were also brought under the closer control of the Reserve Bank than has been done at present in this Bill. The Reserve Bank Bill, in fact, is very important in itself, but I do not think it will meet the full demands of our banking needs. I hope the Select Committee will take into consideration all these points and will make it a better Bill when it comes back before us. I do not wish to take up more time of the House at this stage but I hope the Select Committee will take into consideration the needs of the country and make the Bill more comprehensive and sufficient to meet the country's needs.

Shri Satyanarayan Sinha (Bihar: General): The question be now put.

Mr. Speaker: The question is:

"That the question be put."

The motion was adopted.

The Honourable Shri R. K. Shanmukham Chetty: I do not think I have anything more to say to what I have already said in the introductory observations. I have no doubt the Select Committee will take into consideration the various points that have been raised.

Mr. Speaker: The question is:

"That the Bill to consolidate and amend the law relating to banking companies, be referred to a Select Committee consisting of Dr. B. Pattabhi Sitaramayya, Shri T. A. Ramalingam Chettiyar, Shri Arun Chandra Guha, Shri Prabhudayal Himatsingka, Shri Bikramlal Sondhi, Prof. K. T. Shah, Sriji Kuladhar Chaliha, Mr. Hossain Imam, Shri T. T. Krishnamachari, Shri T. Channiah, Shrimati G. Durgabai, Dr. Dharam Prakash, Shri U. Srinivasa Mallayya, Shri M. Ananthasayanam Ayyangar, Shri Jaspal Roy Kapoor and the Mover, with instructions to report on or before the 18th August, 1948 and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

ELECTRICITY (SUPPLY) (BILL)

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power): Sir, I beg to move:

"That the Bill to provide for the rationalisation of the production and supply of electricity, and generally for taking measures conducive to the electrical development of the Provinces of India, as reported by the Select Committee, be taken into consideration."

Sir, when I moved for the reference of this Bill to the Select Committee I said that this was a big and complicated measure. As reported by the Select Committee, the House will find that in certain respects important amendments have been effected by the Select Committee. The Select Committee made its report nearly four months ago. So, it would be only fair, Sir, that I should give as briefly as possible an account of what the original Bill was, and what were the important amendments effected by the Select Committee and an overall picture of the Bill as it is now, for the consideration of this House.

Sir, the electricity supply industry is at present, governed by an Act passed in the year 1910 and during the present decade the inadequacy of this legislation has become increasingly clear. The Government were not unaware of this position, and in spite of the difficulties of the war period, a considerable amount of time was devoted by a section of the then Labour Department for the preparation of a Bill which would bring the electricity supply legislation in India in line with or even ahead of that which had been adopted and which had proved successful in other parts of the world. After a prolonged study,

it was decided in 1945 that the needs of the country would be best met by the constitution in the provinces of autonomous or quasi autonomous statutory boards with adequate powers to effect rationalisation of electricity supply throughout the State. In arriving at this decision, the Government did not overlook the recommendation of the Power and Fuel Committee of the National Planning Committee which was set up in 1940 under the Chairmanship of the Honourable Pandit Jawaharlal Nehru. One of the resolutions passed by this Committee stated that in order to implement the national policy on Power, it will be necessary to create Provincial Electricity Boards and a Central Electricity Board. The Committee also considered that it will be advantageous if the State were ultimately to own and operate the industry: but it did not advocate this as an immediate policy.

Bearing these things in mind, a critical examination was made of the trend of legislation and the events associated with this industry both in the United Kingdom and the United States of America. An Expert was also called. In the United Kingdom, a Central Electricity Board had been set up with a view to effecting substantial economies in the generation of electricity. This body has proved to be a remarkable success in achieving the object for which it was constituted. It was thought, therefore, that the provincial Electricity Board, which was proposed to be set up under the provisions of the new Bill, might well be equipped with powers in some respects similar to those which had been vested in the Central Electricity Board in the United Kingdom. In consequence, it was decided to ask the British Government to make available certain technicians and an expert. He was made available. Although the then existing legislation in the United Kingdom proved to be valuable as a basis for those sections of the Bill relating to the constitution of the Provincial electricity board, there was another aspect which had received scant attention in the United Kingdom, namely, the regulation of rate. A scrutiny of the conditions in the electricity supply industry in England left no doubt in the minds of those engaged in drafting this Bill that some form of rate regulation was not only justifiable, but was indeed urgently required. It was realised that the conditions in the licence granted to an undertaker under the provisions of the Electricity Act of 1910 were of practically no value in protecting the consumer from excessive charges. The need for some form of financial control was even admitted by the industry itself. Accordingly, after a study of the rate regulation practised in America, a set of principles governing the supply of electricity were drafted and appended to the Bill in the form of schedules. Sanction was received for the introduction of this Bill and this Bill was first introduced in 1946 Budget Session and it was by an executive order, circulated for eliciting public opinion. As the House is aware of the political conditions that followed after the Budget Session of 1946, nothing was done with respect to this Bill till in the month of June 1947 when a Conference was called at Simla which was attended by representatives of the electricity supply industry as well as representatives of other interests, including a representative of this Assembly. In that Conference, certain understandings were arrived at. However, as I stated, owing to the constitutional changes, the Bill automatically dropped and it was again introduced in the year 1947 and was referred to the Select Committee.

The Select Committee met in the month of January, first and later on in March of this year. As this Bill was a unique measure in one sense, as it was very complicated, the Government thought it best to give every opportunity to the industrialists concerned. The Select Committee allowed representatives of the Federation of the Electricity undertakings to represent their case, they heard Mr. Manu Subedar, they heard representatives of the Tata Hydro-Electric concerns. I should say that the amendments effected by the Select Committee have gone to a considerable extent to meet the view points

[Shri N. V. Gadgil]

both of the industrialists as well as the viewpoints of those who stand for socialism.

The Select Committee, as I said, has made its report four months ago. The object of this Bill has been stated in the preamble as rationalisation of the production and supply of electricity and to secure the development of this industry in this country. The main features in the original draft I want to refer, so that the House may well appreciate the changes that have been made with respect to this important matter. It has been mentioned that a principal feature of the original Bill was the legalising of the constitution of statutory electricity supply boards by the provincial Governments and in consequence, the laying down of a uniform system for the operation of such Boards. It would be noted however that the original Bill was permissive and not mandatory in its provisions relating to the constitution of these Boards by the provincial Government. Provision was also made for the constitution of an advisory body. It was intended that these advisory bodies should advise the board on any matter which the provincial Government thought necessary and on any question which the Board thought fit to refer to them. It was also realised that adequate powers and finances should be provided for the provincial Boards to enable them to fulfil the primary object of the proposed legislation, which were:

- (1) to co-ordinate and stimulate electrical development by technical methods conducive to progressive reduction in the cost of generating electricity;
- (2) to effect a form of financial control over the commercially owned undertakings whereby the investor could be assured of an adequate return, and the industry of adequate capital, and the consumer a rate bearing a definite relation to the cost of the service.

It was evident to give effect to such a programme, fairly adequate powers would have to be provided and adequate freedom of action granted. The original Bill entrusted the Board with many powers, certain of which would enable it to do these things: to erect its own generating station and main transmission lines, to designate certain commercially owned power stations as controlled stations and to extend such stations, for which purpose a loan might, where desirable, be granted to the licensee; to purchase under certain circumstances, generating stations or main transmission lines owned by a licensee on terms which provided reasonable compensation; and to exercise control over the finances of the licensees with a view to effecting appropriate rate regulation.

It should be noted that while the Bill provided the Board with a very substantial measure of control over a licensee's policy and practice in regard to generation and transmission of electricity, it did not attempt to remove his source of revenue, namely, the distribution of electricity to his consumers. The Sixth Schedule to the Bill however endeavoured to ensure that the latter should not be exploited. It is important to emphasize that the powers of acquisition vested in the Board have been provided and are intended for use only in so far as their application would further the rationalization of electric supply. It is very definitely not the intention of this proposed legislation to stimulate indiscriminatory acquisition but it is essential that the Board should be empowered to acquire certain existing assets in the furtherance of its policy.

Speaking very generally, Sir, after its constitution the Board would formulate a scheme for the province, which scheme would provide for the erection of its own generating stations, together with the employment of certain existing stations which latter it would nominate as control stations. The scheme would in all probability provide for the linking of these stations by means of extra-high tension transmission lines, so as to form a provincial grid. Initially, therefore, the Board would not acquire these controlled stations and would not nominally do so until they had been so expanded

by the Board for the purposes of the grid that the proportion of the capacity of the station which the licensee required for his own consumers was considerably less than half the total capacity of the station. Even in these circumstances the Board would not necessarily elect to purchase. On the other hand, the implementation of the Board's scheme would mean that certain of the smaller existing generating stations would no longer be necessary due to the mass production of electricity by the Board's stations and its controlled stations. These smaller generating stations would be normally unable to produce electricity at the low cost at which the Board's stations would generate so that from time to time such stations would be closed down and receive their supplies of electricity in bulk from the Board.

It may be mentioned also that when proposals similar to this were first put forward in the United Kingdom considerable apprehension was felt by the operators of generating stations and they demanded and received eventually a guarantee that the cost of the supply given by the Board could not exceed the cost at which they were then generating or would have generated had they increased the capacity of their stations to deal with the new demands.

On the face of it, the demand for such a guarantee appears to be not unreasonable until the implications are carefully considered. Then it is realized that in every instance where such a guarantee is given, it is necessary for purposes of costing that hypothetical generating stations be set up and operated. As a result, the complications which this procedure involved were so great that in some instances a period of three years elapsed before the undertaker's final accounts for a given year could be completed.

A similar mistake should not be repeated in India and for that reason the trading provisions of the Bill are somewhat complicated but they are equitable and they avoid the immeasurable difficulties associated with the above guarantee.

It was not however intended that the Schedules governing the trading provisions should be employed in every circumstance but that they should rather form a background for negotiation. Section 47 of the new Bill gives a Board wide powers to negotiate with licensees on any basis it deems fit, subject only to the provision that undue preference will not be given. Very considerable thought was given in formulating the Schedules to the Bill and any attempt at simplification would only result in inequities to one or the other parties.

Brief mention has been made to the original draft of the Sixth Schedule. It was stressed that a careful study had been made of rate regulation practice in America and elsewhere; but it must be emphasised that the Schedule does not approach in form or in substance American Public Utility Legislation. The Sixth Schedule is, indeed, an entirely new departure and aims at achieving rate regulation by means of legislation rather than through Regulatory Commissions, as is the American method. The principles have aroused considerable interest both here and abroad. The original draft was circulated to all interested parties throughout the country and two well known firms of Chartered Accountants were employed to report upon them. Although many modifications have been made to the draft the fundamental idea behind it has found general acceptance. This idea may be described as the formulation of a Charter to the consumer giving an assurance that the charges for the service will bear a definite relation to the true cost of that service. It has frequently been asked why some simple formula limiting dividends was not employed. The answer is that any such formula to be effective could not be simple. Furthermore, the consumer is not interested in the share capital of the undertaking serving him but rather in the assets provided by that capital and it is only on the basis of those assets that a really effective method of control can be devised.

[Shri N. V. Gadgil]

I now come to some of the amendments effected by the Select Committee. With respect to these, I have six important points which I will briefly summarise.

The first is a new provision. In the original Bill the Central Authority was called the Central Technical Power Board. The Select Committee thought that inasmuch as considerable powers were not given to the Provincial Boards, it was in the fitness of things that there must be a strong Central Authority. The principal amendment recommended by the Select Committee to the Bill is a proposal to constitute a body to be known as the Central Electricity Authority. This proposal is in line with the original suggestion mooted by the sub-Committee of the National Planning Committee which as already mentioned, recommended that in addition to constitution of Provincial Electricity Boards, there should be set up a Central Electricity Board. The original Bill made provision for the employment of a Central Body known as the Central Technical Power Board to undertake certain functions on behalf of the Centre. But this body was a temporary one and the functions assigned to it were extremely limited. The Select Committee felt that a Central organisation should be constituted which could not only carry out the functions assigned to the Central Technical Power Board but also undertake in addition certain other duties. Of these duties, one of the most important is the requirement that the new body should act as an arbitral authority on technical questions arising between a Board and a licensee where provision has been made in the revised legislation for the authority so to act. This new provision will undoubtedly be welcomed by many licensees due to the fact that arbitration by the Authority may reasonably be anticipated to involve the parties in any dispute in much less expenditure, both of time and money, than is the case where all such questions arising out of this Act are referred to arbitration under the Arbitration Act of 1940. Also, since it is proposed that the Authority should be a technical judiciary of a highly specialised nature, it would be more likely to effect just and equitable settlements than any other tribunal.

Now with respect to the Provincial Board and the Regional Advisory Council. The Regional Advisory Council was good but the Select Committee came to the conclusion that it would be better to call it Provincial Electricity Council and to invest it with some greater power. The Select Committee were of the opinion that the original Bill did not provide adequate control over the activities of the Provincial Boards and considered that an Advisory Body should be set up to which the Board should refer major questions of policy for discussion and review. It accordingly suggested that a new advisory body be constituted and called the Provincial Electricity Council. This 4 P.M. would be a permanent provincial body consisting of the members of the Board and nominees of the Provincial government selected after consultation with the representatives of certain specified outside interests.

Then the second important amendment was with respect to the constitution of the Board. The Select Committee recommend that it should be mandatory on Provincial Governments to set up Provincial Electricity Boards within a specified period after the enactment of the Bill.

The House will find that this recommendation has been dissented from by one of the members of the Select Committee. Obviously there is some force in the argument with which the gentleman has differed from the majority conclusion in this respect. But I can assure him that the amendment is so worded that where any province can so recommend and convince the Central Government that any extension of time would be justified that extension would be granted.

The third important amendment is with respect to central taxation. It

was considered that Boards should not be exempted from central taxation. His decision is in line with the amendment made to the Damodar Valley Bill in this respect. There has been some difference of opinion with respect to this but if our economy is to proceed on the lines of giving sphere after sphere to autonomous bodies working under the control of Government or working with the Government as both owner and manager, and if we do not tax these autonomous corporations, then nothing will be left for Government. It is possible that there may be some difference of opinion but so far as I am able to see whatever is taken by the Central Government by way of income-tax is returned to the provinces in a certain proportion. In the final analysis it does not make any great change but there is a definite advantage in having these autonomous commercial bodies subject to central taxation, viz., there is a greater possibility that they will work with greater efficiency and more in compliance with commercial principles of management.

The fourth important amendment effected by the Select Committee is with respect to the Depreciation Reserve. The interest rate has been reduced by the Select Committee from 4½ per cent. per annum to 3 per cent. This amendment has been made since it was considered that the interest rate should be more closely allied to the rate at which Boards would be likely to borrow. This is perfectly reasonable.

The fifth important amendment was, under the provisions of the original Bill the Provincial Government was precluded from granting any concession unless the Board itself recommended to it that it would be inexpedient for the Board to develop or use the water power concerned itself. The Select Committee has effected a revision giving initiative to the Provincial Government in deciding as to whether or not a Board is able to use or develop such water power. It was considered that the original Bill provided the Board with unnecessarily wide powers in this respect, so that the charge that the Board may not do itself or would not allow anybody to do is now no longer valid.

The sixth important amendment is with respect to arbitration. Reference has already been made to the constitution of the Central Electricity Authority and to its powers in regard to arbitration under this Bill.

The seventh amendment deals with the first Schedule. As I said this Bill is divided mainly in two parts. One is the sections and the other 8 schedules. Now with respect to the first schedule paragraph 21 of the original Bill referred only to the purchase by the Board of a generating station. The paragraph has been revised by the Select Committee to include the undertaking, where under paragraph 19 notice has been served on a licensee by the Board of its intention to acquire the station and the licensee elects that the Board should purchase his entire undertaking. Where such election is made by a licensee, it is specified that purchase would be effected on the basis of depreciated cost in accordance with the provisions of the Fourth Schedule and not on the basis specified in the licence. This is with respect to what is known as "severance". A part of the concern is satisfactorily acquired and the part that is left is for all purposes useless or cannot be run with profit or can be run at a loss only. In such circumstances it is open to the licensee to insist that the whole thing should be purchased and when it comes up for purchase then it will be purchased at a price on principles not specified in the licence but on the principle of the depreciated cost.

In addition to the consequential amendments necessitated by the Select Committee's modifications in respect of the purchase of undertakings, an amendment has also been made whereby compensation, in the event of purchase, should be determined by the Board after taking into account the fact that a portion only of the undertaking may be acquired. This I have already referred to.

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The main schedule in the whole Act is Schedule 6. It lays down the principles of the electricity supply finance. As stated, one of the objects of the Bill is to effect a definite relationship between the rate and the cost of service. For this purpose it is necessary to determine what is the capital base. After taking all relevant factors into consideration and after taking into consideration the representations made and the viewpoints expressed by the various representatives of the industry concerned, the Select Committee has made this recommendation. The Select Committee has made this recommendation. The Select Committee adhered to the view that any distinction it was decided that in arriving at the capital base of an undertaking the amount of debenture and preference share capital should not be deducted. A further important amendment permits the inclusion in the Capital Base of that portion of the accrued depreciation fund which a licensee can show, to the satisfaction of the provincial government cannot be invested in his undertaking. Other amendments to the capital base have been made but are minor in character.

With regard to depreciation the Select Committee have recommended a number of important amendments under this heading as follows:

(a) *Plant lives*: It is now suggested that in those instances where a licensee considers that he has so maintained his plant that its useful life is substantially in excess of that prescribed, he may apply to the Provincial Government for a suitable variation. This amendment reduces the rigidity of the original provision which might have resulted in hardship in some cases, which were pointed out to the Select Committee by some of the representatives of the industry concerned.

Under the Advisory Board's draft, until arrears of depreciation were fully written off, dividends payable were restricted to 3 per cent. The Select Committee now recommends that arrears may be equated over the remainder of the prescribed lives of the assets and, that if the annual instalments in respect of such arrears are provided for, there need be no such restriction on dividends paid.

One important recommendation in this connection has been made by the Select Committee. The Advisory Board's draft made it mandatory on licensees to employ compound interest method of depreciation accounting. The Select Committee felt, however, that where licensees had been employing the straight-line method in the past, it would be reasonable to permit such licensees to continue to employ the latter method and so avoid the complications which a changeover would entail.

Another principle which is incorporated in this is the standard rate. The Select Committee has after careful consideration rejected the recommendations of the Advisory Board and has reverted to a form of standard rate even simpler than that appearing in the original draft of the Schedule. The suggested rate of 5 per cent. happens to be identical with the one recommended by the Federal Power Commission in the U.S.A. for American electricity supply undertakings.

Clear Profit has also been defined and some change has been made in the original draft. The original draft of the Schedule recommended that the Standard Rate should be subject to tax and this principle was endorsed by the Advisory Board. The Select Committee, however, recommends that income-tax should be treated as an item of expenditure, which is the normal practice in this country under the Income-tax procedure. In revising the Standard Rate the Select Committee took this factor into account.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Shri K. Santhanam (one of the Panel of Chairmen)].

The Select Committee has made certain amendments to provide for a reasonable margin of error on the part of a licensee in the adjustment of his rates. As the House must have seen this measure is a very complicated measure. So it is possible that some error may creep in. And experts make more mistakes than laymen. The Select Committee has therefore provided for a reasonable margin of error on the part of a licensee in the adjustment of his rates.

Under the new provisions he cannot benefit from any excess of Clear Profit over Reasonable Return, if this excess should amount to more than a specified percentage of the Reasonable Return.

Another principle which is embodied in Schedule VI and which has been amended by the Select Committee relates to the Managing Agents' Commission. Under the original draft, Managing Agents' Commission was to be computed on the "net profits" of the undertaking as defined in the Indian Companies Act. The Advisory Board, however, preferred that the computation should be made on "clear profit" as defined in the Bill. The Select Committee, however, has reverted to "net profit" but has accepted the Advisory Board's recommendations in regard to percentages. As a result, Managing Agents will be entitled to earn rather more than would have been the case under the provisions suggested by the Advisory Board. But the increase is not considerable.

Now, as I stated in the beginning I will give a brief overall picture of the Bill. Apart from the proposed constitution of a Central Body to be known as the Central Electricity Authority and the recommendation that Provincial Electricity Councils should be set up, the main body of the Bill itself still remains fundamentally unchanged. The most important new feature is undoubtedly that whereby it is now mandatory on Provincial Governments to set up a Board within a specified period unless the Central Government otherwise directs. The trading provisions have been altered only in minor detail and the outstanding features of the revised Bill—apart from the Sixth and Seventh Schedules—may, therefore, said to be almost identical with those which appeared in the original draft. The main purpose of the Bill also, namely, the legalising of the constitution of Provincial Electricity Boards and all that the setting up of these Boards would entail, remains as heretofore.

It will be realised that distances in India obviously rule out the possibility of a nation-wide Grid system, such as is already in existence in many small countries abroad. For this reason Provincial Boards were recommended in order that a manageable area of territory could be controlled by a body which would be free from the procedural complications of the day-to-day administration of Government Departments. The modern trend in utility legislation, whether concerned with electricity, harbours or transportation, etc., is veering towards the Statutory Board idea, that is, quasi state-ownership rather than departmental administration. This is happening because there would appear to be little prospect of public ownership matching the efficiency of private enterprise unless the agency responsible can be left largely autonomous in respect of its own technical, administrative and financial affairs. Accordingly, wide powers have been asked for these Boards and these powers must not be unduly curtailed if success is to be achieved. While private enterprise voices the claim that it is more efficient than Government ownership, it cannot maintain that its record in this country in regard to rural electrical development is impressive. This is understandable because rural electrification must be subsidised in one form or another. In totalitarian countries the question has been treated as one of strategic importance in the same manner as military highways and the cost has been spread over the entire nation. In an advanced capitalist country like the U.S.A., it has been achieved to a certain extent

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due to the high average income of the rural community, but even so, large subsidies in the form of low-interest loans have been provided by the Government. In the Province of Ontario, Canada, a subsidy as high as 50 per cent. has been advanced towards the cost of non-remunerative rural lines.

Provincial Electricity Boards, however, will not suffer from the "shareholder handicap" associated with undertakings operated by private enterprise and will accordingly be able to take a much longer view. It is confidently anticipated therefore that rural electrification will make rapid strides during the decade immediately following the construction of these Boards and probably no other single factor is of greater consequence to the standard of life of the rural community than is this.

While the main body of the Bill has been subjected to few alterations, the financial section, namely the Sixth and Seventh Schedules have been modified considerably from time to time. It will be appreciated that, unlike the rest of the Bill, no legal precedent is in existence to act as a guide and accordingly the greatest care has had to be exercised to ensure that in the quest for both equity and uniformity no undue hardship would ensue to any individual licensee.

The final draft of the Sixth Schedule while apparently differing from the original draft still retains the same fundamental structure the objects of which were, and still are, to relate charges for electricity to the cost of the product, to ensure adequate capital for development at reasonable rates and to enforce a scale of plant depreciation and thereby safeguard the assets of the undertaking.

Only the method of achieving these ends has been altered—not the ends themselves. The principal feature is still the Capital (Base—or Block). This Block represents the depreciated cost of the assets employed in affording service to the consumer and is used for ascertaining the reward to which the shareholder is legally entitled. The shareholder cannot therefore earn a return on capital provided by him unless the capital has been devoted to the provision of assets for service to the consumer. Nor can the shareholder benefit from "profiteering" on the part of the licensee because his reward is limited to the amount represented by applying a fixed annual percentage to the Capital Base. If excess profits are made, these are not given to the shareholder but returned to the consumer.

The above describes in brief the main features and functions of the Sixth Schedule. It will be noted that the main Bill makes provision for the enforcement of the Sixth Schedule in all Provinces immediately on the enactment of the Bill irrespective as to whether a Board is constituted in the Province or not.

In conclusion it may be stated that the Bill offers all the advantages of nationalization without the main disadvantage, namely, the very heavy financial outlay required by the State. The provisions of the Bill will also enable acquisition on behalf of the State to be selective in that Boards will tend to acquire only up-to-date plant—old and obsolete stations being gradually shut down without requiring any outlay.

The State therefore will exercise its powers of acquisition only as and when public interest so dictates, whereas nationalization would necessitate the purchase of all assets irrespective of their condition and service value. It is thought that advantages of this arrangement at the present time when capital is needed for so many other projects of national importance need hardly be stressed; and that the results will fully justify the confidence of the House in this Bill.

This is the overall picture. *

Mr. Chairman, I do not want to say anything more. I find from the Order Paper innumerable amendments, as usual tabled by my honourable friend Mr. Naziruddin Ahmad. If he is able to convince me that some of them are really necessary to bring out the real intention of the Bill I will accept them. I do hope that he will cooperate with me in saving the time of the House to the greatest possible extent.

Mr. Chairman: Motion moved:

"That the Bill to provide for the rationalisation of the production and supply of electricity, and generally for taking measures conducive to the electrical development of the Provinces of India, as reported by the Select Committee, be taken into consideration."

Shri B. Das (Orissa: General): Sir, I congratulate the Honourable Minister for Works, Mines and Power on his very elucidating speech whereby he has defined the Government attitude about nationalisation, the Government attitude about acquisition of industry, and also the Government attitude in regard to the electrical industry. When my honourable friend made that statement about nationalisation which involves heavy commitments of finance, the exponents of nationalisation in this House—my honourable friends Mr. Ananthasayanam Ayyangar and Prof. Ranga—were so busy in whisperings that they did not appreciate the wise decision that Government have taken and over which they have carried on a historic battle since last November.

Sir, last November I had not the opportunity to address this House on this Bill because I unfortunately went into the Select Committee. My honourable friends who sit in the front bench. Prof. Ranga and Mr. Ananthasayanam Ayyangar, started the bug-bear of nationalization. The Assembly met for the first time after freedom was won and my friends saw that was the proper occasion for them to think of nationalization even by expropriation when that was not the question. The draft Bill which I and you—we were all Members of the Select Committee, including Mr. Ayyangar—prepared suggested what was a proper course. Sir, that historic struggle went on. The Select Committee which at one time we thought would meet for a month, went on for months and over the vexed questions of nationalization by expropriation. Thank God, in the end rationalism won and we drafted a unanimous Bill barring one minute of dissent, over which my friends from Madras have legitimate reasons: and I am glad the Honourable Minister has assured today that even Madras will be given facilities as I won in that Select Committee for Orissa and Assam.

Prof. N. G. Ranga (Madras: General): We have nationalized electricity in Madras.

Shri B. Das: You have? I am very glad to hear from my honourable friend Prof. Ranga that he has nationalized it. I hope thereby he has achieved the welfare of the people and increased the national income of the people—not of the classes but of the masses!

Prof. N. G. Ranga: We have done it fifteen years ago.

Shri B. Das: Sir, it was unfortunate from my friends' view points that this Bill was not a nationalized Bill, but it is a national Bill. It was unfortunate that the whole past history was repeated, the political history of India where members differed so much in political conception and outlook and fought the battle of nationalization on this particular Bill where those words ought not to have been uttered.

Already my honourable friend the Minister has told us that Provinces will be given facilities to develop. Sir, the Chairman, the Honourable Dr. Ambedkar, is not here. He came to the rescue of a poor man like me and said that a Province like Orissa with a total capacity of electric power at about 3,000 K. W., need not start an Electricity Board, with three or four

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people with salaries running to Rs. 3,000 or 4,000, and the necessary paraphernalia. But I do hope that what was at that time thought to be a concession to the Provinces of Orissa and Assam, will also be extended to Madras and the Province of Madras will have special treatment from the hands of the Government of India as Madras has got definite grievances against the Government of India and even against this Bill

Sir, I am glad that the bug-bear of socialism that all industries should be nationalized and that then those industries would not pay any income-tax, is lying buried a thousand fathoms deep. The Government decision that industries, barring the Railways and the Posts & Telegraphs, when they become nationalized will pay income-tax just as any private industry is very welcome. Otherwise Professor Ranga will not be able even to criticise that Ministry for by that time it will have passed through bankruptcy if his advice is accepted.

I am a little bit alarmed;—not at the framing of this Bill, this Bill I whole-heartedly endorse, but at the way that since we attained freedom on 15th August, the number of Government advisers have increased in the shape of Technical Boards, Scientific Boards and Electricity Boards. A time will come when the Cabinet will have difficulty to fight with all these Boards that they have created, and all their experts; these experts see near their nose, they do not see any distance; they want everything to be scientifically designed. But who is to foot the Bill? It is the tax-payer; it is Professor Ranga's multitudes of *kisans* and *mazdoors*. We will have to foot the bill. By that time all of us will be reduced to *kisans* and *mazdoors*! And how to meet that huge expenditure with the various plans inspired by Government experts, call them electricity experts, technical experts or scientific experts, which they are bringing forward? I warn this House, I warn my honourable colleagues here that they must keep a strict eye on the Government so that the Government is not swamped under this huge avalanche of expert Boards and technical Boards costing more than the Government themselves!

It pleased me very much that my honourable friend Mr. Gadgil quoted the instance of Canada and said that Canada has been giving subsidies for rural development of electricity. I believe that is an indication—that is why I remarked that Professor Ranga did not listen to it—of the Government of India that they will give subsidy to Provinces to develop rural electricity all over. Of course my friend the Minister did not make it positive but he quoted and he says that is the intention. I hope he will clarify it and when the Bill goes successfully through, he will make it clear that it is the Government's intention to finance the Provincial Governments for subsidizing rural electricity development.

Prof. N. G. Ranga: The Mysore Government as well as the Madras Government are doing it. They are charging specially low rates for electricity used for agriculture.

Shri B. Das: I always take my cap off—I have no hat now—to the Madras Government for their beneficent government and beneficent ideas. And Mysore is always forward in methods of development. I hope the Government of India will copy all that. Unfortunately, no Madras expert is fit enough to be in the C.W.I.N.C.; that is a thing which I ask my Madras friends to examine: why is it that engineers from Mysore and Madras are not to be found in the C.W.I.N.C. and other places? When it is an all-India show why are they not there? (Interruption). I do hope, Sir, that we should learn to weigh and measure the ideas of experts. (Interruption).

Mr. Chairman: I suggest the honourable member should keep to the Bill and not talk about general questions.

Shri B. Das: Very well, Sir. I do hope that when my friends on the left wish to bring in any nationalisation measure, they would bring a whole-hearted nationalisation measure.

Shri H. V. Kamath (C. P. and Berar: General): Is this not a nationalisation measure?

Shri B. Das: This is a national measure, not a nationalisation measure. So, Sir, I am glad that everything has ended happily and I hope my friendship with Mr. Ayyangar and Prof. Ranga will be further strengthened in future. With these few remarks I support the Bill.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I never did expect that my friend Mr. Das would wait to cement our friendship until the Electricity Bill came. We have been friends, but by his speech he has disturbed our friendship a little. I never wanted to participate in the discussion, but after what he has said, I think it is necessary that the Assembly should fully realise what it is that we are passing. He is hallooing before he is out of the woods. We do want electricity. Power is one of the most important factors in the modern world for industrialisation. In our country, hitherto the only Act that was governing the setting up of various Corporations for generating and distributing electricity was a Central Act passed in 1912. In some cases, the Provincial Governments themselves took charge of the production of electricity and its distribution. For instance, in Madras 90 per cent. of the production is carried on by the Government itself from water power and distribution is also undertaken by the Government in most cases. In the other cases, in the whole of India small Corporations licensed for a number of years with power to renew or power to cancel have been established under that Act. Those Corporations were given an area of operation. Both generation and distribution were entrusted to them. Government had the control to the small extent of regulating the maximum price that they could charge per unit from the consumer. But what these Corporations did was to take away the cream of income from the public and not contribute even a little or a farthing to the expansion of power to rural areas. Corporations were easily established in towns and in towns for lighting and other purposes they were charging at the rate of 4 annas per unit whereas under the terms of licence they were obliged to supply power for agricultural and industrial purposes at the rate of 9 pies per unit. Therefore, these Corporations always concentrated their efforts only in cities where on account of lighting they would get the largest portion of income, but they tried least to get into the villages and giving power to lift up water from wells and so on.

Now, so far as the Madras Government is concerned they took up both generation and distribution in their own hands. The Bombay Government, however, wanted to establish a Corporation under which a number of generating stations would be set up wherever there was none (within an area of operation of a generating station). Some other stations which are already generating, if their generation is not economical, might be taken and may be made as controlled stations. Thus, they wanted to take electric power to the very door of agriculturists. Large volume of opposition came up from vested interests. They wanted that no such Corporations should be established; there ought to be no control over them and even if a Corporation should be established for establishing generating stations the power should be given in their hands and they would distribute; no distribution should be undertaken by any of these Corporations. They fought a hard battle, not in one place not in the plains but in hills also. It was a hard fight and I am sorry that we had to succumb to some extent. We did not go the whole hog. At last this Bill was sought to be introduced a long time ago but was held up from being passed by the Assembly. The Bombay Government would not have come up here at all.

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Electric supply is purely a provincial subject under the existing constitution but the incorporation of private companies or corporations is a Central subject. It is only to avoid this technical difficulty that they approached the Centre with a scheme for having an autonomous corporation under which a number of generating stations could be established. This was moved by the Bombay Government and on that move this Bill has been introduced.

Now, Sir, I am not in favour of applying this Bill compulsorily to all Provinces. Take, for instance, Madras. Wherever the Government has not by itself undertaken the generation of electricity and distribution, it should be open to the Provincial Governments to establish Corporations, but there is no meaning in establishing an autonomous Corporation when already 90 per cent. of the power is being generated by the Government and the proceeds are going to the Government. I certainly have to condemn that clause in the Bill which makes it obligatory on even those Governments which have already started and are running very well. I am proud to say that the Madras Presidency scheme of generation and distribution is working exceedingly well. It is a model for others to copy. My friend from Orissa who is a beginner in this matter need not be jealous of our progress.

Shri B. Das: I thought I paid you a compliment.

Shri M. Ananthasayanam Ayyangar: It was a left-handed compliment. There is no wonder that we have made enormous progress not only in this direction, but many other directions. What I am submitting is this that here in Clause 1 you have the provision:

"This section and sections 3, 4, 57, 58 and 77 and the Sixth Schedule and the Table appended to the Seventh Schedule of this Act shall come into force at once.

The remaining provisions of this Act shall come into force in a Province on such date, not later than two years from the coming into operation of the sections, Schedule and Table mentioned in sub-section (3) as the Provincial Government may by notification in the Official Gazette appoint."

The original Bill did not impose an obligation on the Provincial Governments. My complaint is that it should be open to the Provincial Government to apply or not to apply any provision which insists or which directs the establishment of autonomous Corporations. There is no need for a Corporation in Madras. They are doing it exceedingly well. Somehow, the Central Government thought that various things ought to be done only with the aid of Corporations. For instance, the Damodar Valley Corporation. Damodar Valley Corporation is after all a child, which has not begun to crawl and to make that as an example for the rest of the country to follow is not proper, especially in a case like Madras where the Government is able to manage it by itself. It is from electricity that the slender resources of the Madras Government are being supplemented. In another matter also, they have set up a model for the rest of the country. They have taken up the Transport Services and are trying to build it up. These are the various ways in which I would advise other Provincial Governments to copy Madras, so that when they embark on some commercial enterprises they can replenish and find sufficient money for starting various nation-building services. In my own part of the country, Madras Presidency, they have introduced Prohibition and that takes away a large portion of the revenues—to the extent of Rs. 16 crores. Under these circumstances, in a matter where the Government itself is carrying on this business of producing and supplying electricity without any complaint and is expanding with all its resources, what is the meaning of compelling that province to start an autonomous Corporation? After all, who are those persons? Three are to be appointed by Government on full-time and four are to be part-time. I do not see much difference. Even in a Province which feels helpless except through autonomous Corporation of this kind, there ought to be no compulsion.

I have now tabled an amendment and I am sure my honourable friend will agree with me and accept this amendment.

My friend Mr. Das may also, in so far as a province is able to help itself, not object. Let him not be afraid of the word 'nationalisation'. Let him use any word, but after all it is not as if we are out to leave nothing for the rich man in this country. Every institution in this country, whether already in existence or which comes into existence, the only test for its need or our support for that institution is how far it conduces to the benefit of the common masses. All institutions, whether a bank, an industrial concern or any other concern depends ultimately upon the consumer's support. He is the paymaster. He is the employer of employers. All the others are employees. Therefore, it is wrong to condemn it even in cases where nationalisation or State ownership has proved successful. It is such supporters or advocates of private enterprise who are spoiling the cause of private enterprise also.

I admit this is a compromise in so far as the Provincial Government wants the help of an Indian Corporation, wants private enterprise to go on on account of slackness of its sinews that it will not be immediately able to take up these enormous works throughout the length and breadth of the province. There is room for private enterprise; there is room for the establishment of corporations; there is room for the State itself directly undertaking these enterprises and after all nationalisation is not such a bug-bear. In our country we have not got highly industrialized men. We have seen that after the Finance Minister came here, a lot of concessions have been given. We were prepared to tax ourselves to the hilt; still our industrialists have not progressed; no new industries have been started and they do not allow the Government to start the industry. That is an unfortunate position. Under these circumstances I believe if our friends persist like this, the only solution for all our evils is 'an out and out nationalisation'. Therefore, let us not quarrel with that. There is room for all enterprises, national, through corporation and through private enterprise. Let there be cut-throat competition amongst them. This Bill, I am glad to say effects a kind of co-ordination between the several activities. It does not do away with private enterprise. In the various conferences a lot of indulgence was given to a number of these magnates who were in charge of electric supply; they would neither allow progress nor would allow public enterprise to progress.

Take for instance the city of Bombay. Tatas are supplying power. There is another company which is supplying power for the ordinary household purposes; Tatas has been given an over-riding power to supply within the area of the license over a particular bulk. They are enjoying all these concessions. But when Government agrees to supply power in Ahmedabad for a particular quantity the private proprietor says: "No, no. The Government shall not have any truck with us. I would rather allow the present person who is enjoying the benefit and the Government ought not to come in." Why should there be difference between the rich man and the poor man in this country? The rich men should feel that this is his own Government. It is disgusting to see these people going about saying as if the whole world only lives for these rich men. Let them come from the seventh storey to the third storey. Let the poor man be raised from a hovel. I would humbly beseech my honourable friend, Mr. B. Das to change his colour and change his coat as early as he can. Both of us are neither capitalists nor poor fellows, but he takes up the cause of the capitalists. Therefore, I would humbly request him not to overstrain in this matter. We have yielded to you and my honourable friend Mr. Das will have to compromise lest this Bill should be torpedoed. I shall be extremely glad if you will allow some national enterprise to live so that they may progress. Let three horses run side by side, private enterprise, work through

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a Corporation, and state enterprise. Let us wait and see which one will prove ultimately beneficial to the public, let there be a kind of healthy co-operation and healthy competition. I appeal to my honourable friend Mr. Gadgil to agree to my amendment which I and Mr. T. T. Krishnamachari have together tabled, to impose this obligation of establishing a Corporation. Corporation is a child of yesterday; somebody put it into the minds of some of our friends in the Cabinet and they immediately jumped at the word 'Corporation'. If individuals are available for corporation, they can be easily available for State. I am not able to see why one set of persons cannot work in the other. The question of service must appeal to their sense of loyalty and patriotism and to contribute all their might to the growth of the nation and its wealth. With that exception, I would support the earlier portion, the first introductory chapter.

I have got some observations to make in respect of the imposition of income-tax over the profits of any such enterprise. I am afraid this is a retrograde step. All the magnates from Bombay, the electric supplying Corporations, all were insistent on one thing: They said: "Do not make a difference between private enterprise and public enterprise". In public enterprise there is a sense of security for employees and they are not niggardly and they cater more to serve the country. Any public utility service must primarily address itself to the service aspect of its activity. In a private enterprise the man who is in charge of that enterprise will be more anxious about the profit and that motive will actuate him. Therefore, what they wanted was to make it impossible for public enterprise to thrive; they wanted to impose income-tax upon the profits of this corporation so that with their small establishment, small over-head charges and small pay to their employees and no provident fund for the employees, they can save a lot of money; living in a small room they carry on the business and make crores of rupees. They expect also a corporation with its over-head charges to reduce the charges and come to the same level. Insidiously they put this clause so that no corporation can work successfully and the next day they can say: "This is the way public enterprise has gone to the wall." I am really surprised that the Central Government should be anxious to impose income-tax upon these. My Honourable friend's explanation is that what is given by one hand is taken away by the other and that under the Government of India Act the income-tax is shared between the Centre and the Provinces, but after all it is shared.

In my part, I do not know what the Hindi name for this is, we call it 'Avul'—fried rice. One boy suggested to the other: "You bring fried rice; I will bring husk; we will mix them up and both of us will eat." Why do you tax profits in a particular area, an enterprise which is carried out by the Government successfully and bring it to the pool of the Central Government?"

Srijut Rohini Kumar Chaudhuri (Assam: General): Does the honourable member refer to *Chera* or *muri*?

Shri M. Ananthasayanam Ayyangar: Although we come from East or West, North or South, our sentiments are the same and our stories are the same.

I am glad my honourable friend Mr. Chaudhuri now feels that there is no difference between a Madras and an Assamese and it does not matter: the secretariat does not consist of Assamese officers; therefore I am as much a representative of Assam as he is a representative of Madras. After all this is a novel experiment that is being made. Instead of the Central Government giving subsidies, they are trying to impose a curb upon the activities of the provincial Government.

The third point is, how far is this Bill going to carry electricity to the very doors of the agriculturists. That must be the main object of the Bill. It is

not with a view to make the rich man richer, or to make the ordinary lamps, the mercury lamps or the incandescent lights that this institution should come into existence. My friend Mr. B. Das says, all right, you give a subsidy from the Centre. This money also comes from the tax payer. There is another argument for nationalisation. It takes a long lead to distribute power in the village; but in the cities there is not much lead from one house to another and the Corporation goes on earning. In Ahmedabad or Bombay, whatever profit is earned, if it is in the hands of the Government or a corporation, the earnings will be distributed over rural areas. After all, it may not be economic to take a long distance lead in the villages and erect long transmission lines. To induce the agriculturists you have to reduce the charges also. My friend does not appreciate the difficulty. This corporation with its limitations will have to take up only the supply of electricity in the rural areas and I may assure you that it is not going to work at a profit. The existing corporations in Ahmedabad and Bombay, the Nixons and Tatas have got vested interests; they will walk away with all the cream and leave the dross to us. Why should the rich man walk away with all the profits and throw the burden on the Government. I am not at the moment addressing myself to nationalisation. If it is good, let us not hesitate to nationalise it; but if private enterprise is better, let us go in for it.

I was in the Conference along with Mr. Manu Subedar.

An Honourable Member: Which conference?

Shri M. Ananthasayanam Ayyangar: At the Simla Conference. We had already prepared a Bill. They wanted to give opportunities to all interests to make representations. They came in a huge body and physically they would have thrown us out of Simla. What they said was, leave all our enterprises to ourselves; do not interfere with us. They even went to the length of saying, you shall not even sell small articles which are necessary accessories. It is their conviction that the whole country exists for these gentlemen. They said, the moment the State even for its own purposes starts to deal in accessories, to that extent their reserves have been encroached. This mentality ought to go. It appears some friends think as though we are all wedded lock stock and barrel to these gentlemen, to make the rich people richer. The sooner we get rid of such an unhealthy state of affairs, the better would it be in our own interests. I am sorry that those persons who are in charge of the administration are not putting their heart and soul into this matter; otherwise, we should have nationalised all industries by now. The old bureaucratic system is still there and it does not allow to do things nor would it itself do.

An Honourable Member: The Minister has to hear this.

Shri M. Ananthasayanam Ayyangar: The Minister will hear.

As regards the other portion of the chapter, the chapter on profits, we wanted to rationalise, that is wherever there are private enterprises, we wanted them not to charge exorbitant rates and we wanted to control them. We suggested that the managing agents should not receive more than a certain remuneration. With respect to capital, we fixed the capital and wanted to allow a certain rate upon the capital at charge. The rate was fixed at 2 per cent. over the loan rate, that is the redemption rate of the Government of India loans. They used to get 5 per cent. We sent for the balance sheets and the profit and loss accounts of the various companies and you will be surprised to know that these companies had made a profit of 22 per cent. upon their share capital. Unfortunately, all the papers are in their hands, the whole platform is in their hands, and they go about saying that they are the injured persons. The poor man goes to the wall and the deep sea. We have decided that a flat rate may be given in the initial stages; as we go on gathering

[Shri M. Ananthasayanam Ayyangar]

experience. I am sure that rate may be reduced if they are found to make excessive profits.

There is another point. This Bill makes a provision that wherever available, water power shall be the exclusive property of the State. I ask my friends whether this is not a reasonable thing. They wanted to have some share in water power also and said, before you make a survey, you must tell us. This kind of claim they put forward before the Select Committee and at the Conference. I am taking some time of the House for the purpose of drawing the attention of the honourable members to every one of the items. It may be, we have private enterprise along with public enterprise. In the initial stages, public enterprise may not be able to supply power as cheaply as private enterprise. If today, the Bombay or the Ahmedabad Corporation wants to compete with a public corporation, they have got enormous resources and they can afford to throw the other out of the field altogether. What we can do is we should restrict the quantum of dividend that they are entitled to get.

There is one other consideration. Electricity unlike other industries is a monopoly. Within the area of operation, it works under a licence and others are excluded. There is absolutely nothing like competition within the same area. When we fixed the particular rate, they said these rates were low; we said you get these rates willy-nilly, and there is no competition. Further this is public utility service and we cannot afford to pay enormously to keep these private enterprises going on.

Therefore, I commend this Bill, though not whole-heartedly; this is the best that we can do in the circumstances. I only wanted a modification that wherever a province has been generating electricity and carrying on the work departmentally, it ought not to be interfered with, and no corporation should be forced upon that province against its will. When the Bill comes up for discussion clause by clause, I will make my submission. I support the motion for the consideration of the Bill.

Mr. Chairman: The House stands adjourned till 10-45 A.M. tomorrow.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday, the 10th August, 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Tuesday, 10th August, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

WHITE PAPER ON HYDERABAD

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): With your permission, Sir, I lay before the House a White Paper* on Hyderabad.

Honourable members will have followed in the Press the course of the long and protracted negotiations between the Government of India and the Nizam's Government. They are already aware of the terms on which negotiations were based; and they also know why these negotiations were unsuccessful. To understand the problem of Hyderabad however it is necessary not only to have a knowledge of the events as they took place from day to day, but also correctly to appraise the background against which the negotiations were conducted. In the White Paper which I have placed before the House therefore, an attempt has been made to present in their proper setting all the various problems, geographical, historical, economic and others, that govern the situation. All material not strictly necessary for this purpose has been excluded and the appendices comprise essential documents only. There has been a considerable amount of correspondence between the Nizam's Government and the Government of India on the various issues, and it is intended to publish this correspondence separately very soon.

The Paper before you will make it clear that the Government of India have done everything in their power to reach a friendly and amicable settlement. Indeed, in their anxiety to secure goodwill and avoid all cause of bitterness, Government were willing to make concessions to the Nizam which they would have found it difficult to justify to Rulers of other Indian States who have so readily acceded to the Indian Union. It causes me great regret that all our friendliness and desire for goodwill have been frustrated by the negative attitude of the Nizam and his Government. It must be a source of profound concern to all of us that those in control of affairs in Hyderabad should have found it necessary to shape their policies more and more to suit the wishes of a bellicose and rabidly communal organisation which shrinks from no crime to maintain its ascendancy in the State.

The failure of Sir Mirza Ismail's recent efforts undertaken at the instance of the Nizam is another proof of the utterly unhelpful and hostile attitude of the Nizam and his Government and of their determined opposition to all proposals for a friendly settlement. In a recent statement, Mir Laik Ali, the Prime

*Printed as Appendix to the day's Debates—Ed. of D.

[Sardar Vallabhbhai Patel]

Minister of Hyderabad has presaged a five year period of turmoil throughout the length and breadth of India. One would normally ignore wishful thinking of this kind and I am referring to it here merely because this statement shows the line of thought that is animating those who guide the destinies of Hyderabad at the moment. Mir Laik Ali's hopes will be completely falsified, but one cannot stress too often the vital need for eliminating the communal virus from the body politic; and I therefore take this opportunity to appeal, with all the earnestness I am capable of, to all sections of the country not to be led away by propaganda of this kind but to stand solidly by the Government.

Sir, the attitude of Government is clear and definite. An independent Hyderabad pursuing its own policies is a standing threat to the progress and prosperity, indeed to the very existence of the Indian Union. Accession and responsible Government are the only solution—accession which will bring Hyderabad within the ambit of all-India policy on the essential subjects of Defence, External Affairs and Communications, and which at the same time preserves the internal autonomy of the State in other matters. There can be no compromise about this, for compromise will mean suicide.

Meanwhile, the internal situation inside Hyderabad is rapidly deteriorating and the depredations of the Razakars on our borders is taxing our patience increasingly. I may not attempt to put any gloss on the seriousness of the situation. It is causing Government a very great deal of anxiety. But honourable members may rest assured that we are watching the situation very carefully and that we are well prepared to meet all possible eventualities. I would have liked to tell the House something more definite, but I am sure the House will appreciate that it would be unwise to disclose our policy and plan in advance. I can only ask the House to trust us and assure honourable members that we shall not be found wanting.

Shri H. V. Kamath (C.P. and Berar: General): May I request the Speaker to make arrangements for the early distribution of the White Paper to the members?

Mr. Speaker: They will be distributed tonight.

Mr. Tajamul Husain (Bihar: Muslim). Will the Government.....

Mr. Speaker: No questions on the Statement.

Mr. Tajamul Husain: I only want to raise a point. Will the Government consider the desirability of having a debate on a day on this secretly in the House?

Mr. Speaker: That point was disposed of yesterday.

ELECTION TO CENTRAL ADVISORY COMMITTEE OF NATIONAL CADET CORPS

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two members to serve on the Central Advisory Committee of the National Cadet Corps in accordance with Section 12 of the National Cadet Corps Act, 1948."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two members to serve on the Central Advisory Committee of the National Cadet Corps in accordance with Section 12 of the National Cadet Corps Act, 1948."

The motion was adopted.

ELECTION TO CENTRAL COMMITTEE OF TUBERCULOSIS ASSOCIATION OF INDIA

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Sir, I beg to move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two persons from among their numbers to sit on the Central Committee of the Tuberculosis Association of India."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two persons from among their numbers to sit on the Central Committee of the Tuberculosis Association of India."

The motion was adopted.

Shri T. T. Krishnamachari (Madras: General): May I ask the Honourable Minister what the Industry and Supply Ministry has to do with the Tuberculosis Association?

The Honourable Dr. Syama Prasad Mookerjee: I have moved this on behalf of the Honourable Minister for Health.

Mr. Speaker: I have to inform honourable members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely:

	Date for Nomination	Date for election
Central Advisory Committee of the National Cadet Corps.	12-8-48.	16-8-48.
Central Committee of the Tuber- culosis Association of India.		

The nominations for these Committees will be received in the Notice Office upto 12 Noon on the date mentioned for the purpose. The elections, which will be conducted by means of the single transferable vote, will be held in the Assistant Secretary's Room (No. 21) in the Council House between the hours 10-30 A.M. and 1 P.M.

ELECTRICITY (SUPPLY) BILL—contd.

Mr. Speaker: We may now proceed with the legislative business, further consideration of the motion moved by the Honourable Shri N. V. Gadgil yesterday, namely:

That the Bill to provide for the rationalisation of the production and supply of electricity and generally for taking measures conducive to the electrical development of the Provinces of India, as reported by the Select Committee, be taken into consideration.

Shri K. Santhanam (Madras: General): Mr. Speaker, I had the privilege of serving on the Select Committee on this Bill, and I have no doubt that from the point of view of the future of India, this is one of the most important and constructive Bills that have been introduced in this legislature. It is also a very difficult and complicated Bill, especially in the schedules. The Select Committee went through every clause with great trouble and have tried to put them in a manner conducive to the progress of electrification in this country.

Sir, I regret that the actual contents of the Bill have been to some extent misrepresented by the two speakers before me.

[Shri K. Santhanam]

My honourable friend Mr. Das contended that this Bill had nothing to do with nationalisation and said something about its being a national Bill, while Mr. Ayyangar contended that somehow the question of nationalisation had been compromised by this Bill. I do not think that either statement is correct. I will try to summarise the principles of this Bill as briefly as possible. The first principle adopted in this Bill is that all future electricity undertakings should be undertaken by the State, and it is only where the State for any reason is either unable or unwilling to take it up that it may give it to private industry and on such conditions as it likes, with a proviso that it may be resumed by the State whenever it likes. The second principle of the Bill is that all the existing electricity undertakings may be immediately controlled and when they are not working satisfactorily they can be purchased by the boards to be set up. The third principle is that to the extent that private enterprise is allowed to run electricity undertakings they shall run them on the principle of public utilities and not as private undertakings.

These are the three fundamental principles adopted so far as electrification is concerned and I suggest that it is not possible for any State to go further in the attempt to nationalise any industry. These are the essential basic principles which have to be adopted when we want to nationalise any industry, specially with the limited resources at our disposal. It was suggested that the setting up of a board somehow detracted from the principle of nationalisation. The provisions of the Bill show that the board is to consist of not less than three and not more than seven members appointed by the provincial Government and all members of the board shall be full-time members. This will be as much a national authority as a High Court or a civil court or any organ of the provincial Government. There is to be no representation of any kind of private interests. And all the members will not only be appointed by the provincial Government; the board as a body shall be subject to the directions of the provincial Government in all matters of policy. Sir, I suggest that under this constitution it is an absolutely national board and I do not think any further step is to be taken for nationalisation. I do not think it is correct to say that departmental management of industry is a better form of nationalisation than management under a separate authority. What are the British Government doing? They have set up a separate Coal Board, they have put up a separate transport authority, they have set up separate Electricity Commissioners. Then again even in America when they wanted to start a national undertaking they established a Tennessee Valley Authority. These democratic Governments knew what nationalisation meant; they knew that these industrial undertakings should not be left to the vagaries of ministerial changes. Ministries may change, and changing Ministers may have changing policies; but the day to day administration of industrial undertakings should be continuous and should not be disturbed by political considerations. It is on that sound principle that nationalisation in this country should proceed and unless that principle is adopted in this country all talk of nationalisation will be moonshine. Industries will be started by one ministry and as soon as the ministry is changed it will be scrapped by another ministry. I think it is a very unsound principle to take up industries and nationalise them and run them as departmental concerns. Therefore it is in the interest of nationalisation of electricity that this Bill has been conceived and the Select Committee has tried to adopt it only from that standpoint.

Then, Sir, it may be asked why the Bill did not start with a complete taking over of all the private interests. Those who have studied the facts about electrification in this country tell us that we are not even infants in the matter of electrification. The *per capita* consumption of electricity in India is only 10.5 units, and the corresponding figures are 806 for the United Kingdom and 1540 for the U.S.A.

An Honourable Member. is it per annum?

Shri K. Santhanam: I am not sure about that but I think it is so.

The U.S.S.R. has 300 units. Therefore our electrification is only 1½ per cent. of that of Britain which has very few waterfalls and where the entire electricity is to be produced from coal.

Of this very little electricity that is produced here 44 per cent. of the entire power and 46 per cent. of the entire production is confined to the big urban areas like Calcutta, Bombay and Madras. The entire country is a virgin field for electrification and as such I think it will be an absurd proceeding to put all the capital that our provincial Governments can manage to get into the old undertakings. Was it not a proper policy to see that the old undertakings are run on our terms, on terms of a public utility, and then divert all capital that we can lay hold of towards starting new concerns and developing new electricity? And wherever the old concerns come into conflict with the new policy of any provincial board the provincial board is given absolute power to stop those generating stations and, where necessary, to take over and purchase those generating stations. Therefore the powers of these boards are more or less absolute so far as the electrification of the province is concerned.

Then, Sir, it was suggested that by pleading in the Select Committee and shedding crocodile tears the private interests had got unduly favourable terms. I do not think that is a correct statement at all. The Select Committee was very sympathetic but it did not yield a single inch on any material point. What have the private interests got? They have got 5 per cent. on the effective capital sunk in the industry. It is not all capital; we have tried to exclude all bogus capital—it is only the actual assets and the reserves which have been invested, and it is only when they prove that they could not have possibly invested a certain part of the reserves of the undertaking that it is added to the capital. Otherwise only the actual plant and machinery and the working capital are to be taken. And even of the plant and machinery it is only the depreciated value; and to this is to be added up that part of depreciation which is again re-invested.

Therefore I think this 5 per cent. margin is a margin to which we should insist that the Boards should work up. So we thought it reasonable that this margin must be allowed in order to let private enterprise function on a reasonable scale. If owing to miscalculations any private electricity undertaking charges higher costs and makes good profits, it has been suggested that all those profits should be utilised for reducing the cost in the next revision and they should be funded. Only in certain circumstances, if the error is not more than 30 per cent. then what has been allowed is that 7½ per cent. may be permitted and the rest will be impounded.

Therefore, I suggest that this Bill is a Bill for nationalization of electricity and on that basis deserves the whole-hearted support of this House.

Then I may say a few words about the amendment given by my friends, Shri Ananthasayanam Ayyangar and Shri T. T. Krishnamachari about making the Board obligatory for all provinces.

Shri Ayyangar made one constitutional mistake, which he does not usually do. He said that this was only for the purpose of incorporation that the Central Legislature was asked to bring this Bill. Electricity is one of the Concurrent Subjects and it is a matter in which the Legislature has got full jurisdiction to pass the legislation. Just as we provided in the employees' State Insurance Bill that that Bill shall prevail over the whole of India, it is also necessary that we should do so because unless the electrical development of the country is on a strong basis, many parts of the country will be left out altogether. My friends have been obsessed by what they thought were the interests and rights of the Province of Madras. I claim that I am as much interested in the future electrification of Madras as my friends, and even for Madras, the provisions made will contribute to greater electrification than if

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things are managed as at present. It is true that under the Department, State electrification has proceeded to a considerable extent in Madras, but in actual quantity it has not been very much. It is 100,000 KW. If you look at the new schemes like the Damodar Valley and Kosi Schemes, you will find that the amount of electricity to be produced in each of them is four and ten times as much. Therefore, there is no use of exaggerating the achievement of the Government of Madras. Now and then one Minister after another has tried to dabble with it, but if such a Board had been established in Madras 25 years ago, it would not be 100,000 KW but it would have been 1 million KW that would have been produced for Madras. Therefore, if the Madras Government sets up this new Board, which will have no other political or other distractions but will concentrate on expanding the electric services of the Province, I am sure the rate of progress in the province will be greater than it has been in the last 25 years. If we give an option to every province, what will happen? Many provinces will neither start the Board nor take to electrification themselves. They will be left as they are. As it is there are provinces which have no electrification at all. In Orissa, for instance, there is no public installed generating capacity. Similarly in Bihar, the total capacity is only 27,450 KW, less than what they have in any single city in Europe or America. Sir, whole provinces are now left undeveloped and we do not want to give the right to provinces to sleep over it again for another generation. We want that every province should take steps, and if a Board is established, that Board will have to give an account year after year, e.g., what work it does, why it did not expand and so forth. And there will be competition between provinces and a healthy rivalry. Why should Madras have 100,000 KW and Bihar only 25,000 KW? Each Legislature instead of being distracted over ministerial factions, will insist that its Board should function properly. It is for that purpose that this Board has been set up and the whole value of the Bill will be destroyed if my friend's amendment is adopted and the Provincial Governments are left alone. In the matter of food, education and the distribution of cloth, where under the Constitution the Provincial Governments have the power, they come to the Centre and say: Why don't you help? Why don't you control? Why don't you regulate? They want orders from the Centre. But in a matter which is under the concurrent list and is to be developed on a national basis, unless you have some kind of a common system in all the provinces it will not be possible to have a proper electricity system. We may have to establish common joint councils in provinces for two neighbouring areas. For all such circumstances, unless you have a uniform system of administration, no development will be possible. So I suggest that this Bill as it has emerged in a wholly nationalization Bill. As such it deserves to be adopted as a whole and it should not be mutilated.

Shri H. V. Kamath (C.P. and Berar: General): We are living today in the transition from the electric age to the atomic age. But unfortunately as the advent of the electric age coincided with the advent of slavery in our country, we have not been able to reap the full benefits of electricity in our country. To-day, Sir, I do not propose to go into the vexed question of rationalization or nationalization, but I believe that all of us are agreed, as rational beings, that electricity, just like any other power, must be utilised for the benefit of the whole nation: and the whole nation, Sir, at least in India, lives in its hundreds of thousands of villages and to my mind the value of this scheme will be judged by its utility to the poor—the common man: the rural man.

How far will he be benefited by this Electricity Act? The one country in the world today from which we can take some lesson in this particular regard, apart from its politics, is Russia. Russia soon after the consummation of its revolution in 1922 achieved the electrical development of practically the entire

country is less than 10 years. And Lenin once when he was asked what Communism meant—because Lenin aimed at the establishment of Communism in Russia—to bring the point home to his questioner said: Communism is Soviet plus electrification. It was partly in jest but partly in earnest too. The point he wanted to make out was the importance of electrification in the present day.

When I am on this subject, I would also like to say that Mahatma Gandhi himself was all in favour of electrification. I myself once had a little talk with him about charkhas being driven by electric power and he said if the poorest man, the lowliest and the lost gets electricity in his own home to run the charkha, then he for one would have no objection to the electrification of India. But he was particular to stress this point that if electrification meant benefiting only the rich and urban classes, then he for one would not be in favour of the scheme. But in so far as the rural people, the villager today, who is today practically a beast of burden in our country, could get the benefit of the electrical scheme, then he would favour such a scheme in our country.

Sir, it is in the fitness of things that this should be so; this electric energy is ubiquitous. It was not something invented by a particular man. It has been there in the world, in the universe, in the atmosphere since the beginning of time and it was only harnessed by certain discoverers who found that this power could be utilised for doing the work and labour of mankind and inasmuch as this power is ubiquitous, since it pervades the universe, so also I want that this power should reach every nook and corner of the world. We here are working for India and we want that it must reach every nook and corner of India and be available to every villager in India.

My friend Mr. Santhanam referred to the departmental running of the electricity schemes. The argument that he put forth was that when a new Government comes into being it is liable to change its entire policy and accordingly the department will also function in a new orientation. But this same argument applies to the boards or other extra-departmental authorities that might be constituted by the Government of India or the provincial Governments. When a new Government comes in and lays down a new policy the board will only carry out that policy. As Mr. Santhanam himself said the Board so constituted will carry out the policy of the Government and the Government will have the final say in laying down the policy for these boards. This argument therefore that he put forth as regards departmental running *versus* extra-departmental management does not, to my mind, hold water and if as in Madras the departmental functioning and management have been efficient, as my other friends from Madras have said, I do not see why that system should be interfered with at present. However, as regards nationalisation we have got to bear another aspect of the thing in mind and that is that nationalisation depends upon how far the nation has been integrated, how far the nation has constituted itself into a strong State. If the State which represents the nation is itself inefficient or weak, then all efforts at nationalisation are bound to fail: but if the state is integrated and strong then every one of us will go all out for nationalisation. In our own country we have the railways as the major nationalised industry. But, as was pointed out on former occasions in this House, unfortunately our railways have not been functioning as efficiently as we would wish them to and at times they have acted as a damper on our further efforts at nationalisation. So when we plead for an all out effort at nationalisation I for one would say that at the same time we must see that the State has a strong and efficient machinery to carry out and implement whatever nationalisation schemes might be put into operation.

[Shri H. V. Kamath]

Lastly, there is one point which I wanted to stress and I would repeat it, *viz.*, that unless the poorest villager benefits by the Electricity Bill it might as well go on the scrapheap. Today the world has entered the age of atomic energy and we as a backward nation have got to leap and skip over so many stages. But it has been the experience of history that when a backward country goes forward it learns from the experiences of other countries, from their failures and their successes and it is always likely to skip over so many stages in its evolution. Let us therefore take our lessons from other countries in the world who have already advanced far enough on the road to electrification. Let us learn from them how far they have been able to succeed and through what schemes they have been able to bring this great all pervasive power to every nook and corner of their country and within the reach of the poorest rural citizen.

I would only end by saying that we wish all success to the scheme and I hope that within the next few years we would be able to electrify not merely literally but also metaphorically all our towns and villages, to the benefit of our urban as well as our rural compatriots and we would be able to run our industries more neatly, efficiently and comfortably with the aid of electricity in town as well as country, and that it will contribute to the progress, wealth and happiness of India.

Prof. Shibban Lal Saksena (U.P.: General): Sir, I have very carefully listened to the elaborate elucidation on the Bill by the Honourable Minister and I thank him for having improved the Bill so much in the Select Committee. But I cannot help saying that the main features of the Bill still remain as they were and as he himself admitted they have not been changed. New electrical enterprises will not be all nationalised. My friend Mr. Santhanam just now gave a very eloquent description of this Bill when he said that it was really a nationalisation Bill and he said that henceforth all new undertakings will be public undertakings and only in cases where the Government feels that it cannot take up an undertaking it shall give it to some private licensee. I think it is just there where there is a snag.

The other day our Prime Minister announced the industrial policy of the Government and while he said that for ten years we shall not take over any old undertakings, yet he assured us that new undertakings in the key industries shall be State enterprises. I therefore think that this power which is given under Sections 38 and 39 should not be given and all new undertakings should be state enterprises. The argument advanced by the Prime Minister was that we could not squander our resources on taking over the old concerns. I do not agree with that view. My feeling is that we should take over the key industries at least immediately and for two reasons. First of all the argument that we shall have to squander money is fallacious. We are taking over the zamindari system in U.P. It will cost us several crores of rupees but we have so scheduled the payment that it can go on for a period of 30 years. We can pay off the costs and in the meanwhile probably earn more than what we pay by the abolition of zamindari. Again, we know that England has nationalised its electricity, coal and some other industries. In their Electricity Act they have provided for compensation to present manufacturers. I do not think England today is abounding in wealth. She has to keep her life going today with the help of America and yet although the country is in such bad days she has taken over the key industries. I think India is much more solvent than England and she can afford to take over these concerns and pay compensation to the owners of the companies by spreading it over a number of years, during which the income from nationalisation will be higher than the amount of compensation that will be paid. There are some very interesting sections in the British

Electricity Act in this connection and I think I may read at least one of them to show how they have arranged for compensation to companies. In section 25 they say:

"25.—(1) Every composite company shall be entitled to be paid by the Central Authority, by way of compensation for the vesting in that Authority or in any other Electricity Board of property and rights of the company, and in lieu of any other compensation in respect of that vesting, an amount calculated as follows:—

- (a) the aggregate value of all the securities of the company shall be ascertained in accordance with sub-sections (2) to (9) of section twenty of this Act, subject to the modification that for the references in sub-sections (6) and (7) to the stockholders' representative there shall be substituted references to the company;
- (b) there shall be ascertained the proportion which the average net revenue earned by the electricity undertaking in respect of the last three complete financial years before the tenth day of January, nineteen hundred and forty-seven, bears to the average net revenue earned in respect of those years by the company's undertaking as a whole;"

That means they calculate the average income for the last three years. I think some such device could be made here also and the companies can be given an amount equal to their net average annual income of three years. It is not something which could not be done in our country when England, which is not in a very prosperous condition today, can do it. The reason for my saying so is this. My experience of the sugar industry has been such that I feel that the capitalists, whenever they get an opportunity, will try to get money and will not care for national interests. Recently we have seen in the cloth trade also the same phenomenon in the soaring prices of cloth, and all appeals to patriotism failed and the consumers have been hit very hard. We cannot therefore trust that such key industries will be able to fulfil the demands of our national development schemes under the control of these capitalists.

When the Bill was first introduced my honourable friend Mr. Patil referred to the difficulty in getting personnel for running these industrial schemes. He referred to his own case, of the Bombay Corporation. I personally think that if we adopt the methods of the industry we can get the same personnel which these companies are able to employ. The personnel is there whether we employ them or a company employs them. And I am sure if Government employs them they will be much happier under Government and will work with more devotion than they would do elsewhere. So I do not think that argument has got much validity.

I think that the special plea of my honourable friend Mr. Santhanam that this Bill provides for a nationalised industry is not correct. In many places where the vested interests are powerful they will take over the electrification schemes and the Board will say that it is much better that these experienced industrialists should carry them out because they have the experience, personnel, money and all that. I therefore think that the clauses 38 and 39 as they stand at present are very dangerous.

Leaving this question of nationalisation I now come to the Bill itself. I think that the task before us is stupendous. The other day the Honourable Minister told us how low is our consumption of electricity. Even that is confined to three or four cities. If we look to the development of electricity in other countries we would be surprised to find how much they could do in four or five years' time. In fact in Russia, to which my honourable friend Mr. Kamath just referred, the development of electrical power from 1932 to 1937 was from 1340 crores of kilowatts hours to 3800 crores of kilowatts hours. That means in five years time they could develop electricity to this extent. I want

[Prof. Shibban Lal Saksena]

to know if our Minister is sure that with this Bill he will be able to develop our resources to that extent. I have carefully analysed the Bill and I find that the Central Authority is not clothed with any real powers. What power has been given has been given practically to the Boards. The Central Authority shall only plan and recommend. I think that this is a fatal defect in the Bill. If we want to develop electricity all over the country according to a comprehensive national plan, it can only be done by Central initiative. Of course we must secure the fullest co-operation of the provincial Governments and fully harness the resources of the provinces. The Central Authority must be clothed with full powers to use all its resources and all its influence to make the provincial Boards function with the necessary speed and energy. I think the provinces are not so rich as to be able to invest all the money required for big schemes. And I do not find any provisions in this Bill for subventions from the Centre to the Provincial Boards. I have tabled some amendments suggesting that the Central Authority should be the final sanctioning authority for all big electrification schemes, so that there may be all round development according to a comprehensive national plan for the production and supply of electricity and all provincial schemes may fit into it. As the Bill at present stands, the Central Authority can only give its recommendations about some provincial schemes and it is left to the provincial Boards and ultimately to the provincial Governments to accept or reject the recommendations. I think it is not proper. The Central Authority must be the sanctioning authority for all big schemes. If there is any scheme which does not fit in with the national plan, it must be rejected. If the Central Authority thinks that the scheme cannot be taken up by the province for lack of money, it must finance it and supply technical personnel etc. In this Bill you have not made the Central Authority strong enough to carry out a comprehensive national plan for development of electrical energy and power.

I tried to compare the powers of the Central Authority here with those in England also. The Central Authority, I find, is much more powerful there and it is the Authority which is the moving power and which can make the regional boards function. I think this is a defect in our Bill and it should be removed. The Central Authority should be made all powerful and given power to help the Boards financially. I think the provinces will not grudge this. We will then be able to carry out the plan, which will be coming before us, for the industrial planning and development of our country.

In regard to the penal clause I was surprised to find that there is a fine of Rs. 500 only if any licensee violates any of the provisions of this Act. This is something ridiculous. They can violate the conditions and make crores of rupees of profit and just pay Rs. 500 only! This provision must be changed. They must be given at least one year's imprisonment in the beginning, and if the offence is repeated the punishment must be severer. And the fine must be equal to the amount of profit which they make by their breaking the law.

On the question of taxation, yesterday also a friend said that taxation of nationalised industries is not proper. I join him and I would like to say that when we are starting an industry which will try to cater for the welfare of the millions of villagers—as my friend Mr. Kamath reminded us, Mahatma Gandhi was in favour of every hut having electrical power to run its spinning wheel—then certainly this cannot be done by taxing this Authority in the very beginning. The Central Authority or the Board, whosoever runs this machine, will not make any profits. It will really try to give the benefit to the country and you cannot judge its success by taxing it in the manner of a company which runs for profit. I therefore think that this handicap at the very outset will kill this

undertaking. The capitalists will then come forward and say “you have tried nationalisation and failed”. I think that like the railways we should nationalise electricity. I am also opposed to the transfer of funds from the Railway Fund to the General Revenues. I think that all the income derived by this undertaking should be spent on the undertaking itself with a view to develop it to the maximum extent until it can be said to be completely developed when we can take away the income for the State. But we are just beginning and before we have even begun we should not say “it shall be taxed, it shall pay super-tax and all that”. I think the provision must be revised. It must be allowed to develop with the best wishes of us all and the Honourable Minister should see that whatever expense is involved in it we must be prepared to spend.

As my friend Mr. Kamath reminded us, Lenin had said, Communism meant Soviet plus Electricity. I agree. If we have full development of electric power, then certainly we will be able to provide work and employment to all, and people will be happy and there will be none who will equal us in the world.

We are in population the greatest nation. But we have no petroleum stocks and we have no other power. So we will have to depend on water power and electric power. We must be able to do everything to develop this water power and electric power, and for that reason we must not put limits on the development of this venture by imposing income-tax and super-tax and all that on it.

These are some points which I wish to present for the consideration of the Honourable Minister. I hope he will accept these essential amendments so that the Central Authority will become strong enough to give the energy and drive, and initiative and directive, which he personifies in himself, to all the provinces.

The provinces have been allowed two years within which to fall in line with this Bill. In five years Russia could multiply her electricity production by three times. I think if the provinces take two years to fall in line it would be too big a period; within six months every province must fall in line and if it does not the Central Authority and the Honourable Minister must make it do so, so that in four or five years we may be able to make at least similar progress as the other countries have made.

Sir, with these remarks I support the motion.

Shri T. T. Krishnamachari (Madras: General): I have risen to correct some misapprehensions that might be formed by members of this House as a result of the speech of my honourable friend on my right. In a Bill of this nature, it was essentially as a compromise that it emerged from the Select Committee. It is quite open for one member to feel that this is the last word on the subject. It is equally open for another member to say that it is a very halting measure. But what I want the House to understand is that the Select Committee, charged as it was to produce a workable Bill, has compromised with the powerful interests to the extent that it was absolutely necessary, and it would be wrong and untrue to say that we have not compromised. We did give a lot of opportunity to the vested interests to represent their case. We tried to meet them so that we could carry them with us instead of provoking an opposition from those vested interests. And if I agreed to such a compromise, I agreed because it was necessary in the best interests of the country as things are today. My own feeling was that placed as we are, placed as this Government is today, it is not in a position to brush aside vested interests completely and take over the entire problem of not only generation but also distribution of electricity and also pay the compensation that is necessary. It has therefore been necessary not merely to give them certain concessions, but also give them certain valuable concessions in the matter of compensation to be afforded to existing electrical undertaking which are taken over.

[Shri T. T. Krishnamachari]

Sir, I agree with Mr. Santhanam that it is the first step and a fairly big step in the direction of State control of generation of electricity and also control in regard to its distribution. I will not say it is the last word on the subject. We do not ask for the gratitude of the people that we have done something very big or that it is actually nationalization as understood by various people. There was much that Mr. Santhanam said in regard to the working of nationalized concerns by means of Boards, with which I am in agreement. There I think we have blazed the trail for future nationalization. These things will be done by Boards and not by Departments. At the same time I cannot claim that it is perfect or complete nationalization, or anything which by a stroke of the pen could be turned into nationalization of electricity industry, because there is this difference which I would like the House to understand. In the province of Madras—my own Province—95 per cent. of the generation is in the hands of the State and the State is now moving very rapidly towards control of distribution as well. Very possibly, as soon as this measure becomes law and is on the Statute Book, the provincial Government will enact a measure to enable them to take over the distribution of electricity in areas where it is now in the hands of private people.

I would also say this is contradiction to what my friend on my right has said, that in Madras the progress has been fairly rapid considering the conditions under which work was started; the mere fact of the existence of a Board would not have made any difference whatever to the pace of the province. Actually I remember that for one of the major hydro-electric works started—the Mettur Project—Government had to canvass for industries to be started by the side of the project so that the power could be consumed. Of course the war and the rise in the standard of living, and the requirements of the people in electric current, have made a very big change in the capacity consumed, and it might be that today the total amount of electricity generated in Madras is not adequate to meet the need, or even meet half the demand of the people of Madras. But as conditions were prior to the war, the existence of a Board would not have made the slightest difference. And I am very proud to say in this House that the Department of Electricity in Madras is as good as any Board can possibly be, and the change that will be effected so far as the Madras portion of the structure is concerned would be practically a change in nomenclature rather than a change in either the personnel or in the management. We are in a position of advantage, and I therefore believe firmly that if it is possible to create conditions similar to what obtain in Madras all over India, nationalization would be a very easy matter.

But we did find in the course of our talks with the vested interests in the Select Committee that the position is not on all fours with what exists in Madras. There are powerful vested interests in one or two places which it would be unwise for us to displace now. Take the Tata interests; it would be very unwise straightaway to displace it. It would be much better to get a corporation of that nature with its semi-impersonal character to help us in going ahead with our programme of developing electricity rather than tell them, "We are going to take you over", and find ourselves faced with all the difficulty that would ensue in regard to management and personnel. I do not think, Sir, that it is quite right to say that the Central Government is not faced with problems in regard to getting adequate personnel. They will find that problem a very serious one when they have to man this Central Authority; it is so difficult to get adequate personnel in this country and if our friends do not want to get foreign personnel, it would be all the more difficult. So, what my friend Mr. Patil said at the time this Bill was referred to the Select Committee happens to be a fact and a fact which would prove more in actual practice when we find that we cannot get adequate men to meet our needs.

With regard to my honourable friend Mr. Santhanam's criticism in regard to an amendment proposed by my friend Mr. Ananthasayanam Ayyangar and myself, I shall deal with it at the appropriate occasion. But I have to say one or two words about the remarks that fell from my friend Professor Shibban Lal Saksena. I do not say that I disagree with what he said—I say I do agree. I also agree to the charge that this Bill is not as good as it ought to be, as we all want it to be, and also the conditions under which we have to work. He raised one particular point in regard to compensation. I am familiar with literature on this subject and have particularly read the measure in the United Kingdom which has nationalized electricity. The question of compensation as he says must be based on the net income. Yes, the people in the United Kingdom have agreed to the compensation being based on the net income, because the net income is something very big and the compensation will consequently be very big. In our country the net income is not quite so large and naturally our vested interests would not like to base compensation on the net income. It is merely a question of the vested interests in U.K. agreeing because it was to their advantage and here our vested interests do not agree because it is not to their advantage. It is not that the people in England have scored any point over their vested interests and we have failed to score a similar point. It is merely a question of the two sets of things, the two sets of facts being different in the two countries. So I do not think he could praise the Labour Government in the U.K. for paying a lesser compensation than what we seek to by means of this Bill. Actually, Sir, my experience has been that the scale of compensation set by the Labour Government in Britain in regard to all industries which they are nationalising will make it impossible for a poor country like India to follow suit. The compensation they are paying is very high and my honourable friend will find that if at any time we nationalise an institution like the Imperial Bank and we follow the terms that have been conceded to the Bank of England, we shall find ourselves probably a loser in the bargain. So the analogy is not on all fours with conditions that exist in this country.

The second point which my honourable friend made was: he was dissatisfied with the provisions of Sections 38 and 39. The two Sections relate to the provision of new generating stations and operation of Board's generating stations. If we legislate for all time and say that a Board should not use any private undertaking for the purpose of running a generating station, even if it be uneconomical for the Board to run that station itself, well, it would be that the Board will have to employ high grade technical personnel and spend money on an uneconomical project. What Sections 38 and 39 really do is to empower the Board where a particular station is uneconomical to use local material, resources, talent and technical capacity available and it is merely an enabling provision rather than a mandatory provision. My honourable friend Prof. Shibbanlal Saksena who is a student of legislation—a very keen student and whose diligence I sometimes envy—has made just a little slip in trying to understand the provisions of Sections 38 and 39. The real operative Section is 44.

Prof. Shibban Lal Saksena: What is the guarantee that it will not be misused?

Shri T. T. Krishnamachari: The guarantee that it will not be misused is Prof. Saksena's continuing to be in the Central Legislature. That is the real thing. Actually, my honourable friend will understand that there could be no legislative guarantee against anything being misused and it is only that if we have good popular Government it would not be misused. But an enabling provision is necessary as any businessman will understand that if it is possible to

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get a thing done by contract or by somebody else and it is very cheap at that, there is no use trying to do it yourself and putting the tax-payer to a lot of loss, except the fact that you get the notional satisfaction that this is a nationalised concern.

Now, the operative Section in relation to this particular thing is Section 44. Section 44 more or less lays an embargo on any new generating stations being in charge of private individuals. The State has to take over the new generating stations except in so far as the stations visualised in Sections 38 and 39 are concerned. So you find that in regard to one particular fact, namely, generation of electricity, more or less all new concerns will be undertaken by the Provincial Boards.

One other matter which the Professor made which I also see is due probably to a slip because he has not thought out the problem in all its aspects is the power that has been conceded to the Central Electricity Authority. He would like the Central Electricity Authority to have mandatory power to see that these Provincial Boards do this or that and to get every scheme scrutinised. But there is the constitutional aspect of it to which I would like to draw my honourable friend's attention. The provisions of this Bill as they are today are just on the margin because though electricity happens to be a concurrent part the Central Government cannot create authorities which can act in an executive capacity in the various Provinces. That distinction is there. So in regard to clothing the Central Electricity Authority with certain powers you have really to try to see that we do not offend the provisions of the Government of India Act and probably some future Acts which may take its place. So if my honourable friend in the constitution that is going to be framed sees that electricity is no longer a concurrent part, surely we can clothe the Central Electricity Authority with all the powers that are necessary, but as it is, the constitutional hurdle has to be climbed and we have tried to be even clever to give the Central Electricity Authority that amount of power which won't actually bring it into clash with provincial autonomy.

The second factor is the actual physical factor. I had a talk with people in my Province in regard to vesting this Central Electricity Authority with greater power in regard to its duties *vis-a-vis* the minor Provinces or the backward provinces. Actually people in Madras resent the amount of power given to the Central Electricity Authority for a very valid reason, because they are progressive. The amount of money that they want to spend without previous consultation with the Central Electricity Authority is sometimes very big and they will be held up in the carrying out of bigger projects when they have to refer to the Central Electricity Authority, unless it is going to be an Authority which is absolutely alive to all the needs of the situation and is able to transmit telegraphically its concurrence or otherwise of a particular project. So you find that there is a physical problem of control being exercised from Delhi which will impede rapid progress in an industry which all of us want to see progress very rapidly. That aspect of it I would like to urge on Prof. Shibbanlal Saksena. I myself am a person who feels that the Central Electricity Authority must be a powerful one, so that it can put a check on anything that the Boards might do which is not correct and also help the backward provinces to get a move on but as the constitutional position is one and the position of the provinces who are progressive is another factor which stand in the way: so we have to compromise on this and the Central Electricity which we have now created has been given powers which happens to be a compromise which will probably, in practice, be found to be a workable compromise.

Sir, one other matter which my honourable friend Prof. Saksena mentioned was in regard to penalty. Penalty in a thing like this is just a token penalty. Actually the Board and the Provincial Government and the Central Government are not without resources to bring to heel any licensee who is going to be refractory and who will not fall in line with the requirements of the Board. This is not the only Act by which they are going to control it. There is the Indian Electricity Act. Still nobody today can really afford to run counter to the wishes of the Provincial Government and the Central Government because you can stop fuel, you can stop many other amenities if they do not fall in line. So it is merely a question of punishment of individuals. It may be that such individuals will say, "Oh, the Company does it and the Company will bear the brunt of my mistakes. So why should I worry?" It is to bring those who are responsible to heel that this penalty clause has been introduced and actually the vested interests did sort of tug at it and they said the penalty is rather severe.

I would like to say this finally, that we are still inundated with a lot of communications from various people, but I should say that the communications are not what they used to be. They are not able to find many clauses in this Bill from the point of view of vested interests to which they can take exception. It is just toning down, which I think is a tangible proof that the Bill is not quite so bad as it is pictured to be so far as the vested interests are concerned. And in regard to the interests of the tax-payer and the State I have already said that there are limitations. The limitations are obvious. We are conscious of the limitations and we have agreed to this measure in the full responsibility that this is not a measure which means complete nationalisation and we have necessarily to admit a compromise in view of the fact that the development of the various provinces in this country is not more or less even and we have to bear in mind the resources and the help that we need from private enterprise perhaps in the present set-up when we have left a private sector in the industry to help to improve the position so far as electricity is concerned.

Sir, in regard to the other two matters on which I probably agree with Mr. Ayyangar, I shall speak at the appropriate time, but otherwise I think the Bill is a good compromise and the House will have no objection to passing it with such minor amendments as may be necessary.

Shri S. V. Krishnamurthy Rao (Mysore State): This Bill is to be supported only as a compromise between private enterprise and complete nationalization. I cannot agree with the Honourable Mr. Santhanam that production and electricity cannot be run successfully as a state department. In fact, honourable Mr. Krishnamachari has spoken about Madras. Coming to Mysore I wish to say how Mysore Government has been able to run this Department to the benefit of the State. Beginning in 1902 it had only an installation for production of 10,000 H.P. and within the course of 40 years Mysore is now producing 93,000 H.P. and if the Mahatma Gandhi Jog Electrical Works are completely developed, we will be able not only to meet the needs of the entire state, but also supply electricity to the neighbouring districts of Madras and Bombay Presidencies. In fact Mysore has been supplying power to Tungbhabdra Project in the Madras Presidency and negotiations are going on to supply about 10,000 H.P. to the neighbouring districts of Bombay Presidency. The entire personnel is manned by Mysoreans and the entire profits of the department go to the coffers of the State. Nearly one tenth of the income of the State, more than a crore of rupees, is the income that the State gets from the electrical department. The industrial progress of Mysore I may assert is mainly due to the progressive policy that the Government of Mysore has followed in the complete nationalization and a distribution of electricity in the State. Today 223 towns

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and villages are electrified and we have got a plan to start about 30 distribution centres from where all the villages within a radius of 50 miles will be electrified. Electricity is being supplied below cost to some of the industries and electricity is being supplied to agriculturists at 6 pies per unit.

The industrial progress of Mysore has been mainly due to the progressive policy pursued by the Government of Mysore. Sir, it is the agreed policy of the Congress also that all public utility concerns, especially production of power should be run by the Government. We need not go to England or any other country to get an example. Here is a small unit of 29,000 square miles—Mysore State—which has followed this policy to a successful conclusion and very shortly most of the towns and villages there will be electrified; we have large schemes of industrialisation and I hope this measure which is before the Parliament, as a compromise admittedly, as my friend Mr. Krishnamachari said, between complete nationalization and private capital, will be a step for the complete nationalization of the production of electricity.

It is only from that view I have to support this Bill.

Mr. Speaker: I think we might begin at 2-30 now.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Shri Ajit Prasad Jain (U.P.: General): Mr. Speaker, I am afraid I have not been able to give sufficient thought to an important measure of this kind that it deserves. Nevertheless, the speeches that I have heard in this House and a cursory perusal of the Bill shows that the Bill does not deserve the condemnation that has been made by some members of the House. It is true that electricity is a special kind of enterprise; it partakes of the nature of a monopoly and it is capable of standardisation to an extent which many industries are not. Therefore, it has been found possible to run electrical enterprises by the State much more efficiently than other industries which require individual judgment and change of decisions from time to time. Moreover, it is a key industry upon which the industrialisation of the country depends and there is a good case for making electricity an out and out State concern. The Bill falls short in that respect. It does not touch the existing enterprises. It also leaves scope for private enterprise in some cases in the future. The speeches that have been made in this House show that the criticisms fall under three heads, namely, first, that this Bill leaves the present electrical enterprises intact, secondly that the Central Electrical Authority proposed to be set up by this Bill is a weak body. It will not be responsible for the execution of the schemes undertaken and lastly that the Bill still leaves scope for the Provincial Boards to allow private enterprise to start or undertake the management of new generating stations. The honourable member from Mysore has criticised the scheme on the ground that in Mysore electricity is being run as a State Department. It has run very successfully. It has gone to a large number of towns and that Mysore hopes to extend Electricity almost to every conceivable place where it is required.

No doubt, experiments in Russia have shown that electricity and electrical concerns can be run as efficiently by the State as by private enterprise. But the experience of democratic countries has shown us that it is a better method of working to create autonomous Boards. This is exactly what this Bill contemplates. There is a difference between our State and Russia. Russia is as much a political State as an economic State. It is true that in British India, some of the big electrical concerns, for instance, the Hydro-electric in the U.P. is being run by the State, yet it must be admitted that our State is a mere infant in managing commercial enterprises. Further the principles governing a commercial enterprise are very different from the principles which govern a State department. Management through State department leads to regimentation, to bureaucratisation and if we set up a separate Board for the management of electrical concerns, there will be continuity of policy which will always be wanting if this electrical enterprise is run by a State department. In America for the development of the Tennessee Valley, they have set up a Tennessee Valley Authority which has been vested with full powers. Therefore I welcome the provision for setting up a Central Electrical Authority and Provincial Boards.

Another feature of the Bill which has given rise to a certain amount of criticism by my friend Mr. Shibban Lal Saksena is that the Central authority will be only a co-ordinating and guiding authority in matters of policy. It will not be responsible for the actual conduct of the electrical schemes. To him it appears to be a defect; to me it appears to be a great virtue of this scheme. It is impossible to govern the whole of India in economic matters from Delhi. Over-concentration in politics is a bad thing; over-concentration in economic matters is worse. Any attempt to control the different enterprises from Delhi will, I am afraid, meet with disaster. The Bill has, therefore, very rightly entrusted the work of executing the schemes and the actual conduct of the electrical enterprises to the provincial boards. I would go a little further and submit that we should not stop at the provincial boards, but strong, independent and autonomous bodies should be set up for the areas which come under the scheme. We should try to establish something like what the Americans call 'grass-root' democracy in our economics that is, the conduct of the business and the decision of day to day matter must be entrusted to the local bodies, to the men on the spot, who can understand the difficulties and can conduct the business. The higher authorities should be concerned more or less with measures of policy, co-ordination, control and supervision. This Bill has, therefore, the virtue of having taken that principle into account. The Central authority for the whole of India will only be a co-ordinating and guiding authority. I hope the Ministry will entrust the actual execution to regional boards or local authorities for each of the schemes. The Bill has made provision for local Boards; but their powers and working have been left to the rule making power. I only hope that in putting the provisions of this Bill into operation, the Ministry will keep in mind that there should not be over-concentration.

Professor Shibban Lal Saksena has again criticised this Bill on the ground that it leaves scope for future enterprises to be established and managed by private persons. He has referred to clauses 36 and 37; but the cumulative effect of those two clauses and clause 44 is that in an area for which a scheme has been prepared no new generating station will be allowed to be established by private persons. The provincial board will ordinarily set up its own generating station, but if for one reason or another it finds that it is not in the public interest to set up its own generating plant, it may either permit a licence to set up a plant and run it or it may hand over the management of a plant set up by the Board. I do hope that this authority will not ordinarily

[Shri Ajit Prasad Jain]

be exercised and all new generating plants will be set up and managed by the Provincial Boards themselves. Regarding existing enterprises which are in any area for which a scheme is prepared, the generating stations will come under what is known as a controlled scheme. As a result quite drastic powers will be vested in the provincial board to guide and control these stations, even to ask them to conduct their business in a particular manner or increase or replace the plans. The Bill also restricts the profits of the private enterprises during such period as they continue to be run by private hands. It also makes a provision for compulsory depreciation fund, so that the latest equipment and machinery may be substituted for old and inefficient plants. It shows a lack of faith on our part that because we are not going in for out and out nationalisation today, we shall not go in for it when conditions are matured. Statistics have been quoted in this House to show that the *per capita* consumption of electricity in our country is near about 10 units whereas in America it is 1500 units and in the U.S.S.R. it is 300 units. It would be foolish for us to spare or to neglect any of the sources, whether private or public, which may go to increase the production and consumption of electricity in our country. We need it for industrial development and we cannot afford to neglect any of our resources. Therefore, Sir, I accept it as a compromise to begin with that whatever capital and whatever skill and resources may be available to the State should in the first instance be utilised for electrical development. Later on if sufficient public resources are available to us, we can acquire any and every private enterprise that may be running at the time. There is nothing to debar us from doing that. During the interim period when private enterprises are allowed to be run there must be a rigid control on them. More depends on how things are done than on how they are written on paper. The control over private enterprise must be rigid and any private enterprise which shows the least dereliction or contravention of any of the rules or bye-laws or any of the provisions of law should be drastically dealt with. It worked in that spirit I hope this measure will lead to a quick electrification and thereby to a speedy industrialization of the country. I welcome this measure and I hope it will be worked in a manner which will make it possible for us to eliminate private enterprise at the earliest possible moment and make electricity a concern owned by the public, managed by the public and run for the public.

An Honourable Member: The question may now be put.

Mr. Speaker: The question is;

"That the question be now put."

The motion was adopted.

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power): Sir, I am extremely obliged to the honourable members who have participated in this discussion. Most of the points covered by them were anticipated by me in my speech and sufficiently answered. I do not think any detailed reply is necessary and in order to save the time of the House I will make no further speech.

Mr. Speaker: The question is:

"That the Bill to provide for the rationalisation of the production and supply of electricity, and generally for taking measures conducive to the electrical development of the Provinces of India, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Speaker: Before we proceed to take up the amendments, I wish to invite the attention of Mr. Naziruddin Ahmed to the convention which we sought to establish last time that so far as punctuation or grammatical construction or

small and capital letters are concerned, we shall invite the attention of the Draftsman and it will not be necessary to move these as amendments here. In the matter of punctuation, many of them would perhaps be even called printer's mistakes. Therefore, I do not propose to call upon the honourable member to move these amendments. A list of these has already gone to the official draftsman but the honourable member also may supply a list of those amendments to which he wishes to invite his attention, and we will therefore proceed to the other amendments now.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, before you take up those other amendments I wish to say a few words with regard to amendment No. 1 which deals with the marginal notes. I shall not move it but only make some comments to show how dangerous the tendency is to show the marginal notes as parts of the section.

Mr. Speaker: So far as I am concerned and this House is concerned, we have always held the view that marginal notes do not form part of the section. Of course, as I said on a previous occasion, a different view is taken in Bombay. But I stick to my view that these marginal notes do not form part of the section.

Mr. Naziruddin Ahmad: I agree with that point of view but my objection is that they are printed as part of the section. That is leading to anomalous situation which I was going to point out. I submit instead of these being printed at the beginning of the sections, they should be relegated to the margin. I agree that they are not part of the section. But they are being printed as such and they are leading to misunderstanding. There are some people who take these things as part of the section, and they are trying to interpret sections with the help of these marginal notes. My point is that it is a question of printing device. They should have been removed from the region of the section into the margin.

It was said this was due to the exigencies of the war. There was some economy of paper and that was responsible for this. But the war has ceased and before another world-war starts, we should resume our normal practice. I submit this should be remembered in connection with this Bill by the Department.

I may point out that this tendency of printing marginal notes as part of the section appears also in some of the latest printed Acts. In the Evidence Act which has been printed, in Section 32, the marginal note relates to eight clauses. But they have been separated and put as part of different clauses, and it is leading to a large number of printing errors, and it has a tendency of being regarded as part of the section. This dangerous tendency I was resisting. So I hope some direction will be given to the Departments to see that in future these are printed apart from the section. I was rather respectfully enforcing your own ruling.

Mr. Speaker: The Honourable Minister, under whom also comes 'Printing' has heard the honourable member's comments. I am told that this is done for facility of printing and that there are some difficulties about printing machines. It is correct to say that a marginal note should be in the margin and nowhere else.

Shri K. Santhanam: That is the case. As a matter of fact a part of the page will be lost.

Dr. B. Pattabhi Sitaramayya (Madras: General): It is not a question of a page being lost but the printing will be more difficult.

Mr. Naziruddin Ahmad: Sir, I move:

"That part (1) of clause 2 of the Bill be omitted and the subsequent parts be re-numbered accordingly."

[Mr. Naziruddin Ahmad.]

Part (1) of clause 2 relates to the definition of the word "Authority". In fact the definition says that "Authority" means the Central Electricity Authority which is set up under clause 3. I beg to submit that the word "Authority" is not a very happy or a suitable word to imply this complex idea. The economies effected are no real economies and the word "Authority" does not indicate the thing clearly. There has been the use of the word "Board". The word "Board" is a well understood expression, but the word "Authority" is not so well understood. In fact, we should rather say the "Central Authority" or the "Electricity Authority" or the "Central Electricity Authority" as a whole. I beg to submit that the use of the word "Authority" in some of the places stands just like *in vacuo* and creates an impression of a gap or emptiness. I do not think the word sounds well. My submission is that the whole expression Central Authority or Central Electricity Authority or Electricity Authority should be used. That would be more tolerable to the ear. So I have suggested alternative amendments in suitable places, that where the word "Authority" occurs, the words Central Authority or Electricity Authority be used. Whatever may be the actual expression which may be used in the text, it should be indicated in those places, and if that is so, the definition of the word "Authority" is needless. But if at any rate my suggestion is accepted either in whole or in part, it will serve the purpose. So this definition is not necessary.

Mr. Speaker: That will dispose of No. 8 and a number of other amendments also. At any rate, No. 8 is practically the same.

Amendment moved:

"That part (1) of clause 2 of the Bill be omitted and the subsequent parts be re-numbered accordingly."

The Honourable Shri N. V. Gadgil: I cannot accept it.

Mr. Naziruddin Ahmad: In that case I beg leave to withdraw.

Mr. Speaker: Has the honourable member the permission of the House to withdraw?

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

Shri K. Santhanam: Sir I move:

"That in part (2) of clause 2 of the Bill, for the figure '3', the figure '5' be substituted."
It is a mere printing error.

Mr. Speaker: The question is:

"That in part (2) of clause 2 of the Bill, for the figure '3', the figure '5' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in part (4) of clause 2 of the Bill, for the word 'generation', the word 'generating' be substituted."

I think it is either a printing or a clerical error.

The text says: "'controlled station' means a generation station". The author means, probably, generating station. In the next sub-section the words "generating station" occur twice and this is so in other places. This is what is intended. So I submit that this should be accepted.

The Honourable Shri N. V. Gadgil: I accept it.

Mr. Speaker: The question is:

"That in part (4) of clause 2 of the Bill, for the word 'generation', the word 'generating' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in part (5) of clause 2 of the Bill, the words 'in any case', be omitted."

The words seem to be absolutely redundant. The text says;

".....dams and other hydraulic works, but does not in any case include any sub-station."

If we say 'does not include a sub-station' it means it does not include in any case a sub-station. If we take away words in any case the remaining words are sufficiently explicit and the addition of the words will weaken the section rather than strengthen it. The words are absolutely unnecessary without them the clause is sufficiently explicit, strong and clear.

Dr. B. Pattabhi Sitaramayya: Not merely unnecessary but mischievous because it means that the significance of the provision expressed is wider than the terms enumerated there.

The Honourable Shri N. V. Gadgil: That is why I cannot accept it.

Dr. B. Pattabhi Sitaramayya: It is a matter of English.

The Honourable Shri N. V. Gadgil: I do not accept it.

Mr. Speaker: The question is:

"That in part (5) of clause 2 of the Bill, the words 'in any case', be omitted."

The motion was negatived.

Mr. Speaker: I find that there are many supplementary lists of amendments and it is just possible that I might miss calling some of the amend.
3 P.M. ments. I would ask honourable members to be alert so far as their amendments are concerned.

I was considering why we should not call marginal notes as headlines instead of marginal notes. Headlines do not form part of the statute. That would obviate the printing difficulties and would also satisfy Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad: In that case something should be said in the General Clauses Act. A marginal note is sufficiently well known. We do not improve the situation by merely changing the name to "headlines".

Sir, I beg to move:

"That in part (6) of clause 2 of the Bill, for the words 'but the provisions of section 26 of this Act notwithstanding', the words 'but notwithstanding the provisions of section 26', be substituted."

The original text is written in a poetic style in blank verse! It is far better and simpler, more logical and consistent with actual practice to say "notwithstanding the provisions of section 26". It is the universal expression. In the circumstances I submit that we should observe some amount of uniformity in the matter of draftsmanship.

The Honourable Shri N. V. Gadgil: I cannot accept the amendment.

Mr. Speaker: The question is:

"That in part (6) of clause 2 of the Bill, for the words 'but the provisions of section 26 of this Act notwithstanding', the words 'but notwithstanding the provisions of section 26', be substituted."

The motion was negatived.

Mr. Speaker: Amendment No. 14 is a matter of singular and plural and the draftsman will consider it. It is not a substantial amendment.

The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I move:

"That in sub-clause (1) of clause 3 of the Bill, the words 'prescribe or' be omitted."

The word "prescribe" has been defined in part (9) of clause 2. "Prescribed" means prescribed by a rule made under section 17. In clause 78 rule-making power is given to the Provincial Government. So "prescribed" according to the definition means prescribed by the Provincial Government under clause 78. Under clause 3 the Central Electricity is being set up by the Central Government and therefore the word "prescribed" unless it is specifically defined applies to rules made by or orders of the Central Government. Clause 3 has been introduced or probably redrafted in the Select Committee and so the word "prescribe" came in without its implication being sufficiently realised by the draftsman. The text says "as the Central Government may prescribe or direct". If we remove these words the sentence will be all right. It will read "as the Central Government may direct". These words are not only unnecessary but are totally inapplicable in the context. In these circumstances I submit the words should be removed or the text should be rearranged. If these words are removed the text will be all right.

The Honourable Shri N. V. Gadgil: Sir, I cannot accept the amendment.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 3 of the Bill, the words 'prescribe or' be omitted."
The motion was negatived.

Mr. Speaker: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I move:

"That in sub-clause (4) of clause 5 of the Bill, for the words 'or other', the words 'or any other', be substituted."

It is only a drafting improvement.

The Honourable Shri N. V. Gadgil: Sir, I do not accept the amendment.

Mr. Speaker: The question is:

"That in sub-clause (4) of clause 5 of the Bill, for the words 'or other', the words 'or any other', be substituted."

The motion was negatived.

Mr. Naziruddin Ahmad: I move:

"That in sub-clause (4) of clause 5 of the Bill, for the word 'utility', the words 'utility concern' be substituted."

The word 'utility' as it has been used here, is used in the sense of public utility concern. It certainly means other public utility concern or organisation or undertaking. The word 'utility' is used in the adjectival sense without any corresponding noun. So 'public utility concern or business or undertaking' should be there. I have suggested 'concern' just to initiate a discussion on the conservation of the text. Without any such word the text remains incomplete.

The Honourable Shri N. V. Gadgil: I do not accept the amendment.

Mr. Speaker: The question is:

"That in sub-clause (4) of clause 5 of the Bill, for the word 'utility', the words 'utility concern' be substituted."

The motion was negatived.

Mr. Naziruddin Ahmad: I move:

"That in sub-clause (6) of clause 5 of the Bill, for the words 'A person shall be disqualified from being appointed', the following be substituted:

"No person shall be eligible for being appointed."

The text is rather indirect. It says "A person shall be disqualified from being appointed". This is not the way in which these things are expressed. If a mandatory section is to be introduced, it should be "No person shall be eligible for being appointed". It is more direct and more in conformity with the usual practice. I therefore suggest this as a drafting improvement.

The Honourable Shri N. V. Gadgil: I do not accept it.

Mr. Speaker: The question is:

"That in sub-clause (6) of clause 5 of the Bill, for the words 'A person shall be disqualified from being appointed', the following be substituted:

"No person shall be eligible for being appointed."

The motion was negatived.

Mr. Naziruddin Ahmad: I move:

"That in sub-clause (6) of clause 5 of the Bill, for the words 'being a member' the words 'remaining a member' be substituted."

This is a disqualifying passage. It disqualifies a man from being a member. But the words "remaining a member" would be a continuous bar—not only in his being elected but in his remaining a member. This is the more comprehensive word and therefore this should be accepted because this is what is implied in the text.

The Honourable Shri N. V. Gadgil: I am not accepting it.

Mr. Speaker: The question is:

"That in sub-clause (6) of clause 5 of the Bill, for the words 'being a member' the words 'remaining a member' be substituted."

The motion was negatived.

Mr. Naziruddin Ahmad: I shall move the alternative amendment. I have suggested two alternatives; at least one should be accepted. I move:

"That in sub-clause (6) of clause 5 of the Bill, for the words 'being a member', the words 'continuing as a member' be substituted."

That is what the sense indicates.

The Honourable Shri N. V. Gadgil: I do not accept it.

Mr. Speaker: The question is:

"That in sub-clause (6) of clause 5 of the Bill, for the words 'being a member', the words 'continuing as a member' be substituted."

The motion was negatived.

श्री गोकुलभाई दौलतराम भट्ट : सभापति जी, मेरी तरमीम यह है :

"That in sub-clause (6) of clause 5 of the Bill, the words 'or within the twelve months last preceding has been', be omitted."

यह संशोधन रखने की जरूरत इस लिये हुई कि मैं समझ नहीं सकता हूँ कि जब इस बिल में कई धाराएँ ऐसी हैं जिस में यह लिखा गया है 'जिसका हित संबन्ध (interest) होगा, वह इसका (Central Electric Authority) सदस्य प्रान्तीय संचालन बोर्ड का सदस्य नहीं हो सकेगा, तब सिर्फ बारह महीने के अन्दर अन्दर के प्रान्तीय धारा सभा के या वरिष्ठ (central) धारा सभा के सदस्य इस बोर्ड में नहीं रह सकते हैं और अगर बारह महीने हो जाय और उसके पहले के हों तो वे बोर्ड में

[श्री गोकुलभाई दौलतराम भट्ट]

रह सकते हैं यह थोड़ी विचित्र सी बात मालूम होती है। मैं मानता हूँ कि जब कई पावन्दियाँ इस बिल में लगाई गयी, और उन पावन्दियों में यह सब चीज़ आगयी है कि अगर डायरेक्टली (directly) या इन्डायरेक्टली (indirectly) उसका कोई भी सम्बन्ध है तो वह इस बोर्ड में नहीं रह सकते हैं तब बेचारे धारा सभा में बैठे हुए आदमी चाहे वह छः महीने पहले बैठे हों, नौ महीने पहले बैठे हों, ग्यारह महीने साढ़े उनतीस दिन तक बैठे हों, वह इस में नहीं रह सकते हैं। इस प्रकार की पावन्दी रखने का मतलब यह हो जाता है कि हम धारा सभाओं के सदस्यों के बारे में कुछ हिकारत से देखते हैं। हम यह समझते हैं कि धारा सभा के सदस्य ऐसी चीज़ है, जो गवर्नमेंट खरीद सकती है, या धारा सभा के सदस्य और कोई रीति से लाभ उठाने वाले हैं। मैं मानता हूँ कि इस से उनकी इज्जत बहुत नहीं रहती है। इस असम्बन्धी में जहाँ कि हम बैठे हैं, हम धारा सभा के सदस्य हो कर बैठे हैं, वहाँ मैं मानता हूँ, इस तरह की धारा इस में नहीं आनी चाहिये, कतई नहीं आनी चाहिये। यह हमारा एक प्रकार से अपमान होता है। दूसरी बात मैंने बतला दी है। जो चीज़ पेश करना चाहता हूँ, जिस चीज़ को रखना चाहता हूँ वह यह है कि जो कोई एक आदमी किसी को पीछे से तंग करे, या कोई अपना स्वार्थ सिद्ध करे इस लिये पावन्दी होनी चाहिये। वह कई धाराओं से, धारा नौ या दस से लगा सकते हैं। तब मैं मंत्री महाशय से विनती करूँगा कि यह इस क्लॉज में से हटा दिया जाय जिस से इसकी शोभा बढ़ जाय और हम लोगों की भी इज्जत हो।

(English translation of the above speech)

Shri Gokulbhai Daulatram Bhatt (Eastern Rajputana States): Sir, I beg to move:

"That in sub-clause (6) of clause 5 of the Bill, the words 'or within the twelve months last preceding has been', be omitted."

My object in moving this amendment is that I fail to understand the necessity for making this provision in the Bill, as it embodies many such clauses which preclude a person who has any direct or indirect interest in a concern from being appointed a member of the Central Electric Authority or the Provincial Electricity Board. It looks somewhat strange that those who have been members of the Provincial or Central Legislatures within the twelve months last preceding should be disqualified from being appointed as members of the Board, but if they were members twelve months before, then their appointment can be made. I find that many restrictions have been imposed in this Bill which *inter alia* debar a member from being appointed to the Board if he has any direct interest. As a corollary to this, those who have been members of the Legislatures during the last 6 months, 9 months and even 11 months - and 29½ days cannot be appointed to the Board. The provision of such restrictions obviously implies that we bring into contempt members of the Legislatures. We have the notion that either the members of the Legislature can be bought by the Government or they are likely to reap benefit in some other manner. I believe this does not

add to their dignity in this House where all of us are sitting as members. I, therefore, emphasize that such a provision should not be made at all.

Another thing which I would like to say is that provision should also be made to cover such cases where a person may either indirectly harass another or manipulate to achieve his own selfish aims. This can be done under Clauses 9 and 10. I would, therefore, request the Honourable Minister that these disqualifying words should be omitted from the clause. This would not only make the clause look dignified but will maintain our prestige.

Mr. Speaker: Amendment moved:

"That in sub-clause (6) of clause 5 of the Bill, the words 'or within the twelve months last preceding has been' be omitted."

Dr. B. Pattabhi Sitaramayya: We shall be obliged, Mr. Speaker, if the Mover of the Bill would kindly tell us what he means. Does he say that 'having been a member' means 'is not still a member'? 'Has been' means 'is still'. 'Is still' is covered by 'being'. You are unnecessarily introducing a period of twelve months there. Therefore it ought to be omitted. I hope I have made myself clear.

आनरेबल श्री एन० वी० गाडगिल : मैं इस तरफ़ीम को स्वीकार नहीं करता हूँ और उसकी वजह यह है। ऐसा हो सकता है कि जब एपायन्टमेंट (appointment) का सवाल आजाता है तब फौरन आदमी इस्तीफा दे देगा और फिर एपायन्ट (appoint) हो जायगा। इसके रखने से ऐसा नहीं हो सकता। और चूँकि यह ठीक रहे और इसकी इन्टेग्रिटी (integrity) रहे और बिल्कुल अच्छा मामला रहे, इस लिये मैं इस सुझाव को नहीं मानता हूँ।

The Honourable Shri N. V. Gadgil: I do not accept this amendment, for the reason that when the question of an appointment arises, a person will resign forthwith and then get himself appointed. The existing provision words would prevent this. In the interests of the integrity, efficiency and smooth working of the Board, I do not accept this amendment.

Dr. B. Pattabhi Sitaramayya: Then it must be "had been" and not "has been".

Shri K. Santhanam: "Has been" means "was and is not".

Mr. Naziruddin Ahmad: "Has been" means continuing.

The Honourable Shri N. V. Gadgil: For the words "has been" I am prepared to accept "was" if the honourable member moves such an amendment.

Shri K. Santhanam: I beg to move:

"That in sub-clause (6) of clause 5 of the Bill for the words 'has been' the word 'was' be substituted."

Mr. Speaker: Before I put that amendment to the House, we will dispose of Mr. Bhatt's amendment.

श्री गोकुलभाई दौलतराम भट्ट : मंत्री महाशय ने जो खुलासा दिया है, वह खुलासा वास्तव में बहुत संतोषकारक तो नहीं मालूम होता है तो भी मैं यह मानता हूँ कि वे ज्यादा तजुर्वेकार हैं और इस लिये मैं अपना संशोधन वापिस लेता हूँ।

Shri Gokulbhai Daulatram Bhatt: Although the explanations given by the Honourable Minister who has vast experience do not appear to be quite satisfactory, yet I withdraw my amendment.

Mr. Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Speaker: The question is:

"That in sub-clause (6) of clause 5 of the Bill for the words 'has been' the word 'was' be substituted."

The motion was adopted.

श्री गोकुलभाई दौलतराम भट्ट : सभापति जी, मेरी तरफीय यह है :

"That in sub-clause (6) of clause 5 of the Bill, the words 'or any local authority' be added at the end."

वहाँ मैंने सेंट्रल (Central) या प्राविन्शियल (Provincial) लेजिस्लेचर के बाद लोकल एथारिटी (Local authority) यह शब्द रखे हैं क्योंकि धारा १० में लोकल एथारिटी (Local authority) का सदस्य होना अयोग्यता मानी गई है। यहाँ भी वह चीज़ आनी चाहिये।

Shri Gokulbhai Daulatram Bhatt: Sir, I beg to move:

"That in sub-clause (6) of clause 5 of the Bill, the words 'or any local authority' be added at the end."

I have inserted these words after the words "Central or of any Provincial Legislature", because in Clause 10, membership of a local authority has been treated as a disqualification. Similar provision should, therefore, also be made here.

The Honourable Shri N. V. Gadgil: I am prepared to accept it.

Mr. Speaker: The question is:

"That in sub-clause (6) of clause 5 of the Bill, the words 'or any local authority', be added at the end."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (7) of clause 5 of the Bill, for the word 'merely', the word 'only' be substituted."

Sir, the text says:

"No act done by the Board shall be called in question on the ground merely of the existence of....."

The Honourable Shri N. V. Gadgil: Sir, I accept it. I will accept this "only"!

Mr. Speaker: The question is:

"That in sub-clause (7) of clause 5 of the Bill, for the word 'merely', the word 'only' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (7) of clause 5 of the Bill, for the words 'or any defect', the words 'or of any defect' be substituted."

Sir, this is only a drafting change.

The Honourable Shri N. V. Gadgil: I do not accept it.

Mr. Speaker: Acceptance or rejection does not make much difference. Need I put it to the House?

Mr. Naziruddin Ahmad: No, Sir.

Mr. Speaker: The question is:

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

The motion was adopted.

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

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 6 of the Bill, the word 'following' be omitted."

Sir, the text says, "subject to the following provisions of this section". This is at the commencement of the clause. I submit that whatever remains of the clause, apart from this passage, certainly constitute "following" provisions. If we say, "subject to the provisions of this section" it certainly means subject to the following provision, that is, the whole Section. Therefore, there is no point in saying, "subject to the following provisions of this section". It is never said in any other context.

The Honourable Shri N. V. Gadgil: Sir, I accept this.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 6 of the Bill, the word 'following' be omitted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 6 of the Bill, after the words 'provisions of this section', the following words be inserted:

"the Governments of two contiguous Provinces may, after they have issued notifications under sub-section (4) of section 1, instead of forming separate Boards under section 5, enter into an agreement to provide a joint Provincial Electricity Board to exercise the functions of a Board for both the participating Provinces, or."

Sir, the text merely says that when one Province forms a Board a contiguous Province may accept that Board as the Board for the latter Province. But it may be that it would be more convenient for two contiguous Governments to form a joint Board. In fact, the advantage in this would be that the Members from both the provinces would be on the Board. Instead of accepting a Board formed by one Government it would be more convenient to form a Board jointly by the two Governments. The text does not have this arrangement. The present arrangement is less convenient and might be difficult to both the Governments.

The Honourable Shri N. V. Gadgil: Sir, I do not accept it.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 6 of the Bill, after the words 'provisions of this section', the following words be inserted:

"the Governments of two contiguous Provinces may, after they have issued notifications under sub-section (4) of section 1, instead of forming separate Boards under section 5, enter into an agreement to provide a joint Provincial Electricity Board to exercise the functions of a Board for both the participating Provinces, or."

The motion was negatived.

Mr. Naziruddin Ahmad: I beg to move:

"That in part (a) of sub-clause (3) of clause 6 of the Bill, the word 'Provincial' be omitted."

Sir, here "Governments" means Provincial Governments. The word "Provincial" is absolutely unnecessary. When we speak of a participating Government in the context, it is the Government of a Province and not the Centre at all; the Centre comes into the picture only under Clause 3 in constituting the Central Electrical Authority. In the present context and in the rest of the Bill the Governments are all Provincial. So this is unnecessary and it is for this reason that I ask for the deletion of this.

Mr. Speaker: Amendment moved:

"That in part (a) of sub-clause (3) of clause 6 of the Bill, the word 'Provincial' be omitted."

The Honourable Shri N. V. Gadgil: I am not accepting it.

Mr. Naziruddin Ahmad: Sir, I beg leave of the House to withdraw my amendment.

Mr. Speaker: Has the honourable member leave of the House to withdraw? The amendment was, by leave of the Assembly, withdrawn.

Mr. Speaker: The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clauses 7 and 8 were added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 9 of the Bill, for the words 'or any fuel', occurring in line six, the words 'or of any fuel' be substituted."

This is only a drafting change.

Mr. Speaker: Is this necessary?

Shri K. Santhanam: I think it is a wrong amendment, because the word "supplying" qualifies fuel also.

Mr. Speaker: So I need not put it to the House.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 9 of the Bill, for the words 'if he, under any will or by succession or gift becomes entitled for his own benefit to any such interest', the following be substituted:

'if he becomes entitled for his own benefit to any such interest under any will or by succession or gift'."

I beg to submit that the original text is a little roundabout and somewhat poetic. Mine is only a re-arrangement of the words but it will improve and strengthen the text. It is simple and on the orthodox line.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 9 of the Bill, for the words 'if he, under any will or by succession or gift becomes entitled for his own benefit to any such interest', the following be substituted:

'if he becomes entitled for his own benefit to any such interest under any will or by succession or gift'."

The motion was negatived

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 9 of the Bill, for the words 'he shall sell the same within three months after becoming so entitled thereto', the following be substituted:

'he shall, in the case of a will or succession, sell the same within three months after he obtains probate of the will or a succession certificate in respect of the succession, as the case may be, and, in other cases within three months after becoming entitled thereto'."

Sir, the original text is that if a member of the Board is entitled to certain shares or interests in properties in which he should not have interest, then he should sell it within three months but three months might be too short in some cases. If a man obtains it by a will, then in order to be able to sell, he must first of all obtain a probate. That may take six months or a year or more. In case of succession, a man cannot sell unless he takes out the succession certificate. In these circumstances, in these two cases where the preliminary formalities

or requisites may take some time, it should be three months after the obtaining of the probate or the succession certificate. In other cases, it may be three months after he becomes entitled thereto. I have only interposed the time taken for the necessary formalities in obtaining the probate or the succession certificate. I submit therefore that this amendment is absolutely necessary and it would remove the gap.

Mr. Speaker: Unless I am committing a mistake, I think a probate or a succession certificate does not give title to property, but the expression "entitled" is there clear enough. So there seems to be some apparent conflict in the amendment itself. Would the honourable member consider his position?

Mr. Naziruddin Ahmad: I am entirely in the hands of the House.

Mr. Speaker: That means I should put the amendment to the House and the House may reject it.

The question is:

"That in sub-clause (1) of clause 9 of the Bill, for the words 'he shall sell the same within three months after becoming so entitled thereto', the following be substituted:

'he shall, in the case of a will or succession, sell the same within three months after he obtains probate of the will or a succession certificate in respect of the succession, as the case may be, and, in other cases within three months after becoming entitled thereto'."

The motion was negatived.

Mr. Speaker: I will now put Clause 9 to vote. The question is:

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That for part (a) of clause 10 of the Bill, the following be substituted:

'(a) in the opinion of the Board is a lunatic or has become of unsound mind; or'."

Sir, the text will create some difficulties and will land the Board into some legal troubles. It says that a member ceases to have office if he is found to be a lunatic or becomes of unsound mind. Who is to find a man to be a lunatic? I think, Sir, almost every man has some amount of lunacy. If a man is sufficiently angered he discloses this mentality. So I submit it is a question of personal opinion. The Board may say that a man is a lunatic but he says "I am not a lunatic" then who is to decide the issue? So I have placed the matter entirely in the discretion of the Board. If it is not intended that the matter should be thrashed out in a court of law and it will come to the Federal Court and take several years, the best way to deal with the situation is to give the Board the power. So, I have said: "in the opinion of the Board is a lunatic or has become of unsound mind." It absolutely removes the question from the jurisdiction of the Court.

Shri H. V. Kamath (C. P. and Berar: General): I submit, Sir, the Board should not be invested with absolute discretion in the matter of determining lunacy. I would suggest that the amendment should be recast to read: "if he is found to be lunatic by a competent authority".

Mr. Speaker: That also would seem to be unnecessary because clause (b) says "is adjudged insolvent". That means adjudged by competent authority. Although this is not specifically mentioned in regard to (a), it applies to (a) by implication. "Adjudged" is the expression used.

Shri H. V. Kamath: Who is to adjudge?

An Honourable Member: Naturally the court.

Mr Naziruddin Ahmad: I think the amendment of Mr. Kamath would make it absolutely clear.

Mr. Speaker: I think the Provincial Government will decide. In any case, the Board will not sit as a medical Board.

Mr. Naziruddin Ahmad: Already there are I see doubts in the House.

Mr. Speaker: What does the member want? Shall I put his amendment to the House?

Mr. Naziruddin Ahmad: Mr. Kamath's would be better.

Mr. Speaker: But he has not submitted any amendment.

Shri H. V. Kamath: I merely suggested.

Mr. Speaker: Yes, he has suggested but I am not permitting it. There is no notice of it. So I will put Mr. Naziruddin Ahmad's amendment to the House.

The question is:

"That for part (a) of clause 10 of the Bill, the following be substituted:

'(a) in the opinion of the Board is a lunatic or has become of unsound mind; or'."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clauses 11 to 14 were added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 15 of the Bill, for the words 'as may be required', the words 'as the Board may consider necessary' be substituted."

Here again a similar situation arises in which the Board may have to decide something. The text says that the Board may appoint a Secretary and such other officers and servants as may be required. I beg to submit that it leads to some doubt as to in whose opinion it may be required. "As may be required" is an abstract expression. Is it "as may be required" by the Court or other authority or as the Board may require? In these circumstances I have said the combined effect of the amendment would be the Board may appoint a secretary and such other officers as the Board may consider necessary or as it may consider necessary.

The Honourable Shri N. V. Gadgil: I do not require any change.

Mr. Speaker: The question is:

"That in clause 15 of the Bill, for the words 'as may be required', the words 'as the Board may consider necessary' be substituted."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

Clauses 16 and 17 were added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 18 of the Bill,—

(i) before the word 'Subject', the brackets and figure (1) be inserted;

(ii) the word 'and' occurring in line six, be omitted; and

(iii) before the word 'without' occurring in line six, the brackets and figure '(2)' be inserted."

Sir, the amendment provides that the clause be divided into two parts. Usually a clause like this is always divided into two sub-clauses (1) and (2), but the clause has been drafted to be one. The first part of the clause says:

"Subject to the provisions of this Act, the Board shall be charged with the general duty of promoting the co-ordinated development of the generation, supply and distribution of electricity within the province in the most efficient and economical manner, with particular reference to such development in areas not for the time being served or adequately served by any licensee."

I submit up to this it is one complete subject and it should be the subject-matter of one sub-clause. Then the second part which I wish to separate is this: "Without prejudice to the generality of the foregoing sections it shall be the duty of the Board" to do certain things. In rule-making powers the general power is given in sub-clause (1). Then it is said that without prejudice to the generality of the foregoing provisions, the Board will have the following powers and so on. This is the usual way for separating the two and I have merely attempted to divide the clause into sub-clause (1) and sub-clause (2) in the orthodox style. This amendment may be accepted for drafting reasons.

The Honourable Shri N. V. Gadgil: I do not accept.

Mr. Speaker: The question is:

"That in clause 18 of the Bill,—

(i) before the word 'Subject', the brackets and figure '(1)' be inserted;

(ii) the word 'and' occurring in line six, be omitted; and

(iii) before the word 'without' occurring in line six, the brackets and figure '(2)' be inserted."

The motion was negatived.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in part (a) of clause 18 of the Bill, for the words 'carry out when sanctioned schemes under Chapter V', the following be substituted:

'carry out schemes when sanctioned under Chapter V'."

I beg to submit that the original text is more poetically expressed than prosaically expressed as it should have been. It says "carry out when sanctioned schemes under Chapter V". I say "carry out schemes when sanctioned under Chapter V". This is simpler and therefore better.

Shri K. Santhanam: That may be accepted.

Mr. Speaker: He is prepared to accept the amendment with the following words: "carry out schemes sanctioned under Chapter V". This is an improvement on an improvement.

The question is:

"That in part (a) of clause 18 of the Bill, for the words 'carry out when sanctioned schemes under Chapter V', the following be substituted:

'carry out schemes sanctioned under Chapter V'."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 18, as amended, stand part of the Bill."

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Mr. Speaker: May I suggest one another way. It will be better for the honourable member if he goes through with the Honourable the Minister in charge of the Bill, his various amendments, so that he may move only those as are acceptable and drop out the others, unless the honourable member thinks,

if the amendment is not accepted, that it is of such importance that it must be put to the House. That will save us time and energy also.

Mr. Naziruddin Ahmad: The Honourable Minister is a very busy man and his time is more valuable than mine. I am practically a legal vagabond, but it will not suit the Honourable the Minister.

Mr. Speaker: I am sure it will suit him; it will be saving the time of the House and from that point of view I am making this suggestion.

Shri H. V. Kamath: By your leave, Sir, the amendment which is accepted does not convey the intention of the clause. It will mean, if accepted, "will prepare and carry out schemes sanctioned under Chapter V"; the last phrase will qualify preparing also.

Mr. Speaker: That will be arguing on a matter which was settled in the House. If it is so very inconvenient, an amending Bill may be brought.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (2) of clause 19 of the Bill, for the words 'competent to supply', the words 'competent for the Board to supply' be substituted."

The words, for the Board, are to my mind, necessary.

Mr. Speaker: I may point out a difficulty to the honourable member. When such drafting or verbal amendments are considered in the House, one is unwilling to accept them unless one considers them as essential. Because it is a matter of drafting, merely at the sight of the thing, it would be difficult to understand its implications. The change ostensibly may be verbal; but still it may affect the draft of the Bill. If an amendment is accepted, if it is good it is well and good; otherwise, there is some mischief. If a good amendment is rejected because of this nervousness as to whether that would fit in with the draft, even then, the legislation does not come out as best as it should. It is from that point of view, apart from the point of view of saving the time of the House, that I suggested that such amendments should be carefully gone through by the member proposing the amendment with the Honourable Minister. We shall thereby be really improving the Bill, avoiding pitfalls and saving the time of the House. That is how I feel about it; it is not merely the idea of saving time.

May I know which of the amendments are acceptable to the Minister?

The Honourable Shri N. V. Gadgil: I am not accepting any of these verbal amendments.

Mr. Naziruddin Ahmad: Let them be moved and rejected, Sir.

Mr. Speaker: Then, I shall put them to the House.

The question is:

"That in sub-clause (2) of clause 19 of the Bill, for the words 'competent to supply' the words 'competent for the Board to supply' be substituted."

The motion was negatived.

Mr. Naziruddin Ahmad: I beg to move:

"That in sub-clause (2) of clause 19 of the Bill, for the words 'the provisions of his licence notwithstanding', the words 'notwithstanding the provisions of his licence' be substituted."

Sir, this is open to objection on the same ground. I am treading on orthodox lines; these are new lines of draftsmanship with which we have never been familiar.

Mr. Speaker: The question is:

"That in sub-clause (2) of clause 19 of the Bill, for the words 'the provisions of his licence notwithstanding', the words 'notwithstanding the provisions of his licence' be substituted."

The motion was negatived.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (3) of clause 19 of the Bill, for the word 'licence' the words 'or the terms of his licence' be substituted."

Sir, the amendment makes it more explicit.

Mr. Speaker: The question is:

"That in sub-clause (3) of clause 19 of the Bill, for the word 'licence' the words 'or the terms of his licence' be substituted."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 19 stand part of the Bill."

The motion was adopted.

Clause 19 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 20 of the Bill, for the words 'in accordance with any regulations', the words 'subject to any regulations' be substituted."

Sir, the context shows that the expression should be used in this way: that the Board shall act with a certain amount of freedom subject to the provisions of any regulations. That is why I have attempted to express it in this way.

The Honourable Shri N. V. Gadgil: I am not accepting the amendment.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 20 of the Bill, for the words 'in accordance with any regulations', the words 'subject to any regulations' be substituted."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 21 of the Bill, for the words 'as are necessary', the words 'as the Board may think necessary' be substituted."

This amendment gives the discretion to the Board rather than leaving it to be decided by any arbitration or court.

The Honourable Shri N. V. Gadgil: Not accepted.

Mr. Speaker: The question is:

"That in clause 21 of the Bill, for the words 'as are necessary', the words 'as the Board may think necessary' be substituted."

The motion was negatived.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in the Proviso to clause 21 of the Bill, for all the words occurring after the words 'under a licence' to the end, the following be substituted:

"the Board shall give the licensee notice to show cause why the Board shall not take such measures and shall give the licensee an opportunity of being heard thereon and shall, before taking the proposed measures, consider the cause shown by him, if any."

Sir, the text is rather involved and is not very clear. That is why I have attempted to re-arrange the expression and put it this way.

The Honourable Shri N. V. Gadgil: I do not accept the amendment.

Mr. Speaker: The question is:

"That in the Proviso to clause 21 of the Bill, for all the words occurring after the words 'under a licence' to the end, the following be substituted:

'the Board shall give the licensee notice to show cause why the Board shall not take such measures and shall give the licensee an opportunity of being heard thereon and shall, before taking the proposed measures, consider the cause shown by him, if any'."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

Clause 22 was added to the Bill.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Shri K. Santhanam (one of the panel of Chairmen)].

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 23 of the Bill, for the words 'make loans', the words 'grant loans' be substituted."

The Honourable Shri N. V. Gadgil: I accept the amendment.

Shri H. V. Kamath: I oppose the amendment. If accepted, it will read "grant loans or advances". Usually, it is 'grant loans or make advances'.

The Honourable Shri N. V. Gadgil: 'Grant loans or advances' is perfectly correct.

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 23 of the Bill, for the words 'make loans', the words 'grant loans' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in sub-clause (2) of clause 23 of the Bill,—

(i) for the word 'expand', the word 'extend' be substituted; and

(ii) for the word 'expansion' wherever it occurs the word 'extension' be substituted."

The clause speaks of expansion, but there is a lot of difference between expansion and extension. Expansion means that something is made by inflation to appear bigger than what it is, as a small rubber balloon is made to expand when one blows into it. But extension means going beyond the limits of the business and increasing or strengthening it. So in my view "extend" and "extension" would be more appropriate than "expand" and "expansion".

The Honourable Shri N. V. Gadgil: Sir, I do not accept it.

Mr. Chairman: The question is:

"That in sub-clause (2) of clause 23 of the Bill,—

(i) for the word 'expand', the word 'extend' be substituted; and

(ii) for the word 'expansion' wherever it occurs the word 'extension' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 23, as amended, stand part of the Bill."

The motion was adopted.

Clause 23, as amended, was added to the Bill.

Shri T. T. Krishnamachari: Sir, I move:

"That for clause 24 of the Bill, the following be substituted:

'24. Power to Board to contribute to certain association.—The Board may, subject to any regulations made in this behalf,—

- (1) pay such subscriptions as it thinks fit to any association for the promotion of the common interests of persons engaged in the generation, distribution and supply of electricity and the members of which consist mainly of such persons;
- (2) contribute such sums as it thinks fit to the funds of any recognised society the object of which is to foster the development and use of electricity or promotion of knowledge and research in respect of electricity or electrical appliances."

The need for this amendment is that the clause as it now stands is somewhat obscure and the amendment clarifies the position.

The Honourable Shri N. V. Gadgil: Sir, I accept it.

Mr. Chairman: The question is:

"That for clause 24 of the Bill, the following be substituted:

'24. Power to Board to contribute to certain association.—The Board may, subject to any regulations made in this behalf,—

- (1) pay such subscriptions as it thinks fit to any association for the promotion of the common interests of persons engaged in the generation, distribution and supply of electricity and the members of which consist mainly of such persons;
- (2) contribute such sums as it thinks fit to the funds of any recognised society the object of which is to foster the development and use of electricity or promotion of knowledge and research in respect of electricity or electrical appliances."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 24, as amended, stand part of the Bill."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in clause 25 of the Bill, for the words 'subject to the prior approval of the Provincial Government', the words 'subject to such conditions as may be prescribed' be substituted."

These words "subject to the prior approval of the Provincial Government" were inserted by the Select Committee; but on further reflection it seems that there will be a lot of complications if the Provincial Governments have to be consulted at every stage. On the other hand the feeling is that if rules are made in regard to the regulation of the appointment of Consulting Engineers by the Provincial Government the situation will be adequately met. That is why this amendment is moved.

The Honourable Shri N. V. Gadgil: Sir, I accept the amendment.

Shri H. V. Kamath: Sir, I oppose this on the ground that after all the conditions to be prescribed would be prescribed by the Provincial Government, and there is no harm in going to the Provincial Government for approval to the appointment of Engineers under this Act.

Mr. Chairman: The question is:

"That in clause 25 of the Bill, for the words 'subject to the prior approval of the Provincial Government', the words 'subject to such conditions as may be prescribed' be substituted."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 25, as amended, stand part of the Bill."

The motion was adopted.

Clause 25, as amended, was added to the Bill.

Clauses 26, 27 and 28 were added to the Bill.

Shri T. T. Krishnamachari: Sir, I move:

"That in sub-clause (3) of clause 29 of the Bill,—

- (i) for the words 'Central Technical Power Board' the word 'Authority' be substituted; and
- (ii) for the words 'that Board' the words 'the Authority' be substituted."

The Honourable Shri N. V. Gadgil: Sir, I accept this.

Shri H. V. Kamath: Sir, what is the importance or significance of this amendment?

Mr. Chairman: It is consequential on the setting up of the Central Electricity Authority; it was an oversight of the Select Committee.

The question is:

"That in sub-clause (3) of clause 29 of the Bill,—

- (i) for the words 'Central Technical Power Board' the word 'Authority' be substituted; and
- (ii) for the words 'that Board' the words 'the Authority' be substituted."

The motion was adopted.

Prof. Shibban Lal Saksena: I have an amendment to move to this Clause. It is on the typed list.

Mr. Chairman: When was the notice given?

Prof. Shibban Lal Saksena: It was given this morning.

Mr. Chairman: Then, I cannot give you permission to move it.

Prof. Shibban Lal Saksena: Can I speak on the Clause itself?

Mr. Chairman: Yes, you can speak.

Prof. Shibban Lal Saksena: I had pointed out earlier that the Authority had not been given sufficient powers to discharge its duties. At present it is a kind of recommending Authority only. I want that the Authority should have the power to sanction schemes. I also want that all schemes which cost more than rupees five lakhs should be submitted to it for sanction before they are carried out.

This morning my friend Mr. T. T. Krishnamachari pointed out certain sections of the Government of India Act. The present Act which we are passing is an Act for a new and free India and the Government of India Act should not stand as shackles on our feet. This Authority should have the power to take the initiative and give a drive to its schemes. I hope that when the new Constitution is passed we will take into account all these difficulties. All planning for key industries should be in the hands of Parliament at the Centre and I do not think that Parliament and the Provincial Legislatures will be fighting with each other in these matters. I am sure that with the Honourable Mr. Gadgil here as Minister in Charge in the Parliament at the Centre, Madras and any other provinces will be only too eager to co-operate with him. I, therefore, hope that he will accept my amendment even though it has not been formally moved, and see that the Central Authority is clothed with more power. If you refer to the British Act, you will find that there the entire power is given to the Central Authority. Here I find that all the power is given to the Regional Boards. I think this is a very big lacuna which should be removed. I hope the point I have raised will be considered by the Honourable Minister and though my amendment cannot be formally moved, I hope he will accept its substance.

Shri T. T. Krishnamachari: In this connection there is one instance which has come to my knowledge. The Madras Government had sanctioned the purchase of two portable generators for the City of Madras. Actually they had to have a Cabinet meeting very hastily and had the project sanctioned because the seller's market was only open for a week.

So if it happens that in a major scheme you have to refer to the Central Technical Authority before you place the order, you can take it that you will not be able to get the goods. As a matter of fact the two generators cost Rs. 96 lakhs but their cost would have gone up in the region of Rs. 150 lakhs if there was delay. The former cost stood at Rs. 25 lakhs though that had been raised to Rs. 50 lakhs by the Select Committee. Such a procedure will merely put a shackle in regard to the development of major provinces and I feel that there is no substance in the suggestion made by my friend, the Professor.

Mr. Chairman: The question is:

"That clause 29, as amended, stand part of the Bill."

The motion was adopted.

Clause 29, as amended, was added to the Bill.

Clauses 30 to 36 were added to the Bill.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I move:

"That in part (a) of sub-clause (1) of clause 37 of the Bill, after the words 'station or', occurring in the last line, the words 'undertaking or' be inserted."

I believe it is a slip, an omission, and it is to bring it in line with the isolated portion.

The Honourable Shri N. V. Gadgil: I accept it.

Mr. Chairman: The question is:

"That in part (a) of sub-clause (1) of clause 37 of the Bill, after the words 'station or', occurring in the last line, the words 'undertaking or' be inserted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in part (b) of sub-clause (1) of clause 37 of the Bill, for the words 'average of the Reserve Bank rates between the said dates', the words 'the Reserve Bank rates for the said days' be substituted."

In calculating interest it has been provided that between the date of the lending and the date of repayment, the average of the Reserve Bank rate should be the basis and one per cent. over it should be charged. — But it would be difficult to calculate between two dates what would be the average Bank rate. It would be simpler to charge the Bank rates for particular dates which are known and one per cent. above it. In fact, if the Reserve Bank rate is two per cent. for a few days and three per cent. for the rest of the days, the effect would be that the charge for this loan would be three per cent. for the earlier days and four per cent. for the later days, instead of calculating the average of those days, which would depend upon a large number of uncertain factors. In fact the rates prevailing on particular dates should be taken into account in finding out the average. Even then the matter would not be a simple affair. Instead of that we should charge for particular days the Reserve Bank rate for those days plus one per cent. more. This would be simpler and easier.

Mr. Chairman: May I point out that if there are 100 days you would have to calculate separate interest.

Mr. Naziruddin Ahmad: In finding out the average rate one has to go through the same procedure.

Mr. Chairman: The rate is taken as the average and then they calculate it. However, if the member wants I will put it to the House.

The Honourable Shri N. V. Gadgil: I do not accept it.

Mr. Chairman: The question is:

"That in part (b) of sub-clause (1) of clause 37 of the Bill, for the words 'average of the Reserve Bank rates between the said dates', the words 'the Reserve Bank rates for the said days' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 37, as amended, stand part of the Bill."

The motion was adopted.

Clause 37, as amended, was added to the Bill.

Prof. Shibban Lal Saksena: Sir, I have an amendment.

Mr. Chairman: I am afraid I cannot allow amendments at this stage unless they are purely verbal. No substantial amendments can be allowed without proper notice.

Prof. Shibban Lal Saksena: Sir, I have drawn the attention of the House this morning to clauses 38 and 39. I have suggested that all the words beginning with the words "but the Board may" to the end be omitted. This morning my friend Mr. T. T. Krishnamachari said that we would be there in the Constituent Assembly to prevent an abuse of these clauses. When we ourselves give this power after full debate and deliberation to the Board, we cannot complain later on if it is abused. The clause as it runs at present says:

"but the Board may with the sanction of the Provincial Government, make arrangements with any licensee or other person for its operation, if in the opinion of the Board it is desirable to do so."

If we are honest and sincere that in future no new industrial establishment should be privately owned, then this part must be removed. In fact I wonder how after the announcement of the industrial policy by the Honourable the Prime Minister that no new undertakings or industries shall be privately owned we could allow this. My suspicion is based on experience. This is what will happen. Wherever vested interests are strong they will persuade the Board to say that it is not very feasible for the Government to undertake the work in which these vested interests are interested. They will say that they have got the experts, the necessary capital and a big plant ready at hand and that they would undertake the work. The result would be that after sometime they will control the entire electrical industry and the Government will not be able to own the industry. Besides unproductive enterprises will be taken up by nobody, unless the State takes them up. Other interests will not do it. What I suggest is that this part of the clauses should be removed. It must be said in this Bill that the new enterprises shall be taken over by the Board and none of them shall be given to the private capitalists. This will at least show that at any rate in this industry we mean that no private enterprise should come in. In fact we sometimes forget that we are living in times when nations are moving at a very fast speed. Everybody is trying to multiply production of electrical energy and power double-fold and treble-fold and yet we are going on at this slow pace. I do not know when we will be able to catch up with them. Unless we realise this and try to develop our potential strength in the near future we will not be able to stand up in this world. At least in the matter of electricity, it is all important that the Centre must plan, co-ordinate and take the initiative. There must be no scope for private enterprise in this field and all electrical development of the country must be done by the State in a manner that the whole country might develop to the maximum all its power resources and might become the equal of any other country in the world in this matter.

Prof. N. G. Ranga (Madras: General): I suppose when you say Government you include the Provincial Governments also?

Prof. Shibban Lal Saksena: Yes. What I want is that the Central Government and the Provincial Governments must co-operate and work hand in hand and develop the industry. There must be some amendment to these clauses so that the Board may not have the power to pass on schemes to private enterprise. This will be injurious and I hope this amendment will be accepted.

Mr. Chairman: The question is:

"That clauses 38 and 39 stand part of the Bill."

The motion was adopted.

Clauses 38 and 39 were added to the Bill.

Clause 40 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I move:

"That for sub-clause (1) of clause 41 of the Bill, the following be substituted:

"(1) Where the Board considers it necessary to use any transmission lines of a licensee for any of its purposes, it may, on payment to the licensee of charges calculated in accordance with the provisions of the Fifth Schedule, use such lines to the extent to which the capacity of such lines is or hereafter remains in excess of the requirements of the licensee for the transmission of electricity."

It is only a rearrangement of the different expressions used in different parts into what I consider to be a logical manner. The original sub-clause read:

"Where the Board considers it necessary to use for any of its purposes any transmission lines or main transmission lines of a licensee, the Board shall have power to use such lines to the extent to which the capacity thereof is or thereafter remains surplus to the requirements of the licensee for the transmission of electricity, on payment of charges calculated in accordance with the provisions of the Fifth Schedule."

The weakness in this to my mind is that the words "for any of its purposes" have been misplaced and the last part of the sub-clause "on payment of charges calculated in accordance with the provisions of the fifth schedule" has also been misplaced. If you read this amendment carefully it will be found that it has been rearranged in its natural sequence and would read better as suggested by me. It is with this idea that I have submitted my amendment.

The Honourable Shri N. V. Gadgil: Sir, I do not accept the amendment.

Mr. Chairman: The question is:

"That for sub-clause (1) of clause 41 of the Bill, the following be substituted:

"(1) Where the Board considers it necessary to use any transmission lines of a licensee for any of its purposes, it may, on payment to the licensee of charges calculated in accordance with the provisions of the Fifth Schedule, use such lines to the extent to which the capacity of such lines is or hereafter remains in excess of the requirements of the licensee for the transmission of electricity."

The motion was negatived.

Mr. Naziruddin Ahmad: Sir, I move:

"That in sub-clause (1) of clause 41 of the Bill, for the words 'surplus to', the words 'in excess of' be substituted."

The context says "the capacity thereof is or thereafter remains surplus to the requirements of the licensee". The words "surplus to" seem to be inappropriate.

Shri T. T. Krishnamachari: How does it seem inappropriate?

Mr. Naziruddin Ahmad: To my mind it appears so. It is the mind of a single man. "Surplus to" may be appropriate in any other context but not in this.

Mr. Chairman: Amendment moved:

"That in sub-clause (1) of clause 41 of the Bill, for the words 'surplus to', the word 'in excess of' be substituted."

The Honourable Shri N. V. Gadgil: Sir, I do not accept the amendment.

Mr. Naziruddin Ahmad: Sir, I wish to withdraw my amendment.

Mr. Chairman: Has the honourable member the permission of the House to withdraw his amendment?

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

Mr. Naziruddin Ahmad: I move:

"That in sub-clause (2) of clause 41 of the Bill, for the word 'agreed', the words 'agreed upon' be substituted."

I think this amendment would be accepted by the Honourable Minister. This expression appears not only in this sub-clause but also in other places, especially in clause 43.

Mr. Chairman: There is also the expression "upon such terms" in the sub-clause. The word 'upon' is already there. Unless the honourable member removes it the word 'upon' will occur twice.

Shri H. V. Kamath: It must be "agreed to".

Mr. Naziruddin Ahmad: I should then like to have it as "agreed to".

Mr. Chairman: Even in that case unless you remove the word "upon" in the existing sub-clause it will not read properly. You may have to say ".....for such time and such terms as may be agreed to" or "agreed upon".

Shri H. V. Kamath: It has got a different meaning there. "The Board may.....use.....upon such terms as may be agreed to". That is perfect English.

Mr. Naziruddin Ahmad: The same expression appears in clause 43, sub-clause (2), line 2. There the wording is "agreed upon" and the word "upon" was introduced by an amendment in the Select Committee. The Select Committee accepted the word "upon" as a necessary part of "agreement". It also appears in sub-clause (1) of clause 43, and it should be "agreed upon". In the present context, however, the words "agreed to" would be better. I would quite accept the suggestion of Mr. Kamath and would say that the words should be "agreed to" rather than "agreed upon". That amendment would just fit in with the context.

The Chairman: Amendment moved:

"That in sub-clause (2) of clause 41 of the Bill, for the word 'agreed', the words 'agreed to' be substituted."

The Honourable Shri N. V. Gadgil: I am not accepting it. Let the clause remain as it is.

Mr. Chairman: The question is:

"That in sub-clause (2) of clause 41 of the Bill, for the word 'agreed', the words 'agreed to' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 41 stand part of the Bill."

The motion was adopted.

Clause 41 was added to the Bill.

Mr. Naziruddin Ahmad: I move:

"That for clause 42 of the Bill, the following clause be substituted:

"42. Where provision in such behalf is made in a sanctioned scheme for the placing of any wires, poles, wall-brackets, stays, apparatus and appliances for the transmission and distribution of electricity, or for the transmission of telegraphic or telephonic communications necessary for the proper co-ordination of the works of the Board, the Board shall, notwithstanding anything contained in sections 12 to 16 and 18 and 19 of the Indian Electricity Act, 1910 (IX of 1910), but without prejudice to the requirements of section 17 of that Act, have all the powers which the telegraph authority possesses under Part III of the Indian Telegraph Act, 1885 (XIII of 1885) with regard to a telegraph, established or maintained by the Government or to be so established or maintained."

I beg to submit that this is a rearrangement of the words of the section. There are so many clauses and sub-clauses with exceptions and 'buts' in a most confusing order. If the amendment is accepted the different conditions are placed therein in a proper order.

The Honourable Shri N. V. Gadgil: I do not accept it.

Mr. Chairman: The question is:

"That for clause 42 of the Bill, the following clause be substituted:

"42. Where provision in such behalf is made in a sanctioned scheme for the placing of any wires, poles, wall-brackets, stays, apparatus and appliances for the transmission and distribution of electricity, or for the transmission of telegraphic or telephonic communications necessary for the proper co-ordination of the works of the Board, the Board shall, notwithstanding anything contained in sections 12 to 16 and 18 and 19 of the Indian Electricity Act, 1910 (IX of 1910), but without prejudice to the requirements of section 17 of that Act, have all the powers which the telegraph authority possesses under Part III of the Indian Telegraph Act, 1885 (XIII of 1885) with regard to a telegraph established or maintained by the Government or to be so established or maintained."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 42 stand part of the Bill."

The motion was adopted.

Clause 42 was added to the Bill.

Mr. Naziruddin Ahmad: I move:

"That for sub-clause (1) of clause 43 of the Bill, the following sub-clause be substituted:

"(1) The Board may enter into an agreement with any person producing electricity within the Province, on such terms as may be agreed upon, for the purchase by the Board of any surplus electricity which that person may be able to dispose of."

It is only a rearrangement of the words.

The Honourable Shri N. V. Gadgil: I do not accept it.

Mr. Chairman: The question is:

"That for sub-clause (1) of clause 43 of the Bill, the following sub-clause be substituted:

"(1) The Board may enter into an agreement with any person producing electricity within the Province, on such terms as may be agreed upon, for the purchase by the Board of any surplus electricity which that person may be able to dispose of."

The motion was negatived.

Mr. Naziruddin Ahmad: I move:

"That in sub-clause (1) of clause 43 of the Bill, for the word 'arrangements' the words 'an agreement' be substituted."

The text says that the Board may enter into arrangements with either Government or any person etc. The word 'agreement' would be better.

Shri M. Ananthasayanam Ayyangar: 'Arrangement' is different from 'agreement'. Arrangement is by agreement.

Mr. Naziruddin Ahmad: 'Arrangement' is a loose expression, but 'agreement' is a precise expression meaning a proposal, acceptance and contract which is enforceable in law. Arrangement deals with smaller matters.

The Honourable Shri N. V. Gadgil: I do not accept it.

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 43 of the Bill, for the word 'arrangements' the words 'an agreement' be substituted."

The motion was negatived.

Mr. Naziruddin Ahmad: I move:

"That in sub-clause (1) of clause 43 of the Bill, for the word 'agreed', the words 'agreed upon' be substituted."

Mr. Chairman: Here the word 'on' is there in the sub-clause. That is the real difficulty.

Mr. Naziruddin Ahmad: Then it may be 'agreed to'.

Mr. Chairman: But it has been rejected before.

Mr. Naziruddin Ahmad: That was in a different context.

The Honourable Shri N. V. Gadgil: I oppose the amendment.

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 43 of the Bill, for the word 'agreed', the words 'agreed upon' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 43 stand part of the Bill."

The motion was adopted.

Clause 43 was added to the Bill.

Shri M. Ananthasayanam Ayyangar: Sir, I beg to move:

"That in sub-clause (1) of clause 44 of the Bill, after the word 'Government', the following be inserted:

'or any Corporation created by legislation enacted by the Central Legislature'."

Mr. Chairman: Amendment moved:

"That in sub-clause (1) of clause 44 of the Bill, after the word 'Government', the following be inserted:

'or any Corporation created by legislation enacted by the Central Legislature'."

The Honourable Shri N. V. Gadgil: I am going to accept it.

Shri M. Ananthasayanam Ayyangar: Sir, I know the Honourable Minister in charge of this Bill will accept it. But I want him to consider if I may add the words "Provincial Government" also. The object is this.....

Mr. Chairman: A Corporation cannot be set up by a Provincial Government according to the Constitution.

Shri M. Ananthasayanam Ayyangar: The object of the Section is this:

"Notwithstanding anything contained in any other law for the time being in force or in any licence but subject to the provisions of this Act, it shall not be lawful for a licensee, or any other person not being the Central Government except with the previous consent in writing of the Board, to establish or acquire a new generating station or to extend or replace any major unit of plant or works pertaining to the generation of electricity in a generating station."

It is not for the purpose of establishing a Corporation. This clause as it stands prohibits all but the Central Government from establishing any generating station except with the consent of the Board. My amendment which has been accepted by the Honourable Minister implies that this right to

establish, without the permission of the Board, any generating station is given not only to the Central Government but to any Corporation established by law by the Central Legislature.

I want to add further the right of the Provincial Government also to establish a generating station whenever it is necessary, without seeking the consent of the Board. My friend Mr. T. T. Krishnamachari told me that there is another provision here which always enables the Provincial Government to give directions; but I am not able to find it. When any Board is constituted, thereafter even the Government will have to be at the mercy of the Board. We very often put questions here as to what has been done with the grant to the Industrial or Technical Research Board and then they say it is an autonomous body. The very parent which creates a body subsequently becomes a slave to that body! If somebody is taken and put into jail, the Home Department says, "We are absolutely helpless; you go to the Provincial Government"! Let us not create a ghost and become a prey to that ghost; this is something like *Bhasmasura*. So far as the Central Government is concerned we were anxious to give power to the Board to establish power stations. We wanted to enlarge the scope for any corporation established. (Interpretations).....

My friend the Minister I suppose accepts the addition of the words "or a Provincial Government".

The Honourable Shri N. V. Gadgil: I am not accepting the addition.

Shri M. Ananthasayanam Ayyangar: But let me explain.....

Mr. Chairman: The honourable member has moved his original amendment.

Shri M. Ananthasayanam Ayyangar: You cannot accept my statement in part and reject it in part; it is accepted as a whole or rejected as a whole.

Mr. Chairman: But the amendment seeking to add the words "or a Provincial Government" is not on the Order Paper. He will have to give notice; unless the Government Member and others accepted it he cannot move an amendment which is not on the Order Paper.

Shri M. Ananthasayanam Ayyangar: My only point is, why should they plug their ears even before they understand the rationale of it?

Mr. Chairman: That is between you.

Prof. N. G. Ranga: On a point of order, Sir, my honourable friend, if I understand him aright, has only started with a sort of an explanation asking for permission from the Minister in charge of this Bill.

Mr. Chairman: I know that, but the amendment has been moved.

Shri M. Ananthasayanam Ayyangar: Sir, may I ask this on a point of order? When a person moves an amendment, you allow him to move the amendment and make a speech also. While he is interrupted by another member he sits in his seat. Then is it the right of the Chair to.....

Mr. Chairman: The honourable member had sat down.

Prof. N. G. Ranga: I was rising on a point of order.

Mr. Chairman: All right, then I will give you an opportunity of speaking further, but I do not allow you to amend the amendment.

Shri M. Ananthasayanam Ayyangar: That is all right.

Mr. Chairman: You are free to speak. Whether I shall put the amendment or not, I shall decide.

Shri M. Ananthasayanam Ayyangar: I am requesting the leave of the House to allow this to stand over so that I may discuss this matter with my friend and then bring it before the House. I am trying to make a very reasonable suggestion and a request to the House. Why should it not consider it? You know it restricts even a Provincial Government like Madras which has started the electricity undertakings and distribution even long before this Act can come into force. I want that in such cases provision should be made to exempt the Provincial Governments from the Provisions of this Act. This amendment is in consonance with my speech on the motion for consideration of this Bill. Now inadvertently those words have escaped notice and therefore I want to convince my friend if possible so that we may take a decision if we can. The House will agree with me that it is not as if I am introducing a novel thing. I spoke yesterday and took nearly one hour of the time of this Honourable House and tried to say that this kind of compromise is a half-way house between State and private enterprise. State enterprise is there in Madras. These are experiments going on—one is a child and the other is grown up. Take these three and find out which is suitable for our country. I do not mean to say that straightaway you must start nationalizing with this industry, nor do I say that it must be given over to private enterprise.

These are all experiments and one experiment has already thrived so far as Madras is concerned. Under these circumstances it is not as if I am trying any novel arrangements just for the time being. It is rather unfortunate that while we are trying to clothe the Central Government with power over the head of a Board which we are creating, Provinces are not given power to establish Boards as autonomous bodies for the purpose of establishing generating stations etc. carrying power to the very doors of the villagers. We are creating a Central Board; we are creating an exception in the case of the Central Government; the Central Government can, without the consent of that Board and over the head of the Board, establish wherever it likes a generating station; in emergency it will have power to do so. But this amendment which the honourable Mover has accepted introduces one other institution also. That is that not only is power given at present to the Central Government to override the powers of the Board but by this amendment which I have moved and which has been accepted, power is given to any corporation established by the Central Legislature. Corporation does not have the same status and representative character as the Central Government, which is based upon the vote of this House. Therefore for a lesser entity we are giving the power. Why should I place the Provincial Government in a worse position than even a Corporation established by the Central Government? For instance, the Damodar Valley Corporation—can it pretend to be much bigger than the Bihar Government when it is established? You are denying the Bihar Government the right to establish generating stations whereas you are trying to confer on the Damodar Valley Corporation the right to establish a generating station without consulting this Board. How on earth does my honourable friend feel that the amendment that I have moved is improper or otherwise not acceptable? It may be that he may not accept it, but I crave the leave of the House to keep this over and if it comes to that I will divide upon this matter and I appeal to you, honourable members of this House. This is a very important matter and I am not going to yield. If the honourable member consents to let it stand over well and good. There are so many other provisions; so many other schedules which have to be considered. Therefore I crave leave to allow this amendment to stand over till tomorrow or the next day on which this will come up. If permission is not granted, I shall make my few more submissions on this and then appeal to the House to vote for this amendment.

Mr. Naziruddin Ahmad: May I submit that this is a reasonable prayer that the motion do stand over till the Honourable Minister is in a position to consi-

der the matter. It involves a very large question of principle and nothing will be lost by its standing over. Therefore, the request should be allowed.

The Honourable Shri N. V. Gadgil: I am prepared to accept the suggestion made by the honourable member that this clause may stand over till day after tomorrow. Meanwhile, other clauses may be taken up.

Mr. Chairman: Then we shall go on to Clause 45.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 45 of the Bill, for the word 'stations' occurring in line one, the word 'station' be substituted."

I am well aware that the plural includes the singular and *vice versa*, but in choosing the singular or the plural the context must be respected and in this context the singular is indicated.

The Honourable Shri N. V. Gadgil: I accept it, Sir.

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 45 of the Bill, for the word 'stations' occurring in line one, the word 'station' be substituted."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 45, as amended, stand part of the Bill."

The motion was adopted.

Clause 45, as amended, was added to the Bill.

Shri M. Ananthasayanam Ayyangar: Sir, I beg to move:

"That in sub-clause (5) of clause 46 of the Bill, for the words 'the price which would have been payable for any equivalent portion', the following be substituted:

'the average price which would have been payable'."

The amendment is very reasonable. I expect the House will kindly accept it.

Mr. Chairman: The question is:

"That in sub-clause (5) of clause 46 of the Bill, for the words 'the price which would have been payable for any equivalent portion', the following be substituted:

'the average price which would have been payable'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 46, as amended, stand part of the Bill."

The motion was adopted.

Clause 46, as amended, was added to the Bill.

Clauses 47 to 52 were added to the Bill.

Shri T. T. Krishnamachari: Sir, I beg to move:

"That for sub-clause (2) of clause 53 of the Bill, the following be substituted:

'(2) The Board and any licensee shall each have a right of access at all times to his own property on, in, over and under the property of the other'."

Sir, this is merely clarifying the present position.

Mr. Chairman: The question is:

"That for sub-clause (2) of clause 53 of the Bill, the following be substituted:

'(2) The Board and any licensee shall each have a right of access at all times to his own property on, in, over and under the property of the other'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 53, as amended, stand part of the Bill."

The motion was adopted.

Clause 53, as amended, was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 54 of the Bill, for the word 'agreed', the words 'agreed upon' be substituted."

Sir, for my authority I shall refer the House to sub-clause (2) of Clause 43 where the words "agreed upon" has been specially introduced. "Upon" has been specially introduced in the Select Committee by way of an amendment. So this mode of draftsmanship is an agreed thing with regard to the Select Committee. If this amendment is not accepted, then of course when the appropriate time comes, I shall move for the deletion of the word "upon" which has already been inserted by the Select Committee.

The Honourable Shri N. V. Gadgil: I do not accept, Sir.

Mr. Chairman: The question is:

"That in clause 54 of the Bill, for the word 'agreed', the words 'agreed upon' be substituted."

The motion was negatived.

The Chairman: The question is:

"That clause 54 stand part of the Bill."

The motion was adopted.

Clause 54 was added to the Bill.

Clauses 55 and 56 were added to the Bill.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Wednesday the 11th August, 1948.

APPENDIX

WHITE PAPER ON HYDERABAD

[vide page 47 ante]

INTRODUCTION

Government of India's approach to problem of States.—The approach of the Government of India to the problem of Hyderabad has been governed by their general policy towards the Indian States. India is not a mere geographical expression but an economic and political entity. The States are an integral part of India. The economic and political unity of India was maintained till the lapse of Paramountcy by the Crown, which operating through the Political Officers, provided the nexus between the Indian States and the Central and Provincial Governments. The pivot of this arrangement was the Viceroy, who represented to the Indian States the suzerainty of the British Crown, while at the same time, he was, in relation to British India, the head of the Government. The Indian Independence Act relieved the States from all their obligations to the Crown and in consequence India's unity was seriously threatened

with disintegration. The Government of India sought to avert this grave threat by negotiating constitutional relationship with the Indian States on the basis of their accession to the Dominion of India on the three subjects of defence, foreign affairs and communications. This was no emotional approach nor any expansionist policy, nor power politics. Highly practical reasons of geography, all-compelling defence and internal security requirements and other equally strong considerations rendered India's organic unification imperative. The following quotation from Sir Reginald Coupland shows very clearly how vital this unity is to the very existence of the Dominion of India:—

"An India deprived of the States would have lost all coherence. For they form a great cruciform barrier separating all four quarters of the country. If no more than the Central Indian States and Hyderabad and Mysore were excluded from the Union, the United Provinces would be almost completely cut off from Bombay, and Bombay completely from Sind. The strategic and economic implications are obvious enough. The practicability of Pakistan must be admitted, but the more the separation of the States from British India is considered, the more impracticable it seems. India could live if its Moslem limbs in the North-West and North-East were amputated, but could it live without its heart?"

Accession of States.—The Rulers of Indian States realised that it was better for both the Provinces and the States "to make laws sitting together as friends than to make treaties as aliens", and they acceded to the Dominion of India before the lapse of paramountcy and also executed Standstill Agreements. The Nizam dreamt of independence and procrastinated.

Policy of integration and democratisation.—The accession of the States to the Dominion of India was the first phase of the Government of India's policy to fit the States into the constitutional structure of India. The second phase was their consolidation into viable and sizeable units and their democratisation. This policy was based on their recognition of the patent fact that if the States were to find an honourable and lasting place in free and democratic India, their politics must be readjusted on the basis of the supremacy of popular interests. The sincerity of purpose with which the Government of India have pursued this policy is borne out by the fact that within a period of less than a year the inner and external set up of the States has been completely revolutionised and constitutions based upon the principle of full transfer of power to the people are operating in the States and the newly formed Unions of States. The Rulers were quick to appreciate the change and accepted the Government of India's policy of integration and democratisation. The Nizam alone refused to march with the times.

Hyderabad brochure.—In a brochure recently issued by the Nizam's Government it is stated:—"The Nizam feels bound to maintain individual entity of Hyderabad with its special problems, history and traditions."

It further states:

"Among the 600 Indian States Hyderabad was the largest and its Ruler, the Nizam of Hyderabad and Berar, held a unique and pre-eminent position. The Nizam's dominions are larger than the United Kingdom and about the half the size of France. His subjects number seventeen millions, more than twice the population of any other Indian State and more than Canada, Australia and any other Dominion outside the Indian sub-continent. Hyderabad has its own Government, its own civil service, its own modern army, its own police, university, railways and industries. Its finances are organised on modern lines with a budget and what is in these days abnormal, the budget is surplus."

Then follows the astounding assertion "Hyderabad, in fact, is a country and is organised as a country."

Hyderabad's so called special problems.—What are Hyderabad's special problems? The main problem would seem to be the perpetuation of Hyderabad's feudal structure. The other problems apparently relate to the mechanics, which include the organisation of militant elements of the minority population to thwart the legitimate aspirations of the people; preparations for an armed conflict, etc.

Hyderabad's History.—The history of Hyderabad is in itself an effective answer to the Nizam's pretensions to independence. Nor are the traditions of Hyderabad such as to admit of being invoked with any measure of pride or satisfaction. Hyderabad historically belongs to that category of the States which were founded by the agents of foreign invaders and is, therefore, relatively of a later origin compared to several other ancient historic States. A special feature of the history of Hyderabad has been that not only did it never enjoy independence but it also never established a legitimate claim to it by making any sacrifices in the cause of independence. The Rulers of Hyderabad were never able to maintain themselves without foreign protection. Even while under the vassalage of the Moghul Emperor the State first came under the military protectorate of the French and later of the British. Yet another feature of the history of Hyderabad has been the readiness of its Rulers to transfer their allegiance to the stronger power. Lastly, an important characteristic of the history of Hyderabad has been the full impact of the paramountcy of the British Crown not only in external affairs of the State but also in respect of its internal affairs.

Hyderabad under paramountcy.—The major part of the history of Hyderabad is linked with British rule in India. During this period, in all the essentials of the feudal system in India, the Nizam stood in the same category as other chiefs. The Paramount Power operated as a standing check on misrule in Hyderabad. The Resident's intervention in State affairs had been practically continuous since 1800 and the Paramount Power intervened more frequently and decisively in Hyderabad than in any other major State. The honorific title of 'Faithful Ally' was of little moment when compared with the historical fact of the position actually accorded to the Nizam by the Paramount Power. The treaty position of the Nizam in respect of non-intervention in internal matters was no better than that of a group of States which included even some 13 gun-salute States. The British Government interposed from time to time its authority in Hyderabad, in the military affairs, in the revenue administration, in the selection and appointment of Ministers and maintaining them in office, in introducing reforms and in reorganisation of the finances; in compelling the Nizam to control his sons and to regulate their education installing the Nizams and investing them with full powers. The British authority was also repeatedly asserted to induce in the Nizam's mind a conception of his position more in accord with history, precedent and with his own interests. Finally, Lord Reading in his letter dated 23rd March, 1926, gave a public burial to the Nizam's claim to revolve in an orbit of his own.

Untenable claim on the basis of ordinary attributes of administrative units.—Geographically, Hyderabad is not the largest, but the second largest State. Numerically, it can claim to be the most populous Indian State, but considering the fact that the civil liberties and rights of the vast majority are ruthlessly curbed and circumscribed, the State would seem to consist politically of its fascist minority alone. Politically Hyderabad is a land of stagnant backwaters and ranks as the most backward among the Indian States as they exist to-day.

The Hyderabad State has no doubt its Government, civil service, police force, budget and industries. Most of the 600 units that were known as States at the lapse of paramountcy, had these attributes of separate administrative entities. Some had Governments, progressive in character such as those of the neighbouring States in the South; others less mediaeval or more compared to that of Hyderabad. All these States have rapidly moved with the times and have now a democratic set up. Hyderabad alone has a Government totally unrepresentative of the majority of the people.

A mere glance at the relative ratio of the minority and majority population in services should be sufficient to condemn the basic structure of the Civil Service of the Hyderabad State. Hyderabad maintains a farcical system of recruitment, which assigns privileged position to certain sections and is based on unmasked favouritism and nepotism. The budget of the Hyderabad State again is a standing condemnation of the system which allows an autocrat to appropriate vast sums from the public exchequer for his personal comforts and idiosyncracies.

Hyderabad has no doubt an army. A number of other States also maintain armed forces with most creditable martial traditions behind them. The forces of the States have a definite place in the over-all defence structure of India. Under their engagements with the British Hyderabad was not entitled to keep an army larger than that of important States such as Gwalior. However, the Hyderabad forces have of late been clandestinely expanded to back the Nizam's bid for power.

The Hyderabad State has a currency. So have several others. This currency has survived only because it is linked with Indian currency at a fixed rate of exchange.

The Hyderabad State has a postal system of its own. Fourteen other States were entitled to maintain a separate postal system. Of these, five known as Convention States including the State of Chamba, which has since been integrated in the Himachal Pradesh, had superior postal rights, in that the mail bearing its over-printed stamps was carried by the postal department of the Government of India all over the country.

A number of States likewise have their own railways, telephone and telegraph lines. The States of Mysore, Travancore and Rajputana have their own universities.

Mask of communal unity.—These ordinary attributes of an administrative unit which Hyderabad retains in common with other States make out no case for Independence. The overriding consideration, the Hyderabad brochure boldly asserts, that weighed with the Nizam in choosing independence, was his desire to maintain Hyderabad's traditions of unity and friendship between all classes of the population which would have been imperilled by his accession to India. It needs some courage to make such a statement on behalf of the Ruler of a State in which the minority monopolises all rights and privileges and the majority has no civil liberties and lives in a State of utter serfdom.

Implications of the lapse of paramountcy.—The Nizam and his apologists have made much of the argument that in the circumstances attending the British Government's declaration of the lapse of paramountcy, it was open to the Nizam to remain independent. This is divorcing the British Government's declaration from its context. The British Government's policy and intentions regarding the lapse of paramountcy are clearly indicated in the Memorandum dated 12th May, 1946, in regard to States Treaties and Paramountcy, which specifically stated that the void created by the lapse of paramountcy will have to be filled either by the States entering into federal relationship with the successor Government or Governments in British India or failing this, entering into particular political arrangements with it or them. These particular

arrangements which were to be the only alternative to federal relationship, could not but be in the nature of paramountcy or subordinate association of the States with the successor Governments. The Cabinet Mission's Statement dated 16th May, 1946, also while recognising the principle that paramountcy was not to be transferred to the new Government presupposed the willing co-operation of the States and the plan had as its integral part the accession of the States to the Dominion of India in respect of the three subjects of defence, foreign affairs and communications. Although the Cabinet Mission's plan was superseded by the British Government's Statement of 3rd June, 1947, it undoubtedly embodied their considered policy as regards the position of the States under the future polity of India.

Future of people not governed by legalistic claims of doubtful validity.—The future of political communities and States is not governed by such declarations. An issue like this involving the defence of India, the integrity of her territory, the peace and security of the country and above all the common interests of the State of Hyderabad as well as India could not be allowed to be solved by mere legalistic claims of doubtful validity. The lives of millions of people cannot be trifled with on the dubious ground that one individual claims to acquire such a right through processes affecting paramountcy, which the British themselves claimed to derive not from any treaty or declaration but from the fact of their being the dominant power in India. Whatever the legal implications of the lapse of paramountcy may be, the British declaration of policy did not apply to the Nizam alone; it applied to all the six hundred States. The Nizam alone chose to make himself the sole heir to the rights flowing from this declaration.

The Standstill Agreement.—The Government of India invited the Nizam to accede to India as they believed, accession would give Hyderabad a place of honour and dignity in India's constitutional structure. They had at no time any doubt that linked as Hyderabad is with India the establishment of an organic relationship between the two by the accession of the State on the three subjects would prove to be the only solution of the problem of the Hyderabad State. The Nizam's Government asked for a period of two months for further consideration which was granted, and Lord Mountbatten was entrusted with the task of conducting further negotiations. On 29th November, 1947, the Government of India entered into a Standstill Agreement with the Nizam without the accession of the State to the Dominion of India. This was an exceptional arrangement to which the Government of India had not agreed in the case of any other State. In the case of the Hyderabad State they acquiesced in such an arrangement to accommodate the viewpoint that the Nizam's Government had to overcome some internal difficulties. The Government of India hoped that the agreement would bring Hyderabad closer to India and they believed that given an atmosphere of friendship and cordiality, it would be possible for the Nizam to come to the only right and appropriate decision, namely accession to India. It was also felt that the maintenance for a limited period of the *status quo* between the Government of India and the Nizam on the lines on which his relationship was regulated with the Crown Representative minus paramountcy would promote this end. The events that have followed have belied the Government of India's expectations and they have only proved that concessions to intransigence and dictatorial tendencies solve no problems; the unsolved problems come home to roost.

Government of India's gesture of goodwill.—The Government of India spared no effort to implement the agreement in the spirit in which it was concluded. They had agreed as a part of this agreement to withdraw their troops stationed in the Cantonment of Secunderabad. They carried out that very important part of the bargain. It was a very important part because the Government of

India troops staying in Secunderabad dominated Hyderabad in a military way. Nothing could have been easier than to maintain these forces in the heart of the State and thus control the situation in the State. Yet in their desire to make the agreement a success the Government of India withdrew their troops from Hyderabad. What has been the response of the Nizam's Government to this gesture of goodwill?

Nizam's Government's disappointing response.—While trying to extract the maximum advantage from the agreement and the respite that it gave them to assert the independence of Hyderabad, they have acted in violation of the agreement from the very moment of its conclusion. Even while the agreement was being negotiated they were engaged in a major breach of it in the form of negotiating an advance of a loan to the Pakistan Government. Other serious breaches of the agreement have been made in respect of external affairs, communications and other matters of common concern. As regards matters relating to defence, they repudiated in terms and defied in action their obligations under the Indian State Forces Scheme of 1939, a basic agreement saved by the Standstill Agreement. Under this scheme the Crown—now by virtue of the Standstill Agreement the Government of India—has the power to regulate the strength and the classification of the units of the State forces. They unauthorisedly increased their army, started manufacturing arms and ammunition; purchased war materials and smuggled them into the State; threw out a network of agents throughout India to smuggle arms, ammunition and military equipment from the Indian Provinces.

Preparations for an armed conflict have been going on at high speed. For some months past Hyderabad has been a war camp. Gun-running is being carried on by land and by air. Of the means adopted the recent flight of Mr. Sydney Cotton from Karachi to Hyderabad across the Indian territory in open violation of the Indian regulations may be cited as an instance. A network of hostile propaganda machinery has been organised by the Nizam and his Government both in India and abroad to malign the Government of India.

The most alarming feature of recent developments in Hyderabad which is seriously straining the goodwill and the friendly intentions of the Government of India towards Hyderabad, has been the rapid growth of the Ittehad-ul-Muslimeen and its semi-militarised organisation of the Razakars with the active and sustained support of the Nizam and his Government. The Ittehad and the Razakars have embarked upon a virulent anti-Indian campaign, and are indulging in most provocative anti-Indian activities. In many parts of the State, their savage atrocities culminating in a large number of incidents have brought about a virtual collapse of law and order. The contiguous districts of the three Indian Provinces, Bombay, Madras, Central Provinces and Berar, have been raided again and again. The agents of the Razakars have formed centres in many of the Indian Provinces and States and have been responsible for creating communal tension. These activities of the Razakars carried on under the inspiration and support of the Nizam and his Government have been a grave menace to the public tranquillity of India. In the course of protracted negotiations the Government of India repeatedly drew the attention of the Nizam's Government to the desirability of their taking effective measures for stopping the border raids, disbanding the Razakars and thereby creating a situation in which the tension which was mounting high in the whole country would subside, but the Nizam's Government have persisted in their refusal to cooperate.

Profession of friendship belied by actions.—The Nizam and his Government have been ostentatiously professing a desire to keep friendly relations with India and to enter into a permanent association with her. Inside the velvet glove of these professions stands, however, the mailed fist of the ranting and raving leader of the Razakars who threatens to march to Delhi to fly the Asafn flag

over the Red Fort. The extent to which his hold on the Nizam has been consolidated is evident from the fact that he could stop by show of physical force the Chhattari delegation from proceeding to Delhi to conclude an agreement; he could also secure the resignation of Chhattari Ministry and put into office a Ministry of his choice.

Mr. Razvi's bullying tactics.—Under Mr. Razvi's influence the fascist technique is in full swing in Hyderabad. Thus for instance until recently the Nizam's Government were most vehement in their denouncement of the Communists; in fact, the *raison d'être* of the Razakar movement was sought in their role as saviours of the State from the Communist menace. Now the Nizam's pro-Ittehad Government have lifted the five year old ban on the Communists and efforts are being made for an Ittehad-Communist alliance to make common cause against India. The Nizam's Government are pressing into service against India all elements communal, feudal and communist. All that is anti-democratic or anti-Indian is grist to the Ittehad mill.

Rejection of responsible government and plebiscite proposals.—The approach of the Nizam and his Government to the basic issues involved lends no support to their professions of a desire to enter into a permanent association with India. During the negotiations conducted in recent months, the Nizam's Government rejected the suggestion made by the Governor-General on behalf of the Government of India for Hyderabad's accession to the Indian Dominion. They also rejected another suggestion made by the Government of India for the establishment of responsible Government as they apprehended that this would also lead to accession. The Government of India had offered as early as August 1947 facilities to enable the Nizam to test the will of the people by sending British officers to conduct a referendum on the issue of accession but the offer was declined by the Nizam. In a cryptic reply to the Governor-General he asserted that "the problems of the constitutional position of Hyderabad are such that the question of referendum does not arise". It was again suggested on behalf of the Government of India in April 1948 that there should be a plebiscite and that some arrangements should be made for carrying on administration in the State which would ensure a fair and impartial plebiscite. The Government of India persistently emphasized their basic policy that in such matters the will of the people must be the determining factor. The proposal was, however, rejected by Mir Laik Ali, who expressed himself against a plebiscite on the amazing ground that the announcement of the intention to hold a plebiscite will result in the deterioration of the law and order situation in the State. The recent effusive declarations of the Nizam in favour of plebiscite have to be viewed against this background; these declarations conveniently shelve the fundamental issue that a plebiscite in Hyderabad has no meaning so long as a Government hostile to the popular interests is in power and enables the Razakar terrorists to hold a vast majority of population to ransom.

Last phase of negotiations.—Mir Laik Ali suggested that instead of an Instrument of Accession there should be an Instrument of Association. The Government of India agreed for the time being not to press their demand for accession but to enter into an agreement on the basis of the application of the legislation of the Government of India to Hyderabad in respect of the three subjects of defence, foreign affairs and communications. The principle of overriding legislation by the Government of India was first accepted by Mir Laik Ali but was subsequently repudiated. The Government of India in order to meet the wishes of the Nizam deleted the provision and also accepted another important amendment in respect of the provisions relating to the Constituent Assembly. Several other amendments proposed by the Nizam's Government were also agreed to by the Government of India in the interest of peace and in their anxiety to reach a settlement. While the Government of India had thought that the agreement

had been finalised by his delegation, the Nizam again declined to accept it until some other points including the principle of freedom of trade and economic and fiscal arrangements were accepted. This could not be accepted by the Government of India as it repudiated the whole basis on which the agreement was sought to be negotiated. The Nizam also made the allegation, which was subsequently withdrawn, that some alterations had been made in the draft without the knowledge of Mir Laik Ali.

Immediate advantage guide to negotiations.—The manner in which the Nizam's Government have conducted these negotiations prove it beyond doubt that no principle but immediate advantage had been the guide to these negotiations. It is a long story of repeated journeys of the Prime Minister and other Ministers and Advisers of the Hyderabad Government to Delhi and back. They came and went back more than once with provisional agreements, which were subsequently repudiated.

Government of India's effort to accommodate.—In spite of the fact that public opinion in India has been most critical of the Government of India's policy towards Hyderabad, in their anxiety to avert the consequences of a conflict they went to the farthest limit, consistent with the fundamentals governing the issues involved, to accommodate the Nizam's Government. They are now convinced that it will serve no purpose to hold any further negotiations with the Nizam's Government until there is a change on their part in regard to the basis of their approach to the problem. Every move of the Nizam's Government has the avowed intent of emphasising the sovereignty and independence of Hyderabad. This repudiates the very basis of the Standstill Agreement, which required that *status quo* (including the position of Hyderabad as a State in association with India and having no external status) should be maintained.

Hyderabad's independence threat to India's security.—India cannot accept Hyderabad's claim to independence as an independent Hyderabad will be a grave threat to the defence, internal security and economy of India. An independent State completely landlocked within the heart of another is an unheard of proposition. To compare Hyderabad to Switzerland or Austria, on the ground that they are landlocked and have no access to sea, is to turn one's back to elementary history and geography. Switzerland and Austria have common frontiers with more than one State and their politics and economy have accordingly developed on a different basis. If all the Provinces of India were independent States and one of the three Provinces bordering Hyderabad questioned the right of this State to independence on the ground that it was landlocked, the analogy of Switzerland and Austria would hold good. As it is, however, the distinctive and decisive feature of Hyderabad's geographical set-up is that if it makes with a foreign State any defence, economic or other arrangements, which are prejudicial to India's interests, it cannot implement such arrangements without violating India's sovereignty over her own territories. An analogy nearer the mark will be provided if the State of Colorado asserted independence against the U.S.A. and the country of Worcester or Warwick against Great Britain. Even more perverse is the astounding statement that India's demand for Hyderabad's accession is comparable to Canada's demand for the incorporation of Newfoundland, a separate island State, having no geographical link with Canada.

With a vast majority of its population eager to throw off the age-long tyranny of personal rule Hyderabad will be an easy prey to any foreign power. It is protected from external aggression by India and is virtually an Indian protectorate. The Government of India cannot allow the Nizam and his Government to abuse this position and to develop Hyderabad into a base for foreign anti-Indian influence, or vested interests in complete repudiation of the elementary obligations to India inherent in Hyderabad's geographical set-up.

Grave dangers of Hyderabad's policy.—The grave dangers to which an independent Hyderabad would expose India are already beginning to manifest themselves. The Nizam's Government are not only engaging themselves in foreign contacts prejudicial to India's interests but are also disrupting India's economy by trying to divorce the economy of this State from that of India and linking it with other countries. The Ittehad and the Razakars constitute a serious threat to the peace and tranquility of India. Their activities threaten to provoke retaliation from those in India, who sympathise with the unhappy lot of the majority population in Hyderabad. By their constant efforts to appeal to the communal instincts of the Muslim minority in India, the Razakars are trying to subvert the loyalty of the Indian Muslims to the Dominion.

Conflict between democracy and fascism.—The Government of India stand for a democratic and secular India and for an India in which each citizen has freedom to pursue his own religion and has equal rights and opportunities and obligations as the other. India aims at a polity where there would be freedom of opportunities for all, freedom from soul-cramping communalism and the opportunity to grow and to serve oneself while serving others. India has paid the supreme price of the martyrdom of the Nation's Father in her pursuit of that great ideal.

Hyderabad of today, on the other hand, is not only a stronghold of mediaeval feudalism but also a plague spot of militant fascism and communal fanaticism. The political structure of Hyderabad is the very antithesis of democracy; the Razakar ideology, which dominates Hyderabad, is automatically and irrevocably against popular freedom and democratic concepts.

The frontiers of India cannot be insulated against the seepage of the poison which permeates Hyderabad of today. In the same country democracy and militant fascism cannot function in separate compartments. Either one or the other must prevail; either one or the other must go under.

CHAPTER I

HISTORICAL RETROSPECT

The history of Hyderabad is singularly devoid of any distinguishing features which constitute the venerable traditions of a State or a nation. Historically, Hyderabad falls in the category of the States which were founded by the officials of the foreign invaders and consolidated during the emergence of the British power. Neither, therefore, in its origin nor in its achievements does it compare favourably with the historic States like Udaipur, which had established themselves before the main waves of foreign invasions and whose history enshrines glorious deeds of chivalry and sacrifices in the cause of freedom or personal honour. The history of Hyderabad has been one of unprincipled opportunism, abortive quest for power and inglorious and uninterrupted dependence.

Establishment of Ruling house by Asaf Jah; continued allegiance to Delhi.

The ruling house of Hyderabad was established by Asaf Jah, an officer of the Moghul Emperor, in 1713. Though the Moghul empire was disintegrating, Asaf Jah never renounced his allegiance to Delhi though he ceased making remittances of treasure on the ground that all the financial resources of the country were required to protect it from the Mahrattas. His successors also continued to owe allegiance to Delhi as long as the Moghul Emperor retained his titular sovereignty. Even as late as 1829 Nasir-ud-Dowlah obtained confirmation of his succession from the Emperor and his application was accompanied by a nazar of 101 gold mohars and a pearl necklace. The connection

with Delhi was further maintained by a superscription on the Hyderabad coinage indicating its subordination to the Delhi Emperor. This superscription was continued till 1858 when the British Crown assumed responsibility for the administration of India.

The first Nizam was engaged in a perpetual struggle with the Mahrattas who succeeded in establishing a paramount influence at Delhi, one result of which was that they secured Chauth or the one-fourth of the revenue of the Deccan by an Imperial rescript. Asaf Jah died in 1749.

Nizam's under foreign protectorate.—After Asaf Jah's death, no Ruler of Hyderabad has been able to maintain himself without foreign military aid. The Nizam was always an easy prey to the neighbouring powers and invariably sought shelter under foreign military protectorate. His alliance was governed by the exigencies of times and was transferred from one power to the other with amazing frequency.

The Nizam under French Protectorate.—Two of Asaf Jah's sons after his death fought a minor war of succession. Three years later one of his sons, Salabat Jah with the help of Dupleix, who was then founding a strong French empire in the South, established himself as the Nizam. A keen contest was then going on between the French and the English for the supremacy of South India. The Nizam first threw in his lot with Dupleix who, assisted by Bussey, was then winning brilliant victories against the East India Company. Bussey continued to reside at the Nizam's court protecting him from the Mahrattas in return for the four Northern Circars districts.

Treaty with the British.—In 1759 following the outbreak of war between the French and the British the Circars were seized by a British force and British possession of this territory was confirmed by a Sanad from Delhi in 1765. This led to an invasion of the Carnatic by Nizam Ali, who had ousted his brother in 1762. The Hyderabad forces were repulsed by a British Division and peace was finally concluded by the treaty of 1766, by which the Nizam placed himself under British military protectorate. He was accorded protection against the Mahrattas in the West and against Hyder Ali of Mysore, who had in the meantime emerged as a strong power in the South.

Nizam's bid for independence.—In the following year the Nizam in search of independence broke his treaty with the British and allied himself with Hyder Ali. A united attack was made by the joint forces of Hyder Ali and the Nizam on the British. The attempt failed and by the Treaty of Masulipatam of 1768 the British again succeeded in attaching the Nizam to themselves by imposing a military protectorate over him. From 1778 a British Resident and a subsidiary force were planted in Hyderabad. Despite the new agreement the Nizam in 1779 endeavoured to organise a coalition, to which Hyder Ali of Mysore was invited, with the Mahratta Chieftains to invade the Circars. This plan again failed and a King's officer was deputed to the Nizam's court to keep him loyal and to maintain his precarious existence against the Mahrattas.

Disastrous battle of Kurda.—A few years later the Mahrattas revived their claim to Chauth against the Nizam. By reason of their treaty with the Peshwa, the British Government declined to interfere. This was followed by the disastrous battle of Kurda in which the Nizam's forces were defeated and the Nizam was compelled to agree to a humiliating position by which he lost large tracts of territory including most of Berar and in addition was called upon to pay a heavy indemnity as well as arrears of Chauth.

The Nizam under British Protectorate.—This was followed by the Nizam again veering round to the French orbit but in 1798 Wellesley finally got the Nizam to get rid of the French force which was in his pay and to accept an increase in the British subsidiary force at Hyderabad. A year later the power of Tipoo, Hyder Ali's son, was finally broken and his well-governed territories were dismembered, a part of which was given to the Nizam by British good-

will. The rapid deterioration under the Nizam's gross misrule of the lot of the prosperous people whom the British thus handed over to him, has been described by John Malcolm, an eye-witness, as follows:—

“The different quotas to be paid by each inhabitant had been fixed; and every species of torture was then being inflicted to enforce them. Men and women, poor and rich were suffering promiscuously. Some had heavy muskets fastened to their ears; some large stones upon their breasts; whilst others had their fingers pinched with hot pincers; their cries of agony and declarations of inability to pay appear only to whet the appetite of their tormentors.”

In the following year the Nizam ceded to the British a part of his territory in order to buy military protection and the strength of the subsidiary force was raised. The area ceded to the British consisted of the whole of the acquisitions from Mysore in the wars of 1790 and 1799. In other words, he purchased military protection from the British with the spoils of war secured through the successes of the British arms.

In 1803 Nizam Ali died and was succeeded by his son Secunder Jah. The same year war broke out with the Mahrattas, the Scindia and Holkar. The Nizam's Government not only failed to implement their part of the obligations in the war but were also guilty of unfriendly acts towards the British. As a result of this behaviour the Governor-General insisted on the Nizam signing an additional article to the treaty agreeing to the admission of British troops into his fortresses. At the close of the war, despite the Nizam's failure to fulfil his obligations, he received from Scindia and the Raja of Nagpur a greater part of Berar lost in the Kurdla campaign of 1795.

The advantages gained by the Nizam by his subsidiary alliance with the British were stressed by Lord Wellesley in a despatch in 1799. The Governor-General sternly commanded the Nizam to be awakened to “a just sense of extensive advantages” his connection with the British had brought him. “His enemies had been destroyed at little expense to him,” added the Governor-General “from a weak decaying and despised State he has recovered substantial strength.....and resumed a respectable posture among the Princes of India”.

Existence of the State owing to British connection.—The rest of the history of Hyderabad is no more than the perpetuation of its existence under the British protection and repeated interposition of the British authority to save the State from gross misrule. The following extract from an important memorandum of 1926 from the then British Resident at Hyderabad clearly states the extent to which Hyderabad owed its very existence to the British connection for over a century and a half and shows how the British viewed the problem of Hyderabad:—

“There can be no doubt that it (Hyderabad) owes its very existence to the British connection. The Asafia Family had not taken strong root in the Deccan in 1800; in point of fact, it may be said that it has never ceased to be foreign. Without the British, it must have relied on the handful of Muslims domiciled in the State; a forlorn hope against Maratha resurgence. Left entirely to himself it is doubtful if the present Nizam would be able to maintain himself for any length of time.

Three strong currents of political activity converge on Hyderabad; the Maratha, the Andhra and the Kanara movements. The object of these movements is to build up again the old provinces where the various peoples predominated; and their success would mean the disappearance of Hyderabad. Already a subtle campaign of

propaganda is going on from the three directions indicated. Good government is the only antidote to this poison, and it must be regretfully observed that the Nizam's attitude for the past five years leaves but a faint hope that he would, if he realised his dreams of unchecked absolutism consider the welfare of his people in the least degree.

The limitations on internal sovereignty which Paramountcy implies have been shown to exist as fully developed in the case of Hyderabad as elsewhere. The present Ruler desires to revert to the position existing before, in 1798, his ancestor made over to the British the military control of his territories. Such a reversion is impossible so long as he enjoys military protection. Without such protection, a Hindu insurrection would soon sweep away Muslim rule unless the British Government allowed the Nizam to recruit mercenaries and to import the latest military arms and equipment from outside. Would the co-religionists of the Hindus in the State, in Bombay, Madras, and the Central Provinces stand quietly by and see their compatriots massacred? The British Government would unquestionably be involved. It is in fact impossible, treaty or no treaty, to allow an unfettered despotism to be set up in Hyderabad.

This in brief is Hyderabad's history; the Nizam and his enterprising advisers wish to forge it into an instrument of independence.

CHAPTER II

PARAMOUNTCY AND THE POLITICAL STATUS OF THE NIZAM

From what has been stated in the foregoing chapter it is clear that the main part of the history of Hyderabad is closely linked with the advent and consolidation of the British power in India. The so-called pre-eminent position that the Nizam claims for himself could have no historical sanction behind it other than the status that the British accorded to him. The political status of the Nizam under the paramountcy of the British Crown has therefore an important bearing on the Nizam's claim to preferential treatment relative to other States and may be examined in some detail.

Paramountcy Independent of Treaty Engagements.—The theory of Paramountcy had not been elaborated when the Treaty of 1800 was concluded with the then Nizam. As in the case of the treaties with several other States such as Gwalior, Jammu and Kashmir, Baroda, Indore, Bhopal, the Rajputana States, Orchha and the Phulkian States of the Punjab, the treaty of 1800 did not involve surrender of internal sovereignty. However, the Nizams at that time had no claims to sovereign power and were feudatories of Delhi. Their allegiance to Delhi continued till 1858 when the British succeeded in name to the sovereignty and authority of the Moghuls, which they had in actual fact enjoyed since the downfall of the Peshwa in 1818. The political supremacy and paramountcy of the British were inherent in the arrangement that imposed a military protectorate on the Nizam. The most important implication of military protectorate is the political subordination of the protected State to the protecting power. Another implication of such a protectorate which the British urged was the right of the protecting power to ensure a reasonably good government in the protected State. The British as the Paramount Power, therefore, claimed prerogative rights of intervention in Hyderabad as in other States independent of treaty engagements.

Intervention in Hyderabad's Internal Affairs.—This right was repeatedly asserted and exercised by the Paramount Power in respect of the Hyderabad State in complete repudiation of the Nizam's claim to internal independence. The following may be cited as instances of the interposition of such authority:—

(a) In 1835 the Nizam was informed under the orders of the Directors that the British Government could not remain indifferent spectators of disorder and misrule and unless these evils were remedied, it would be necessary to urge him to change his Minister and adopt such other measures as the case might require.

(b) In 1867 after a ministerial crisis the Governor-General informed the Nizam that disorder in Hyderabad might compel his Government to interpose its authority in a manner highly distasteful to the Nizam.

(c) In 1897 the financial collapse in Hyderabad compelled the Government of India to submit to the Secretary of State proposals for very drastic interference and the Secretary of State in approving their proposals said that beyond doubt the depletions of a State's finances would, if not otherwise checked, be a valid reason for authoritative interference and control.

(d) In October 1911, a few months after the accession of the present Nizam, he was warned by Lord Hardinge that "he was on his trial for two years; at the end of which it would be just as easy for the Government of India to appoint a Council of Regency as now".

(e) In 1919, the Nizam was twice warned by Lord Chelmsford, the first time in a letter and the second time in personal interview that the Government of India claimed the right to intervene in cases of misrule. In his letter Lord Chelmsford spoke of intervention by 'friendly advice', but in conversation with the Nizam he spoke more frankly. He said:

"It has always been clearly laid down that I cannot tolerate misrule and results such as I have indicated to you are to my mind clear evidence of personal misrule. It would be impossible for the Government of India to give their support to any Ruler, who permitted the continuance of such a state of things as I have indicated".

It was thus established beyond doubt that while the Paramount Power had full and exclusive control over all external affairs of the Hyderabad State, even in internal affairs the sovereignty of the Nizam was over-borne and limited by the Paramount Power's prerogative of intervention. Apart from the general limitations on internal sovereignty which applied to Hyderabad in common with other States in matters relating to jurisdiction over European British subjects, installations, external loans, telegraphs and telephones, post-offices, railways, manufacture of arms and ammunition, opium, salt, etc., reference may be made to the following specific instances in which the Government of India or the Resident interfered in the internal affairs of Hyderabad in the interests of the State and its people, for the improvement of the administration or the restoration of law and order.

(i) Appointment and removal of Ministers

During the last century and a half of British rule, the Paramount Power offered advice on these matters so frequently that the right to intervene had been recognised both by the present Nizam and by his predecessors. Intervention was made more or less decisively in regard to the appointment of Mir Alam, Raja Chandu Lal, Salar-i-Jung, Salar Jung II, Vikar-ul-mulk, Sir Krishna Pershad, Sir Ali Imam, Sir Akbar Hydari and in numerous other cases. The late Nizam admitted to the Resident that it was a tradition in his family that the Minister should be appointed with the consent of the British Government and the present Nizam in his memorandum of 28th July, 1918, stated that as regards the appointment of a Minister he had to consult the Resident and obtain the consent of the Government of India. This tradition was rigidly followed right up to the lapse of paramountcy and was a special feature of the Crown's relations with the State which claims for itself a pre-eminent position. No other major State suffered from such perpetual disability in the matter of the appointment of its own Ministers.

(ii) Removal of undesirables

There are several cases in which the Paramount Power effectively intervened to rid the Nizam of undesirable influences. Undesirables thus removed included Mahipat Ram (1806-7), Sarwar Jung (1897), Akbar Ali (1900), Lal Khan (1914) and Abdullah Khan (1918).

(iii) Constitutional Reforms

The Paramount Power was consulted in regard to all constitutional changes. Thus for instance, the late Nizam obtained the Viceroy's approval to the creation of a Council of State and in 1893 the Qanuncha (rules regarding the constitution of Government) was drawn up in consultation with the Resident and the Government of India.

(iv) Financial reforms

In 1899 at Lord Curzon's suggestion the Nizam agreed to limit his demands on the State treasury for personal expenses to 50 lakhs per annum. About the same time, on the advice of the Government, Mr. Casson Walker was appointed Financial Adviser. The Nizam promised to give him all necessary authority but failed to carry out his promise with the result that Lord Curzon again intervened in March 1902.

(v) Miscellaneous

In 1862 a Sanad was given to the Nizam by which the British Government bound themselves to uphold any adoption by the Nizam which might be legitimate according to Mahomedan Law. Other matters on which the Paramount Power intervened included the education and upbringing of the Nizam's children. The following extract from the speech of the late Nizam at his Investiture Durbar bears out the practice that had come to be established:—

"I shall ever endeavour in all matters that concern the prospects and prosperity of the State to consult the wishes of Your Excellency and of the Government of which Your Excellency is the honoured head. I am sure that in doing so I shall be consulting the best interests of myself and my subjects."

Lord Reading's Famous Letter.—Finally, Lord Reading in his famous letter dated 27th March 1926, clearly asserted the supremacy of the Paramount Power over the States including Hyderabad and refused to treat as its equal any State, whatever the language in the treaties, and specified the rights which pertain to the Paramount Power as a corollary to this supremacy. Responsibility for the defence and internal security of the country, according to Lord Reading, also gave the Paramount Power the right of intervention in the internal affairs of the State (Appendix I).

Nizam's status no better than that of other Princes.—It is obvious that the status of the Nizam under paramountcy was no better than that of other States and his position was anything but of pre-eminence. Neither in practice nor in principle did the Paramount Power ever concede any special position to the Nizam. On the contrary, by the interposition of its authority in Hyderabad more repeatedly and effectively than in other States, and by negating all claims of Hyderabad to preferential treatment in various authoritative announcements the British did every thing that was possible to disabuse the Nizam's mind of his perverse and erroneous notions.

Hyderabad's Political and Economic unity with India.—As a result of the all-pervading and unifying influence of the Paramount Power Hyderabad came to be administered as an integral part of India in all essential matters of all-India concern such as external affairs, broad economic policies, defence arrangements and other similar matters. Indian army stationed in Hyderabad was maintained not merely for the benefit of the State but for the security of the whole of South India. Under diverse agreements and arrangements, one of the last

and most important of which was the Indian State Forces Scheme of 1939, the Government of India exercised the right among others to increase, decrease or reorganise the Nizam's army; to arm and equip it and secure internal peace and tranquillity. Under these arrangements the Hyderabad State was precluded like other States from importing into Hyderabad weapons of precision and ammunition and the manufacture of such weapons and ammunition except under licences which would only be granted under the dictates of the Government of India. The Hyderabad State was likewise under the obligation to cooperate with the Government of India by promoting everything that the Paramount Power determined to be necessary for the efficient discharge of its duty to protect the State; the State was also under the obligation to cooperate by abstaining from every course of action that may be dangerous to the general security of India. The Paramount Power was also entitled to secure what was necessary for strategical purposes in regard to roads, railways, posts, telephones and telegraphs, and wireless, cantonments, passage of troops and the supply of arms and ammunition.

In the field of external affairs the Hyderabad State had no international status and the State territory and the State subjects were in the same position as British territory and British subjects. The State could not negotiate or communicate with any foreign State. The arterial communications connecting the North of India to the South like the postal, telegraph and telephonic systems and the railways and airways were all led through Hyderabad by the Government of India and the policies in relation thereto were also framed and enforced by them. Several other agreements closely linking Hyderabad to India were also entered into or evolved by custom, usage or acquiescence.

By the Government of India Act, 1935, the powers exercised by the Political Department of the Government of India under the Act of 1919 were to be exercised by the Crown Representative; the person holding this office also held the office of the Governor-General. In consequence in matters of common concern the Crown Representative ensured full cooperation of the Nizam as the Ruler of a dependent protected State. In substance and in fact Hyderabad remained under the British rule an integral part of, and subordinate to, the political system established by the British in India.

CHAPTER III

HYDERABAD—A PART OF INDIA

Geographical Unity.—Sir William Barton in his book 'Princes of India' stated; "Flung almost completely across the Indian peninsula, the great State of Hyderabad holds a strategic position of the first importance both from the political and from the military point of view. In an emergency it could practically isolate the South from the North. The country is a series of vast rolling uplands with an average elevation of 1,200 feet above sea-level. Two of the mightiest rivers of the Deccan, the Godavari and the Krishna, traverse part of the State". Hyderabad is the second largest State in India. Its frontier of over 2,600 miles touches the three Indian Provinces of Bombay, Central Provinces and Berar and Madras. The extent of Hyderabad is about 2/3rd of the Province of Madras, a little more than that of Bombay and a little less than that of the Province of C. P. and Berar. Its population is less than that of each of the three adjoining Provinces and is about 1/3rd of the largest of these, namely, Madras. No natural barriers separate the border areas of Hyderabad from the contiguous areas of India. Hyderabad is entirely dependent upon India for its railways, and postal, telegraphic and telephonic and air communications. Landlocked, it has no access to the outer world except through India.

Cultural Unity.—The population of Hyderabad, numbering 16½ million, is completely homogeneous with the population of the surrounding Indian Provinces. It consists of 86½ per cent Hindus, 12½ per cent Muslims and 1 per cent Christians and others. The population falls into three linguistic groups, the Telugu-speaking (over 7 million), the Marathi-speaking (over 4 million) and the Kanarese-speaking (over 2 million). These groups, socially and culturally form part of the corresponding larger language groups speaking respectively Telugu, Marathi and Kanarese, which inhabit the contiguous provinces of Madras, Bombay and Central Provinces and Berar. Ethnically the people of Hyderabad are the same as those in the surrounding Provinces.

Economic Dependence.—Economically Hyderabad has never been an independent entity, but has always been an integral part of India. The periods of prosperity or scarcity in India have been reflected in favourable or adverse reactions on the economic life of Hyderabad.

During the food crisis, India recognised and fulfilled its responsibility to feed the people of Hyderabad. Although Hyderabad is normally self-sufficient in food-grains, it passed through a period of severe scarcity in the year 1946-47 and large allotments of food-grains were made by the Government of India, Hyderabad being treated on an equal basis with other States and Provinces.

Hyderabad is surplus in cotton, but its production of cloth and yarn is very low, and more than 75 per cent of its requirements of cloth and yarn are met by imports from India. In the matter of allotment of cloth and yarn also, the Government of India treated Hyderabad on a par with the Provinces and States in India.

Hyderabad depends upon India for supplies of such essential commodities as salt, gur (unrefined sugar), fruits and vegetables, wheat and rice to a large extent, iron and steel, chemicals and medicines, tea and tobacco, and other raw materials for industries, and manufactured products. Besides all imports into Hyderabad of foreign goods like petrol, diesel oil and other fuel and lubricating oils, kerosene, machinery and plant, machine tools and spare parts and several other raw materials and products essential for the maintenance and development of industries pass through Indian ports and system of communications.

Hyderabad is surplus in pulses, cotton, groundnut, linseed, castorseed, coal and cement, and to a certain extent in manufactured paper; but Hyderabad depends for their disposal on India as the latter is the only customer for almost all these commodities, except oilseeds, which partially enjoy a foreign market. But these are also exported through India. Hyderabad has never had any direct or 'in bond' trade with foreign countries, nor is this feasible in view of the closely interlinked economy of Hyderabad and India. As India treats Hyderabad fairly and justly in the allotments of foodgrains, cloth and yarn and other essential commodities like steel, petrol and kerosene etc., India has similarly a justifiable right in the surpluses of Hyderabad in pulses, cotton, oilseeds, coal, cement, paper etc. India has, however, other vast resources of these commodities and is in no way dependent upon Hyderabad, whereas Hyderabad is entirely dependent on India for its essential needs.

Popular Aspirations.—The people of Hyderabad have been influenced by the same political ideologies and aspirations and collective impulses as those in the rest of India. When diarchy was established in British India by the Government of India Act 1919 there was agitation for representative institutions in Hyderabad. When the Khilafat movement brought about Hindu-Muslim unity in India, it had an exuberant expression in the Khilafat agitation in Hyderabad. When the Round Table Conferences were at work in 1930-1932 the people of the State started a movement for responsible government. When the Government of India Act 1935 was passed, "The Nizam's subjects League" was founded to secure the establishment of responsible government in Hyderabad. When about 1937 the movement for democratic

institutions took root in other Indian States, the Hyderabad State Congress was formed with the object of "attaining responsible government under the aegis of H.E.H. the Nizam by peaceful and legitimate means". When India was on the threshold of freedom an overwhelming majority of its subjects, like subjects of the States, wanted Hyderabad to accede to the Indian Dominion and to participate in the Constituent Assembly of India.

Currency and Foreign Exchange.—Nominally Hyderabad has a separate currency, but it has been always linked with Indian currency at a fixed rate of exchange. The State has never followed an independent currency policy of its own; nor is this possible, because if Hyderabad were to break its currency link with the Indian rupee, the price and wages structure in Hyderabad would collapse. Further the paper currency of Hyderabad is not backed by any bullion reserve, but by Indian rupees and securities. The volume of currency in circulation in Hyderabad is only 3 to 4 per cent. of the currency in circulation in India. The trade balance of Hyderabad was only slightly favourable in the past, and in fact for the last two years Hyderabad is undergoing a period of unfavourable trade balance. Indian currency flowed freely through Hyderabad both for purposes of trade, and also for several internal transactions. Only recently have the Nizam's Government attempted to stop the free use of Indian currency in Hyderabad by promulgating an Ordinance. This has adversely affected the currency position of Hyderabad and has resulted in exodus of capital and sale of Hyderabad securities. This policy, together with the wasteful and extravagant expenditure of the Nizam's Government has been responsible for the shrinkage in the investments and foreign resources of Hyderabad at a rapid pace, so much so that the Nizam's Government had to sell Indian securities held by them to the extent of over 20 crores in the last few months and, but for the intervention of the Government of India to stop the sale of these securities the external resources of Hyderabad would have soon come to an end and the process would have jeopardised the future development of industries and the reconstruction of Hyderabad's economy.

Banking.—In banking too, Hyderabad is entirely dependent on India. Almost all banks functioning in Hyderabad are branches of Indian banks and are scheduled with the Reserve Bank of India. So are the branches of the Hyderabad State Bank in India. Before the formation of the Hyderabad State Bank, a few years back, the whole of Government and other banking transactions of Hyderabad were put through by the Imperial Bank of India. Even now the business of the Hyderabad State Bank is closely linked with and dependent upon the Imperial Bank of India and the Reserve Bank of India, in respect of banking operations, remittances, holding of balances, foreign-exchange dealings etc.

The economic dependence of Hyderabad on India is more marked because of the absolute dependence of Hyderabad's communications on India. Hyderabad has nominally a separate railway, and postal system, but it cannot function except as a part of the all-India railway and the Post and Telegraph system.

CHAPTER IV

PRESENT SET UP IN HYDERABAD

(i) Political Structure

Mediaeval and reactionary.—The political structure of Hyderabad is mediaeval and reactionary. At its apex is the Nizam who receives Privy Purse of Rs. 50 lakhs a year, in addition to other miscellaneous allowances and his annual revenue of Rs. 3 crores from his personal jagirs called Sarf-i-Khas and a vast hoard estimated at several hundred crores amassed by means to which the head of a State can have recourse only under a feudal system. Besides, his two sons

and the members of his family receive large sums for their maintenance and upkeep. Till lately his absolutism was subject only to the control of the British Resident. The present Nizam is credited with the belief that he is the heir of the Moghul Emperors and with the ambition of attaining unrestricted personal sovereignty. He has, therefore, discountenanced every idea of modern political progress and has succeeded in concentrating all power in himself.

In 1914, he took over the administration without the assistance of a Minister. Four years later, under the pressure of the British Government, an Executive Council was constituted to assist him in the administration; but the Nizam continued to have things his own way. He is reported to have interfered with details of administration, including even minor appointments, so that from time to time British Residents had to intervene to support the authority of the Ministers against him. The Nizam naturally resented this control and when the British declared their intention to withdraw paramountcy he felt that the day of his complete autocracy had dawned.

The Nizam has a vast crowd of courtiers and a net-work of spies which penetrate every sphere of public life. To quote Sir William Barton: "Intrigue is in the air at Hyderabad—a vigorous survival from Moghul, and still earlier, times. It is with some people almost a pastime. Often the methods are clumsy and easily seen through; on the other hand, there is frequently a delicacy of touch, a finesse worthy of the trained and cultured brain behind it, the whole constituting a drama very interesting to watch as when it unfolds."

Reactionary Constitution.—Till recently Hyderabad had a Legislative Council consisting of 20 members of whom only four were elected, the rest being *ex-officio* or nominated members. Its functions were purely advisory. For several decades all attempts to introduce a representative element in the Legislature was frustrated mainly by the influence of the Nizam. In 1937 the Jayangar Committee was appointed to make proposals for an expanded and more representative Legislature with a mandate that it should be mainly on a functional, not territorial, basis. The Committee recommended a Legislative Assembly of 70 members exclusive of the President and the members of the Executive Council who were to be *ex-officio* members. Out of 70, thirty-three were to be elected and the remaining thirty-seven were to be nominated. The membership was so adjusted to give the privileged sections a majority. The recommendations of the Committee, in spite of the fact that they were not very regressive, were not put in force till 1946. In that year the Hyderabad Legislative Assembly consisting of *ex-officio*, nominated, appointed and elected members was constituted. The members of the Executive Council, all nominated by the Nizam, were to be *ex-officio* members of the Assembly, but the President of the Executive Council, who is styled the Prime Minister, is not a member of the Legislative Assembly. Exclusive of the *ex-officio* members the Legislative Assembly consists of 122 members of whom 76 are elected, the next being nominated directly or indirectly by the Nizam. Elections to the Legislative Assembly are on the functional basis. Among the elected members, majority and minority communities are equal in number, on the whole, the minority community has a majority of 10 over the majority community in a House of 132, and are therefore in a permanent majority.

Elections boycotted.—The constituencies and the method of voting were so manipulated that a candidate without official support would find it difficult to succeed. In view of the reactionary nature of the composition of the Assembly and the method of elections to it the Hyderabad State Congress boycotted the elections.

Under this farcical constitution the Nizam's rule, untempered by the intervention of the British Resident, is absolute in character.

(ii) Administrative set-up

For administrative purposes the State is divided into 4 Subas (Divisions) each under a Commissioner. These four Subas are further divided into 16 districts. Each district is in its turn divided into Taluqas totalling over 100. The number of villages in the State is 22,500. The Khalsa lands occupy 58·5 per cent. of the total area and the rest is the Sarf-i-Khas (Jagirs, etc., belonging to the Ruler). The Jagirs in the State comprise an area of 12,000 square miles and the Jagirdars enjoy judicial and administrative powers. Tenant ownership is conspicuous by its absence. Where it does not belong to the Nizam as his personal property, land is held under a feudal Zamindari system. Absentee landlordism, an army of landless labourers, rackrenting, serfdom, forced labour and countless inhuman and corrupt practices are the features of agrarian life. Industry is in the hands of a few capitalists, who, with easily bought official connivance, treat labour with little consideration.

The facade of the prosperous looking towns of Hyderabad and Secunderabad with very good roads and buildings serves to screen the appalling poverty of the vast majority of the people, who live in a condition of utter misery and serfdom.

(iii) Services Personnel

The officialdom is traditionally corrupt and seldom kind or sympathetic to the masses. Recruitment to services is not on merits. The representation of the communities in the services is in inverse proportion to their numbers. The representation of the majority population in the key services, namely the Army, the high executive services, is negligible. The minority dominates all departments as will be seen from the table below:—

Departments	Muslims	Hindus	Others	Total
1. Secretaries	10	1	1	12
2. Additional Secretaries	2	1	1	4
3. Joint Secretaries	3	..	...	3
4. Deputy Secretaries	9	3	...	12
5. Assistant Secretaries	55	3	...	63
6. Head of Departments	40	6	1	47
7. Subedars	4	...	...	4
8. Collectors	14	2	...	16
9. Revenue Board	2	...	...	2
10. Sub-Collectors	50	19	2	71
11. Tehsildars	75	40	4	119
12. High Court Judges	8	5	...	13
13. Magistrates and Munsifs	147	33	...	180
14. Police (D.S.P., A.S.P. & Circle Inspectors) 73	12	6	...	91
15. Education Officers	237	65	27	329
16. Supply Officers	25	7	1	33
TOTAL	754	202	43	999
Percentage	75%	20%	5%	100%

The police and the military are a virtual monopoly of the elements helpful to the Nizam in crushing the political awakening in the State. The army and Police have recently been increased and there has been considerable recruitment from outside the State.

Inequitous Taxation System.—The financial structure of Hyderabad is feudal. The taxation system is inequitous, the revenues being derived mainly from Land Revenue, Excise and Customs. The incidence of taxation thus falls almost entirely on the poorer classes, there having been no taxes on income until very recently. The expenditure of the State is also top-heavy. A substantial portion of the present expenditure goes in payments to the Nizam, his family and on Mansabs and other grants of a personal or feudal nature. The following extract from a dispatch of 1926 from the Resident at Hyderabad makes an interesting reference to the feudal practices for extorting money:—

“It may be noted that the mean and sordid practice of making forced sales of worthless articles at fabulous prices to litigants, nobles, officials and others still goes on. Even people in a position like Sir Afsar-ul-Mulk have to submit to this indignity.”

Uncontrolled Expenditure.—There is no proper control over Government expenditure in Hyderabad State as the budget is not subject to the sanction even of the predominantly nominated legislative assembly. The Government have over-riding powers to sanction amounts in excess of the budgeted figure during the course of the year. Administrative, financial and even audit control over expenditure is necessarily ineffective as vast amounts are kept as secret funds for which no accounts are rendered.

Costly Military Preparations and Propaganda.—A large proportion of the State revenue is spent on army, police and generally for military preparations. The Razakar organisation is also financed by the Hyderabad Government in the guise of expenditure on the so called refugees. Publicity and propaganda are another source of heavy drain on the State's finances. Several thousands of pounds have been spent abroad not only for publicity purposes but also for the smuggling of arms, ammunition, wireless equipment and other articles necessary for military preparations. Large sums of money have been paid to certain foreigners for rendering service to Hyderabad in negotiating for the purchase of or provision of special facilities at Goa, for the creation of an air force for Hyderabad and other similar purposes.

CHAPTER V

THE STANDSTILL AGREEMENT

The growth of political consciousness.—The Ittehad-ul-Muslimeen, otherwise called the Ittehad, was founded in 1926 by the Director of the State Ecclesiastical Department under the inspiration of the Nizam. Its real purpose was to organise the aggressive elements in the minority community to buttress the Nizam's feudal rule. After the promulgation of the Government of India Act, 1935, the wave of political consciousness throughout India spread to Hyderabad. As a result the “Nizam's Subjects' League” was formed by one Nizam Jung with the object of securing responsible government for Hyderabad. As a counterblast the Ittehad introduced an additional item in its creed: “The Ruler's person and Crown is the symbol of the political sovereignty of Muslims and Muslim culture”. The Nizam's Subjects' League yielded no results. In 1937 the Nizam appointed the Ayyangar Reforms Committee “to report on suitable alternatives for the more effective association of the different interests in the State with the Government”. This was found unsatisfactory both by leading Hindus and Muslims and the Hyderabad Peoples' Convention was formed under the Chairmanship of Mr. Abdul Hassan Sayed Ali.

Hyderabad State Congress: First Satyagraha.—In July 1938 the Hyderabad State Congress was founded, with the object of attaining ‘responsible government under the aegis of His Exalted Highness the Nizam by peaceful and legitimate means and with the motive of national unity’. Its membership

included both Hindus and Muslims. The State Congress was, however, banned on October 24, 1938, when members of the Committee were arrested and sentenced. Satyagraha (civil disobedience movement) followed and about 400 Congressmen were sent to jail.

State Congress: the second Satyagraha.—Endless negotiations were conducted in order to induce the Nizam's Government to lift the ban on the State Congress. In the meantime it had been affiliated to the All India State Peoples' Conference, then presided over by Pandit Jawaharlal Nehru. As the ban on the State Congress was not lifted, it started another civil disobedience movement. Meanwhile an understanding had been reached between some of the leaders of the Congress and the President of the Ittehad, Mr. Abdul Hassan Sayed Ali, for a common programme of political advancement. Mr. Ali, however, had to pay the price for this understanding, and Mr. Kasim Razvi, an obscure lawyer from a district town, notorious only for his rabid communalistic attitude, was elected President in his place with the approval of the Nizam. Negotiations with the Congress were dropped.

The State Congress Ban lifted.—The State Congress started another campaign of Satyagraha. During the brief tenure of Sir Mirza Ismail as Prime Minister of Hyderabad, the ban on the State Congress was lifted. Provincial Conferences were incorporated into the Congress which emerged as the most powerful political organisation in the State. During all this time the strictest restrictions on civil liberties were imposed on all democratic and popular movements while the Ittehad was left free to carry on its most aggressive fascist and communal activities.

Pre-August Situation.—Early in 1947 the situation in India was pregnant with changes. The British had decided to quit; India was to be divided; the States were to be relieved of their obligations to the British Crown and *vice versa*. The Political Department of the Crown Representative was busy winding up Residencies in Indian States.

The Nizam by his *firman* dated 26th June 1947 declared his resolve not to participate in the Constituent Assembly and not to join the Union. He also declared that the removal of British Paramountcy entitled him to declare his independence. The Ittehad, under the Presidentship of Mr. Kasim Razvi, also declared itself against accession to India, responsible Government, or share in public life on the basis of population. The Razakars, a quasi-military organisation, was founded in support of these aims and their demonstrations in favour of an independent Hyderabad came to be staged with increasing frequency. The Nizam's Government banned the flying of the flag of the Indian Union in the State. Thus the Nizam and the Ittehad were ranged not only against the State Congress but also against the Indian Union.

Negotiations for accession.—Under pressure from reactionary elements the Nizam had secured the resignation of Sir Mirza Ismail from the office of Prime Minister as his desire to enter into friendly relations with the Indian Dominion did not appeal to the Nizam who then appointed the Nawab of Chhattari as Prime Minister. In July, when the Government of India was negotiating with Rulers of all Indian States, a delegation consisting of the Nawab of Chhattari, Sir Walter Monckton, Sir Sultan Ahmed and Nawab Ali Yavar Jung came to Delhi on behalf of the Nizam to negotiate with the Government of India. By 15th August 1947, no agreement however had been reached. At the request of the Nizam, the Government of India gave him an extension of two months within which to find an amicable settlement. Negotiations were later resumed by the Chhattari Delegation sent by the Nizam with H. E. the Governor-General, Lord Mountbatten, with the concurrence of the Dominion Cabinet. In the course of the discussions it was represented by the Chhattari Delegation that in view of the premier position of Hyderabad,

its association with the Indian Dominion should be different from that of the other Indian States. Representations were also made by the delegation that if a Standstill Agreement for one year was accepted by the Government of India, a happier atmosphere would be created in Hyderabad in which terms of a more permanent association could be successfully negotiated.

Standstill Agreement.—As a result of the negotiations conducted by the Chhattari Delegation a draft agreement was finalised on 18th October 1947. On 27th when the delegation was to fly back to Delhi after obtaining the signature of the Nizam on the agreement, the house where the members of the delegation resided was surrounded by the Razakars, apparently the police being in full co-operation with them and they were prevented by show of physical force from leaving for Delhi. The Nizam called in Mr. Kasim Razvi on 28th October, for consultation. The old Delegation was dissolved under pressure from the Ittehad and a new one appointed; it included Nawab Moin Nawaz Jung and Mr. Abdur Rahim, the two members of the old Executive Council who had voted against the Standstill Agreement. The Nawab of Chhattari resigned on 1st November 1947. The new Delegation attempted to secure from the Government of India some changes in the draft Standstill Agreement, but failed. The leading advisers of the Nizam, however, impressed upon him the advisability of a temporary agreement in order to get 'a full and comparative peace during which, as we have often said, we can see how the two Dominions get along and how far we can prepare ourselves for a more genuine display of independence later on'.

This motive, as is now clear from subsequent developments, influenced the Nizam and the ruling group around him to accept the Standstill Agreement as it stood, but without any intention of fulfilling it. The Standstill Agreement was ultimately signed on 29th November 1947. (Appendix II).

CHAPTER VI

NEGOTIATIONS WITH INDIA

About this time the Nizam set up a new Ministry under the advice of Ittehad leaders, pledged to carry out its policy. Mr. Laik Ali, a leading industrialist of Hyderabad, was appointed Prime Minister.

Thus the Standstill Agreement which the Government of India negotiated with the Chhattari Delegation and accepted in a spirit of friendliness with every intention to implement it, was left to be worked by the Ittehad Ministry which was determined not to implement it in the spirit in which it was concluded.

Withdrawal of the Indian Army from Hyderabad.—The Government of India began to implement the Standstill Agreement in the spirit in which it was concluded by ordering the withdrawal of the Indian Army stationed in Hyderabad State. Though they knew that by so doing they would remove the most powerful sanction which they had to secure the implementation of the Standstill Agreement by the Nizam's Government, they did not hesitate to fulfil their part of the agreement. They did so however, in the expectation that the Nizam's Government would play their part honourably. Little did the Government of India suspect at the time that the Nizam and his advisers conceived the Standstill Agreement only as a ruse to gain time and to secure the elimination of the Indian Army which was a serious obstacle to the operation of their plans. Hyderabad's motives in seeking the Standstill Agreement, since revealed, provide the background for subsequent developments.

Negotiations for Implementing the Standstill Agreement.—Negotiations first opened on 22nd January, 1948 by Mir Laik Ali with Mr. K. M. Munshi, India's Agent-General at Hyderabad, for implementing the Standstill Agreement. Mir Laik Ali pressed for an early fulfilment by Government of India of the assurances contained in the Collateral Letters by:—

- (a) removing the Indian Army stationed at Bolarum as quickly as possible;
- (b) allowing free flow to Hyderabad of goods of every description, including military equipment, which the Nizam's Government had purchased on a large scale in India;
- (c) supplying arms and ammunition for its army;
- (d) transferring to them the control of postal, telegraph and telephonic communications which pass through Hyderabad connecting South India with North India.

On the other hand, on the question of implementing the obligations of the Nizam's Government, they adopted a very unhelpful attitude; thus for instance they totally repudiated their obligations under the States Forces Scheme of 1939 which was the basic agreement in relation to Defence saved by the Standstill Agreement, and declined to accept the appointment of a States Military Adviser, declaring that the whole scheme had lapsed. They also committed breaches of the Standstill agreement by negotiating an agreement with the Pakistan Government for advancing a loan of Rs. 20 crores and by promulgating an Ordinance banning Indian currency in Hyderabad.

March Conference at Delhi.—In the month of March a Hyderabad Delegation, consisting of Mir Laik Ali, Sir Walter Monckton and Nawab Moin Nawaz Jung, came to Delhi to discuss the possibility of coming to a permanent arrangement with the Government of India. It was suggested by His Excellency the Governor-General on 4th March 1948, that the Razakars' Organisation, being a danger to security, should be banned; but no assurance in that direction was forthcoming. Mir Laik Ali, however, left New Delhi after giving an assurance that, in order to create the proper atmosphere for negotiating a permanent settlement, he would immediately set up a more representative Ministry in Hyderabad. On his return to Hyderabad Mir Laik Ali formally announced that he was going to convene a Round Table Conference of party leaders. The President of the Ittehad, Mr. Kasim Razvi, who has been always working in close collaboration with him, promptly announced that he would not take part in any such conferences. No steps were taken by the Nizam's Government to release Swami Ramanand Tirtha, the President of the State Congress, then in jail. Nothing further was done to implement the assurance that he had given to the Government of India.

Immediate supply of arms demanded.—Thereafter, Mir Laik Ali recommenced negotiations with Mr. K. M. Munshi, in the course of which it was found that the only anxiety of the Nizam's Government was to secure from the Government of India an immediate supply of modern arms and equipment for 25,000 troops and 35,000 police and a free flow of army disposals and military stores which the Nizam's Government had purchased in large quantities all over India. At the end of the discussions Mir Laik Ali informed India's Agent-General that they would not like to proceed to Delhi unless the States Ministry was favourably disposed towards the proposals which they had made in the course of the discussions with the Agent-General.

Government of India's Demands.—In the meantime border incidents had assumed grave proportions and the Razakars had been very active. The Government of India came to the conclusion that the first essential for

resuming fresh negotiations was that the Nizam's Government should take appropriate action to put an end to the conditions of insecurity and disorder in the State and on its borders caused by the activities of the Razakars. Accordingly the Government of India addressed a communication, to the Prime Minister of Hyderabad dated March 23, 1948, pointing out the breaches of the Standstill Agreement committed by the Nizam's Government and asking them to take immediate action to ban the Ittehad-ul-Muslimeen and the Razakars.

Nizam's Government's Reply.—On April 5, 1948, Mir Laik Ali addressed a reply to the Hon'ble Pandit Jawaharlal Nehru. In the course of the reply the Nizam's Government made countercharges against the Government of India and tried to justify the acts which constituted the charges made against them. In particular the Nizam's Government persisted in their refusal, (a) to be bound by the Indian State Forces Scheme of 1939 which was, as mentioned, the basic agreement relating to Defence saved by the Standstill Agreement, and (b) to consider the question of disbanding the Razakars.

Mir Laik Ali's Assurances not carried out.—Following the letter Mir Laik Ali came to Delhi and saw the Prime Minister and the Deputy Prime Minister of India. The position was made clear by the Prime Minister of India and accepted by Mir Laik Ali that in order to ease the tension prevailing in Hyderabad and to pave the way for further discussions the Razakars should be brought under control and, as a first step, their processions, public meetings, demonstrations and speeches should be banned; the leaders and members of the State Congress should be released; and a new and representative interim Government should be immediately formed. However no effective action was taken by the Nizam's Government to fulfil these conditions.

Government of India's terms.—In the meantime the activities of Razakars were mounting in intensity and violence. The Government of India felt that the forbearance, which they had been showing in the face of openly provocative activities was being taken as a sign of weakness. On May 15, 1948, therefore, they called upon the Nizam's Government by a letter, among other things, to declare illegal and disband the Razakars' Organisation. The Nizam's Government did not comply with this demand. In order to prevent the incursions of the Razakars into the Indian territory, Indian troops had to be stationed on Indian borders.

Agreement in place of Accession agreed to.—The last phase of the negotiations in May and June 1948 is illustrative of the intentions and the policy of the Nizam as regards his State's permanent association with the Dominion of India. At a conference on 26th May, Mir Laik Ali agreed to the principle that the legislation by the Government of India in respect of the three subjects (Defence, External Affairs and Communications) should automatically apply to Hyderabad, should the Nizam's Government fail to pass corresponding legislation. After his return to Hyderabad, however, Mir Laik Ali, on 30th May, wrote to say that he wished to modify the statement that he had agreed to the principle of overriding legislation. In reply to this it was pointed out that he had categorically and unequivocally agreed to the principle of overriding legislation by the Government of India. On 6th June Mir Laik Ali returned to Delhi with Sir Walter Monckton to continue the negotiations. Draft heads of agreement and a draft firman were prepared. (Appendix III). The Delegation thereafter left for Hyderabad with the drafts for obtaining full powers to come to an agreement. Sir Walter Monckton returned to Delhi on June 12, and reported that the Nizam and his Executive Council approved of the two drafts with the exception of the following two main points (some others being subsidiary):

- (a) over-riding legislation by the Government of India; and
- (b) the composition of the Constituent Assembly.

In order to meet the Nizam's wishes and those of his Government, the Government of India modified the provision relating to over-riding legislation and omitted any reference to the composition of the Constituent Assembly.

The original Draft Firman contained a provision that the Hindus and Muslims should have an equality of seats in the interim government. The Government of India, however, objected to any reference to parity in connection with the interim government and suggested an alternative provision to the effect that the interim government would be formed in consultation with the major political parties. On this being agreed upon, Sir Walter Monckton invited Mir Laik Ali to come to Delhi with plenipotentiary powers to settle outstanding points.

More Concessions sought and made.—The Hyderabad Delegation accordingly arrived on June 14, when Sir Walter Monckton pointed out to Mir Laik Ali the alteration which the Government of India wanted to make. The same day the Hyderabad Delegation pressed for amendment of the drafts in their favour in the following respects:—

- (i) permission for Hyderabad to maintain, apart from a regular army of 20,000 and the ceremonial and household guards, an additional irregular Force of 8,000 men;
- (ii) a modification of the clause for the disbandment of the Razakars by a qualification that the process would take three months, although rallies, parades and demonstrations would cease forthwith; and
- (iii) the State of emergency was to be qualified by the inclusion of the words "under Section 102 of the Government of India Act, 1935".

The Government of India, in the interests of peace and in their anxiety to reach a settlement, agreed to all these amendments without exception.

A new point raised by Mir Laik Ali.—A point was raised at this stage by Mir Laik Ali in connection with economic and fiscal freedom for Hyderabad and the Governor-General suggested that the Prime Minister of India should address a letter undertaking that the Government of India would examine the question.

Yet another point raised by Mir Laik Ali.—On 15th June Mir Laik Ali raised a further point that an arbitration clause should be inserted. As arbitration was not appropriate in respect of some of the points covered by the Agreement, the Government of India did not agree to the suggestion. And when Mir Laik Ali left for Hyderabad on 15th June, it was made clear to him that no further amendments would be entertained by the Government of India.

Allegation and its withdrawal.—On 16th June, the Nizam sent a telegram refusing to accept the agreement unless the fresh points suggested by him were accepted. In the telegram the Nizam also alleged that some of the amendments to the draft had been made on the copies of the firman towards the end of the meeting the previous day and that Mir Laik Ali did not discover them until his return to Hyderabad. On 17th June, Sir Walter Monckton went to see the Nizam with a note from His Excellency the Governor-General in reply to the points raised by the Nizam. His Excellency pointed out that the allegation that some alterations had been made without the knowledge of Mir Laik Ali was not true, that they had been made known to Sir Walter Monckton on the morning of Monday, 15th June, and explained by him to Mir Laik Ali the same day. His Excellency further pointed out that the amendments so made did not make any material alterations and that the position in regard thereto had been accepted by Mir Laik Ali. The attitude of the Government of India with regard to Hyderabad's claim for freedom in respect of economic and trade matters was again explained. By his telegram dated 17th June the Nizam withdrew the allegation that the changes in one of the two drafts had not been made

known to his representative until the last moment. He, however, reiterated his objection to the omission of the principle of freedom in trade and economic and fiscal matters and the principle of arbitration. An additional objection was raised by the Nizam for the first time regarding the stationing of troops in Hyderabad in an emergency. A provision had been made in the heads of agreement to the effect that the Government of India would not station their armed forces inside Hyderabad State except in an emergency. Subsequently at the Nizam's Government's suggestion it was agreed that such an emergency should be defined by the inclusion of the words "under Section 102 of the Government of India Act, 1935". This was also repudiated by the Nizam. The Government of India naturally could not accept terms which repudiated the whole basis on which negotiations had proceeded so far.

Lord Mountbatten's last effort :—

On 18th June, three days before he left India, Lord Mountbatten sent a long private and unofficial telegram to the Nizam finally appealing to the latter to accept the draft agreement drawn up by India after long and protracted talks with Hyderabad's representatives.

Lord Mountbatten stated that he was anxious beyond words for the peace and prosperity of the whole of South India.

The Nizam replied regretting that he was unable to change the unanimous decision already taken by his Council.

The extraordinary points chosen by the Council, which was the creation of the Nizam and was responsible to no one but him, to advise the rejection of the provisional agreement are illustrative of their negative attitude.

The first and the most serious point on which the Council advised the Nizam to break off negotiations with all the human misery which such action is bound to entail, was in connection with the addition of the words "on a basis which I shall consider later" in sub-para. 1 of Paragraph II of the draft Firman, (Appendix III) which provided for the introduction of responsible government in Hyderabad and the establishment of a Constituent Assembly early in 1949. The Government of India were absolutely at a loss to understand by what process the Council could come to the decision that this was a breaking point. The fact that the basis of the Constituent Assembly was going to be decided at a later date was inherent in the omission of the mention of that basis in the Firman. To call this a material alteration was nothing short of ridiculous.

The second point raised by the Nizam's Council related to an alteration in the wording of sub-para. II of the Firman, so as to provide for the setting up of the interim Government in consultation with the leaders of the major political parties. This was an elastic and unexceptionable substitute for the wholly unjustifiable provision for parity between the majority (86½ per cent) and minority (12½ per cent) communities. In any case it could hardly be seriously suggested that any such change of wording could amount to a reason sufficient to justify the breaking of negotiations.

The third point on which the Council based their recommendations for the rejection of the terms was the demand for freedom in trade, economic and fiscal matters. The importance attached to this point by the Hyderabad Government was not disclosed to the Governor-General up to the morning of Tuesday, 15th June. Until then this matter had been covered by a footnote. The Government of India undertook to consider Hyderabad's request sympathetically.

The fourth point which the Council put forward as a reason for breaking off the negotiations concerned the absence of a provision regarding arbitration. It was made clear on behalf of the Government of India that the arbitration provision in the Standstill Agreement would continue to be in force for all the existing arrangements and agreements covered by it. The decision to break off negotiations because an arbitration clause was not included in the heads of agreement appeared to ignore that:—

- (i) an arbitration clause was in any event inappropriate to some of the provisions of the agreement as the Hyderabad Delegation had admitted;
- (ii) arbitration was in general an unsatisfactory alternative to goodwill as a means of ensuring the proper implementation of agreements of this kind.

It was inconceivable that a settlement which had taken so much effort to reach would be rejected for the amazing reasons put forward by the Nizam's Council. The Government of India could draw from it no other conclusion than that the Council's reasons were a disingenuous subterfuge to avoid the honest admission that they were unwilling to undertake the other steps for which the agreement provided including, for instance, the disbandment of the Razakars.

CHAPTER VII

RAZAKARS: A MENACE TO SECURITY

The Razakars as Instrument of the Nizam.—Since July 1947, the Ittehad, under the Nizam's inspiration, has been converted into a shock brigade for creating conditions in which the much-coveted theocratic and totalitarian State may come into existence. With this end in view a quasi-military organization known as the Razakars, has been built up. Militarist demonstrations are a part of their daily routine; and military training is being imparted to them in Hyderabad and Secunderabad. A Razakar, on enrolment, pledges his life to the Ittehad, to Hyderabad and to his Leader and vows "to fight to the last to maintain the supremacy of the Muslim Power in the Deccan". The headquarters of the Razakars are in Hyderabad City, but its ramifications cover the whole of the State. Seventy thousand men, women and children have undergone training; 1,50,000 members are on the rolls, and recruitment is going on briskly to reach the target figure of five lakhs of Razakars.

Activities of the Razakars.—The activities of the Razakars may be classified as follows:—

- (a) Staging frequent demonstrations all over the State.
- (b) Terrorising individuals connected with movements which seek the accession of Hyderabad to the Dominion of India or the introduction of responsible government in the State.
- (c) Organising border raids into the Indian Dominion territory.
- (d) Inflicting reprisals, with or without the Police or the Military, on villages or individuals suspected of being pro-State Congress or obstructive to the Razakars.
- (e) Taking upon themselves the duties of Customs Officers in searching the luggage and belongings of railway and road passengers.

- (f) Preventing unofficial investigations by agencies or individuals into the internal situation in Hyderabad.
- (g) Overawing the public by staging marches of uniformed volunteers with spears, swords, or muzzle-loaders on cycles, in buses and lorries, by firing empty shots into the air.
- (h) Infiltrating into Indian Dominion territory in order to carry on espionage work; to smuggle arms and ammunition into the State; to recruit volunteers from Dominion territory for the Army, the Police and other services and to create disaffection among the Muslims of India and to rouse them against the Government of India; and to carry on a Jihad (religious war).

Transport.—The Razakars possess several 3-ton lorries, dozens of Jeeps and one-ton lorries, in addition to the transport which they command freely over the Nizam's State Railway, and road transport services from willing or unwilling private owners. In spite of severe restrictions of petrol supplies to the civil population the Razakars have always had liberal supplies of petrol from the Nizam's Government.

Arms.—They are fully armed and not only do they have a large number of looted and locally manufactured guns but also some modern weapons.

Publicity.—The Ittehad runs one English daily, 7 Urdu dailies and 6 Urdu weeklies. In the Nizam's Radio they have another powerful instrument of propaganda, always at their service. These organs, day after day, attack the Indian Dominion and the leaders of India.

Special training is given to Razakars in espionage and propaganda and selected Razakars are given training to masquerade as Brahmins and priests.

Finances.—The organization which spends not less than 10 to 30 thousand rupees a day is maintained by direct contributions forcibly recovered from the villages or merchants, by levies etc. collected by Government on exports and by donations and shares of profits from persons who have advanced in their careers through Party influence. Most of the gold and silver looted by the Razakars from the helpless people also goes to the Party Funds. The Ittehad is also in receipt of very large sums for the maintenance of the so-called refugees.

Anti-Indian Propaganda.—The Razakars have not been reticent about their objectives. Their pronouncements are characterised neither by responsibility nor sobriety. The Dominion of India and its Government and leaders are the targets of their repeated virulent attacks by the publicity organs of the Razakars. The following two extracts are illustrative of their objectives and the offensive and incendiary nature of their utterances:—

"Hyderabad will shortly recover the ceded districts and the day is not far off when the waves of the bay of Bengal will be washing the feet of our sovereign who will be called not only the Nizam of Hyderabad and Berar but also of the Northern Circars."

"We are re-writing the map of India by bringing together a union of Jumna and Musi. We are the grandsons of Mohd. Gazni and the sons of Babar. When determined we shall fly the Asafjahi flag over the Red Fort (in Delhi)."

Threat to communal peace in India.—Another serious aspect of the Razakar activities, in which they have the support of the Nizam's Government, has been the two-fold threat to communal peace and amity in India. In their

endeavour to convert the minority into a majority in the State, they are engaged in inducing the Muslims from India to emigrate to Hyderabad and to terrorise and force the majority population to migrate to India. To achieve this objective they send out agents all over India to induce Muslims to leave their homes in India and come and settle down at Hyderabad. These are not strictly refugees, for the conditions in the Indian Provinces do not warrant such emigration. Muslims from other Provinces, mis-called refugees, are however, drawn by the lure of money and employment or by propaganda for Jihad against the Indian Dominion. Elaborate arrangements are made for these purposes; large finances are placed at the disposal of the agents touring throughout India. There are Razakar centres in various parts of India which act as recruiting agencies and rallying points of anti-Indian elements fomenting communal hatred.

These invitees incited by the Razakars have been one of the main factors in disturbing the law and order in the State. Many instances have been reported of the so-called refugees harassing people, unlawfully extorting money, breaking into houses, occupying them and committing robbery.

Collapse of Law and Order in the State.—The internal conditions of Hyderabad State have become a scandal and the majority population has to suffer terrorism of the worst type. There is wide-spread panic and disorder throughout the State. Life in the villages has become so insecure that thousands of persons have fled to the Indian Provinces for safety. A number of villages have been burnt down in several places. Hundreds of persons have been killed, wounded or beaten. Villagers have also come down to Hyderabad City or Secunderabad for refuge. Razakars are seen daily leaving Hyderabad in trucks openly shouting slogans and returning with plenty of loot. The majority population throughout the State has been systematically disarmed. Large tracts of cultivable land are lying fallow, as the villagers have deserted their homes.

The Nizam's Government and the Razakars put innumerable difficulties in the way of independent investigations into the actual state of affairs in the State. Yet the atrocities of the Razakars have been attested by many independent observers of standing. Ministers have gone on tours to the affected villages and testified to the prevailing conditions. Photographs of burning houses have been obtained. Mr. J. V. Joshi, who was until recently a Minister in the Hyderabad Government and has resigned has stated in his letter of resignation that complete terror prevails in some districts which he visited (Appendix IV). He describes scenes of devastation, people being killed and their eyes taken out, women raped and large number of houses burnt down. The statement that this Minister of the Hyderabad Government has made is a final condemnation of the gangsterism that has overtaken the State.

Hyderabad City is the centre of the Ittehad and the G.H.Q. of Razakars. The power of Razakars is demonstrated night and day by drills and parades in uniform, by armed rallies, by public processions on foot, on cycles and in trucks. Razakars take the law into their own hands on the slightest provocation. On such occasions the police never appear on the scene, but even if they do, they prefer to be silent spectators.

In the districts, far away from the gaze of press correspondents, Razakars have staged their reprisals. In Bidar district, for example they have devastated 129 villages, burnt about 1,000 houses, looted property worth crores, killed 70 to 100 men and women and committed rape on about 50 women. Eye-witnesses and victims and unofficial enquiry committees have testified to the woeful conditions prevailing in the District. The Nizam's Government have naively denied all these allegations.

The incident at Gorta, enquired into by an unofficial enquiry committee which visited the scene, may be cited as a typical example, as it throws light on the gruesome fate which overtook it. This village with all its inmates, both human and animal, was burnt down to a heap of ashes on May 10, 1948. Even the details of the tragedy were not forthcoming till a small enquiry committee had visited the ruined village. Except for a lonely male and three wailing old women there was absolutely no trace of life in the village when the Committee visited it. The stench of decomposing corpses filled the air. Many half-burnt human corpses and a number of skeletons were lying about. The Committee was led to believe that about 200 persons were burnt to death in the village.

Warangal District.—The Warangal district is another centre of Razakar atrocities. Lakhs of inhabitants of this district have been forced to seek refuge in the neighbouring Province of Madras. Four separate investigations were made by different sets of people, all of which tally in all material particulars.

The same story, with more or less variation, has come from other districts. In all districts of Hyderabad the Razakar rule prevails, often supported by police and the military, and in all cases connived at by them. No Razakar has been known so far to have been brought to book for any atrocity, however violent and unlawful. As a result of the unchecked terrorism of the Razakars a large number of people are migrating from the State to the territories of the Indian Dominion.

CHAPTER VIII

BORDER INCIDENTS

The disorder and insecurity in the State created by the terrorist activities of the Razakars have for the past several months disturbed the peace and security of the surrounding districts of Bombay, Madras and the Central Provinces and Berar. There is no natural boundary, except in a few places, between the villages of Hyderabad and those of the Indian Provinces. There are a very large number of Indian enclaves in Hyderabad territory, varying from a solitary village to a whole Taluka. This has made it easy for the raiders from Hyderabad State to adopt hit-and-run tactics and on several occasions, to cut off road communication with the enclaves. Moreover, owing to the contiguity of India and Hyderabad, the atrocities committed in the villages on the Hyderabad side of the border have their repercussions on the Indian side. In most of the raids the raiders are accompanied by the Nizam's Police and/or military. A very large number of instances can be cited, of the loss of life and property resulting from these raids. In several cases, Indian Police Officers have been carried away to Hyderabad territory or have been either shot or confined in jails. (Appendix V).

The raids, which began in order to terrorise those border villages which offended the Razakars and the State under the leadership of the Hyderabad State Congress, have now become a perpetual feature disturbing the peace and security of all the three Provinces.

Without going into details of the incidents, some principal characteristics of these raids may be summarised—

Firstly, the raiders are composed partly of Razakars and partly of what may be described as 'official agents of the Nizam's Government', e.g., Arabs in the State Service, armed Sepoys from the State Forces, etc.

Secondly, the incursions into the Dominion territory were ostensibly in search of "undesirable characters" alleged to have taken shelter in the Dominion territory. For example, on 4th December 1947, the State Military personnel camping at Nelugal on the Bombay border entered the limits of Kanmanhal in Dharwar District of the Bombay Province and took away three villagers to their base in State territory. Again, on 24th December 1947, about 30 sepoys from the State forces, entered Ainapur in the Bijapur district of the Bombay Province, threatened the Police Patil at the point of the bayonet and unlawfully searched his house for certain Congress workers said to have fled from Hyderabad.

Thirdly, the motive for these raids was in most cases extortion of money. In these raids, even villagers from the Hyderabad side joined with guns, swords and lathis. Men with means are carried away and released only on payment of ransom.

Fourthly, taking advantage of the contiguity of the borders and the necessity of having to pass through State territory in having access to the Indian enclaves, the Nizam's Customs Officers, Police and Military, the Razakars and even pro-Razakar villagers search and harass Indian citizens in transit through State territory. In most of the cases, in the course of the search, property was looted or ransom extracted.

Fifthly, raids are being organised in order to cause panic among the villagers within the Indian borders. Cases are known of Arabs in the State service entering Dominion territory, shouting slogans, brandishing swords, chasing and abusing villagers, and molesting women.

These characteristics only relate to incidents of a serious nature. Besides there have been innumerable instances of cattle-lifting, assault on and harassment of Indian subjects, robbery in Dominion territory by small bands of Razakars, of the State Police or the Military operating from their camps in the State territory close to the border. The operations are also in most cases organised and premeditated. Of late, on the Bombay side, the object has not been, as in the earlier period merely to cause harassment, extort money, and create panic: it is systematically to destroy the life and property of the border villagers by shooting at random and by setting fire to houses and stacks of hay and corn, and by driving away herds of sheep, goats and other milch animals.

Nanaj Incident.—A typical example of the campaign of violence indulged in by the Razakars is provided by the recent attack on a party of Indian troops near the Hyderabad village of Nanaj. The Indian military convoy was taken by surprise and had to suffer some casualties but the attack was repulsed with the arrival of the remaining portion of the convoy. The attack was entirely unprovoked and there was unmistakable evidence that preparations for attack and defence were being made in the village by digging huge trenches and loop-holing houses. The villagers, who ran away from Nanaj the previous evening, on their return, testified how a party of about 50 Razakars, Police and Pathans occupied the village fully armed with the intention of attacking the Indian Army units which were known to be proceeding that way on the routine duty of exchanging patrols. After the first attack which took place late in the evening of July 24, 1948, the Razakars made two more attacks but were driven away easily. On July 26, 1948, Lt.-Col. Weston, a senior British officer of the Hyderabad State Forces, visited the scene of incident and after enquiries confirmed the Indian Army version of the incident. (Appendix VI).

CHAPTER IX

PLEBISCITE AND BLOCKADE CRY

Dictatorships attribute to those, who do not fall in line with them, motives and intentions that do not exist. It helps to win friends at home and abroad to find a scapegoat for the evils of megalomania and self-regarding policies. The propaganda agents of the Nizam, whose personal ambition and obstinate absolutism are dragging his State towards a disaster, are trying to depict him in the role of the proverbial innocent and peaceful lamb. An aggressive wolf is necessary to complete the set-up and the Government of India come in handy for the purpose.

The main planks of the malicious propaganda that is being conducted against the Government of India are:—

Firstly, that the Government of India insisted on unconditional surrender of Hyderabad's sovereignty even without ascertaining the wishes of the people of the State by a free plebiscite.

Secondly, that Hyderabad has been put under an economic blockade which is depriving the State of essential commodities, drugs, chemicals, etc.

Government of India's suggestion for an impartial plebiscite.—The plebiscite cry is the latest addition to Hyderabad's propaganda armoury. It is a glaring instance of the Goebbels technique of harping on a big lie in the hope that some ignorant folk would swallow it. The suggestion to hold a plebiscite to decide the issue of Hyderabad's accession was made as early as 27th August, 1947, by the Governor-General of India in his telegram of the same date to the Nizam; the relevant part of this telegram reads as follows:—

"Should it be impossible to carry on negotiations without delay, my Government would not be prepared to consider any solution other than your signing the Instrument of Accession in the same way as all other States similarly situate have now done but they would be prepared to offer facilities to enable you to test the will of the people by sending British Officers to conduct a referendum on this issue in the same way as was recently arranged in the N.W.F.P."

This telegram was based on the Hon'ble Sardar Vallabhbhai Patel's letter to Lord Mountbatten, dated 24th August, 1947, in which it was stated:—

"If, however, the Nizam's Government are still unable to decide their course in the only right direction in which it lies, His Exalted Highness must agree to submit the issue to the judgment of his people and abide by the decision. We on our side will be content to accept whatever might be the result of such a referendum."

The offer of the Government of India was made in all earnestness; its categorical rejection by the Nizam is typical of his and his Government's negative attitude. In his telegraphic reply to the Governor-General of India he made the astounding assertion "I should also like to point out that the problems of the constitutional position of Hyderabad are such that the question of referendum does not arise."

The spirit behind this telegram has been the keynote of the Nizam's approach to the question of accession, establishment of responsible government and plebiscite. It has been the Government of India's policy that in all matters affecting their future the will of the people should prevail. The suggestion to hold plebiscite was, therefore, again repeated to Mir Laik Ali by the Secretary, Ministry of States on 17th April, 1948. The suggestion was summarily rejected

by him. He expressed himself against plebiscite as he thought that the announcement to hold a plebiscite will adversely affect the law and order situation in the State. The proposal was repeated on behalf of the Government of India from time to time but evoked no response from the Nizam's Government. Now we see the miracle of the Nizam—who has all his life thwarted the legitimate aspirations of his people—turning a champion of their right of self-determination. The reason for this change of front is provided by the course of negotiations which shows that the game of the Ittehad-dominated Nizam's Government has been to gain time and to extract concessions up to a point which would frustrate the very purpose for which association between India and Hyderabad was sought.

Plebiscite without suitable interim arrangements a farce.—The Nizam's offer of plebiscite, which now comes with a beat of drum, is dis-ingenuous since it is made with no intention to ascertain the real views of the people in a peaceful atmosphere and in an impartial manner. Hyderabad's right of self-determination in the present set up, in which a vast majority of the people are treated as hostages, means no more than a licence to the militant sections of the minority to exterminate the majority population. When, therefore, the Nizam and his Government complain against the so-called denial of self-determination, they mean in fact that a small clique of unscrupulous fanatics should have unfettered power to dominate the masses. The Nizam's Government wish to hold a plebiscite under the conditions in which a small militant group controls the destinies of the people and the Razakars are left free to terrorise the people into submission. Plebiscite without an interim government representative of and satisfactory to the majority population in Hyderabad will only be a fraud on the people.

Nizam rejects the proposal.—The proposals for a plebiscite on the issue of accession and interim arrangements formed a part of the Government of India's latest offer to the Nizam which was negotiated with his Prime Minister, but was rejected by the Nizam from Hyderabad. This fact should be enough to give a quietus to the baseless allegation that the Government of India denied the people of Hyderabad the right of self-determination.

No economic blockade.—As regards the allegation of economic blockade it may be stated that no embargo has been placed on the export to Hyderabad of any of the necessities of life, such as foodstuffs, salt, chlorine and medical supplies. As a matter of fact, the Nizam's Government have been trying to build a reserve of these articles to last for about two years and by extensive purchasing and unlawful smuggling reserve stocks are being built up. Whenever special permission has been asked for from the Governments of the surrounding Provinces, permits have always been given for quantities in the light of normal requirements in the past. The Provincial Governments have refused to permit the exports only when they had strong reasons to suspect that the articles were not for normal use but had been acquired in India by unfair means and are being consigned on false description. Commodities such as food, salt and chlorine, are freely flowing into Hyderabad. The facts in respect of these supplies are as follows:—

Food.—A fixed import quota of 20,000 tons of foodgrains has been allotted for Hyderabad for the year 1948 on the same principles as apply to other Provinces and States in India. Of this quantity, 14,338 or more than half the year's requirements have already been despatched to Hyderabad in the period January to June, 1948.

Medicines.—There is no ban on the export of medicines and medical stores to Hyderabad. Medical stores usually go to Hyderabad from Bombay and Calcutta. No separate statistics have hitherto been kept of each kind of drug going from these two markets to

each Province or State. Supplies, however, from these two cities have continued to Hyderabad. In fact, there have been such heavy purchases by agents of Hyderabad from these markets recently, in addition to large-scale smuggling, that it has been necessary to regulate their exports so as not to disturb the supply position in Bombay and Calcutta. Even so, there has been no restriction on the normal quantities required by Hyderabad.

In the second week of June, one firm alone wanted to export Rs. 15 lakhs worth of medical stores to Hyderabad from Bombay. They were allowed to export one wagon load valued between two and three lakhs of rupees. Figures of normal monthly requirements of medicines and medical stores have since been worked out in consultation with trade associations and supplies to Hyderabad upto these limits are being allowed.

During the three months—April to June—Madras exported 178 maunds of medical stores to Hyderabad, West Bengal for the same period 14½ maunds and C. P. & Berar 51 cases; ampules, vaccines, tubes etc., of medicines weighing 900 lbs were exported by the Bengal Chemical and Pharmaceutical Co., Ltd.

Chlorine.—In consultation with experts and the Imperial Chemical Industries Ltd. a monthly quota has been fixed for supply to Hyderabad. From Bombay city alone, 1868 pounds of chlorine have recently been exported to Hyderabad. Not a single application for the supply of chlorine to Hyderabad has so far been rejected.

Salt.—There has been no restriction whatever on the movement of salt to Hyderabad. In respect of salt as well as medicines and other commodities some difficulty has been experienced in the matter of transport. This difficulty is not peculiar to movement to Hyderabad but general to all parts of the country. In May 1948, when difficulties of transport of salt were pointed out, special arrangements were made and 190 wagons of salt were despatched from Bombay to Hyderabad early in June. During the period April to June, 251,000 maunds of salt were despatched to Hyderabad from Madras and Central Provinces and Berar.

The above facts will make it clear that the allegation that the Government of India are starving Hyderabad of essential commodities like foodgrains, medicines, etc., is without foundation. Indeed the Government of India could not adopt such a course as it would only bring misery and hardship to the vast Hindu population and poor Muslims of Hyderabad and would cause no discomfort to the Nizam and his self-seeking advisers.

A factor that has adversely affected transport facilities in respect of the commodities consigned for Hyderabad has been the reduction in Hyderabad's train services. This has been necessitated by the frequent armed attacks of the Razakars on the trains running through Hyderabad territory. No train now runs across Hyderabad borders without an armed escort, which has to be provided by the Indian forces. If the free movement of wagons has been hampered by this development the terrorism of the Razakars and the inability or the unwillingness of the Nizam's Government to stop the repeated train hold-ups are responsible for it.

CHAPTER X

THE CHOICE FOR THE NIZAM

The foregoing chapters make it abundantly clear that Hyderabad is an integral part of India and that the Nizam's pretensions to independence rest on no foundation other than his own ambition for unchecked absolutism in which he is supported by the Razakar terrorists and a handful of India's enemies. Neither the basic compulsions of geography nor the history and traditions of the State lend any support to these pretensions.

Hyderabad under British Rule, a part of feudal system.—For a period of over 150 years Hyderabad was a part of the feudal system in India and stood precisely in the same category as the other Indian States. The British never recognised its claim to any preferential treatment. If anything, the exercise of paramountcy in relation to Hyderabad was characterised by greater rigour than in the case of other States.

No coherence without States.—Whatever political and legal rights flowed to the States from the lapse of paramountcy were common to all of them. If all the States had elected to declare independence on the basis of the Nizam's logic of unfettered freedom of choice, the independence of India would have proved still-born. In the words of Sir Reginald Coupland such an India "would have lost all coherence". Inevitably, an India with hundreds of independent States would have lapsed into a chaotic condition. Such an India would have proved only a menace to world peace. This threat to India's integrity was averted by the Rulers' acceptance of the organic unity of their States with India on a federal basis.

Claim to independence untenable.—The fundamentals governing the Government of India's approach to the problem of States apply as strongly to Hyderabad as to other States. If anything, the Nizam's case for independence is even weaker than that of several other States because firstly Hyderabad has never enjoyed independence; secondly unlike several maritime and border States it is completely enclosed within the Indian territories; and thirdly an overwhelming majority of the people are strongly opposed to the Nizam's claim. The Government of India accordingly invited in all friendliness and with the best of intentions the Nizam also to an honourable partnership with India on federal basis.

Difference of approach.—During the protracted negotiations that followed, the Government of India examined in a spirit of the utmost accommodation the various proposals made by the Nizam's Government with a view to finding a formula which would meet the wishes of the Nizam's Government without subverting the basic policy of the Government of India. They made a departure from their general policy in accepting from the Nizam's Government a Standstill Agreement without accession of the State to the Dominion of India. The barren course of these negotiations has convinced the Government of India that the basis of approach of the Nizam's Government to the problem is directly opposed to that of the Government of India, in that, whereas the latter hoped that the Standstill Agreement and other arrangements would lead to the only solution of the Hyderabad issue, namely its accession, the Nizam and his Advisers wished to make every move an instrument for the assertion of Hyderabad's independence and a ruse to cram more power into the Nizam's repressive machine.

Dangers inherent in Hyderabad's independence.—Independence of Hyderabad is incompatible with India's independence; the two are mutually exclusive. The dangers inherent in the assertion of Hyderabad's independence are

already beginning to manifest themselves in all their grave potentialities. In his misguided quest for unchecked absolutism, the Nizam is converting Hyderabad into a potential foreign base. With the help of a very small group of the militant section of the minority and his personal wealth he seeks firstly to suppress all democratic movements in the State, and secondly to develop an independent theocratic fascist State in the heart of India which, with its military force and allied irregulars dominated by the militant section of the minority community, is intended to form a base for subverting the loyalty of the Muslims in India to the Indian Dominion.

In order to achieve these objectives the Nizam has his instruments in the Ittehad-dominated Ministry, the Razakars and the Ittehad security services. The Ittehad has declared itself against responsible Government. This militant organisation is out to perpetuate the Nizam's feudal rule against the tide of times by methods reminiscent of Hitler's Germany. In India, on the other hand, democracy has been firmly established and all over, in the Provinces as well as the States, the people are enjoying full freedom. This conflict has its natural repercussions on the 300 millions Indians who must resent the ruthless suppression of the political aspirations of their compatriots in Hyderabad.

The second problem created by the policy of the Nizam's Government is equally serious. The Razakars' atrocities are directed against the majority population in the State and they naturally arouse great indignation in India. The determined effort of the Razakars to arouse communal tension constitutes a grave threat to communal peace in India. In spite of the repeated denunciation of the Razakars' activities by prominent Muslims including some of the Muslim Leaguers, a large number of the secret agents of the Razakars are touring all over the country contacting Muslim leaders, inviting Muslims from Indian Provinces to migrate to Hyderabad, and establishing hostile centres in all Provinces, all of which create communal tension in several parts of India. Today the Razakars propaganda and activities are potentially the most dangerous factor in the communal situation.

The growing communist activity in the Razakar-infested Hyderabad is yet another menace to India's peace and security. In the first instance feudal Hyderabad with its glaring maddening disparity between the privileged position of the handful at the top and the appalling poverty of the vast population provides a prolific source of communism. Until recently communism developed in Hyderabad and the bordering Indian Dominion areas as an antithesis of the Razakar movement, and clashes between the Razakars and the communists were a frequent occurrence. Of late, however, the Razakars have sought an alliance with the communists in their crusade against India and democracy. This has greatly contributed to the rapid growth of communism in Hyderabad and the State is indeed now a hot-bed of communism.

Defence responsibility.—In the crisis through which India is passing at present the supreme responsibility of the Government of India is to defend her borders and to maintain internal peace. In its own interests it should be Hyderabad's direct concern not to do anything that would impair India's capacity to defend it. If Hyderabad's frontiers are intact, it is only because Hyderabad enjoys the protection of India. On the due and prompt discharge by India of her responsibility in respect of defence rests not merely the existence of India but also the maintenance of peace in Asia so essential to world peace.

In discharging this responsibility the Government of India have to strain every nerve. Friendship with Pakistan has been maintained in spite of grave provocations. Vigorous measures have been taken to restore communal peace

and order. Powerful disruptive elements and quasi-military organisations have been suppressed. The policy pursued by Hyderabad Government is a serious obstacle in the way of the Government of India's discharging this important responsibility.

Accession and democratisation the only solution.—All this clearly indicates that there is only one way of resolving the Indo-Hyderabad political deadlock, namely, the State's accession to India and the democratisation of its administration. Any other make-shift arrangements made with the Nizam's Government, who cannot be depended upon for implementing them in the right spirit, must be a brittle affair which will crack at the first stress. To adopt such a course is to submit to blackmail; it will be a breach of faith with the other Indian States and a betrayal of the interests of the millions of the people of Hyderabad.

Paramountcy independent of treaty engagements.—Hyderabad's claim to independence is mainly based on the lapse of paramountcy of the British Crown. Paramountcy was not derived from any treaty engagements but was claimed independently of them. It was contended by the British that paramountcy rested "on a moral obligation inherent in our protectorate". Of the responsibilities it implied, the gravest, it was claimed, was the duty of preserving peace and good order throughout India.

Sovereignty vests in people.—Paramountcy had two important aspects. The British as the paramount power in India were responsible for the defence and general security of the country as a whole. They claimed all the rights necessary to discharge this responsibility. Linked with these rights was also the right to intervene in the personal and dynastic affairs of the Ruler and the internal affairs of the State. In so far as the paramountcy related to intervention in the internal administration of the States, the Government of India have no intention of exercising it. They are, however, firmly of the view that whatever sovereign rights reverted to the States on the lapse of paramountcy, they vest in the people and conditions must be created in every State for a free and unfettered exercise of these rights.

Fundamentals governing paramountcy.—As regards the operation of paramountcy in relation to essential matters affecting the well-being of the country such as defence and security, although paramountcy has lapsed, the fundamentals on which it rested still remain.

The basic feature of the whole arrangement was not that the British possessed paramountcy rights and were, therefore, paramount, but that they were paramount and therefore had paramountcy rights. It is inherent in the geographical set up of Hyderabad that it is a protectorate. If the Government of India assume the responsibility of protecting Hyderabad against external aggression, as they must, they must also have the right to ensure that Hyderabad does not impair India's defence arrangements and also does not develop into a threat to India's peace and security. The British very rightly held the view "the unity of Indian empire would be imperilled if orgies of misrule could be enacted unchecked under British military protection". The essential defence and security requirements of the country and geographical compulsions have not ceased to be operative with the end of the British rule in India. If anything, they have become more imperative.

The Government of India cannot afford to be helpless spectators of orgies of misrule in Hyderabad. If the law and order situation there, which already shows signs of collapse, further deteriorates and thereby imperils peace and good order in India, the Government of India would unquestionably be involved.

In the age of bullock-cart, when small States could live in isolation and feudalism could flourish, Hyderabad was either a satrapy or a military protectorate under the dominant power in India. Not only it has had no status in external affairs but even its internal sovereignty was over-borne and limited by the overriding British authority.

In the age of aeroplane, when feudalism and petty sovereignties are an anachronism, the Government of India as the dominant power in India responsible for the defence and general security of the country cannot be expected to admit the Nizam's claim to independence; more so when it has no sanction of the will of the people behind it and comes only from the Nizam—whose "attitude", to quote from the British Resident at Hyderabad in 1926, "leaves but a faint hope that he would, if he realises his dreams of unchecked absolutism, consider the welfare of his people in the least degree"—and the handful at the peak of his feudal pyramid.

APPENDIX I

Letter from the Viceroy and Governor-General of India to His Exalted Highness the Nizam of Hyderabad, dated Delhi, the 27th March, 1926

Your Exalted Highness,

Your Exalted Highness's letter of 20th September, 1925, which has already been acknowledged, raises questions of importance, and I have, therefore taken time to consider my reply.

I do not propose to follow Your Exalted Highness into a discussion of the historical details of the case. As I informed you in my previous letter, your representations have been carefully examined, and there is nothing in what you now say which appears to affect the conclusions arrived at by me and my Government and by the Secretary of State. Your Exalted Highness's reply is not in all respects a correct presentation of the position as stated in my letter of 11th March last, but I am glad to observe that in your latest communication you disclaim any intention of casting imputations on my distinguished predecessor, the late Marquis Curzon.

I shall devote the remainder of this letter to the claim made by Your Exalted Highness in the second and third paragraphs of your letter and to your request for the appointment of a commission.

2. In the paragraphs which I have mentioned you state and develop the position that in respect of the internal affairs of Hyderabad, you, as Ruler of the Hyderabad State, stand on the same footing as the British Government in India in respect of the internal affairs of British India. Lest I should be thought to overstate your claims, I quote Your Exalted Highness's own words: "Save and except matters relating to foreign powers and policies, the Nizams of Hyderabad, have been independent in the internal affairs of their State just as much as the British Government in British India. With the reservation mentioned by me, the two parties have on all occasions acted with complete freedom and independence in all inter-Governmental questions that naturally arise from time to time between neighbours. Now, the Berar question is not and cannot be covered by that reservation. No foreign power or policy is concerned or involved in its examination, and thus the subject comes to be a controversy between the two Governments that stand on the same place without any limitations of subordination of one to the other."

3. These words would seem to indicate a misconception of Your Exalted Highness's relations to the Paramount Power, which it is incumbent on me as His Imperial Majesty's representative to remove, since my silence on such a subject now might hereafter be interpreted as acquiescence in the propositions which you have enunciated.

4. The Sovereignty of the British Crown is supreme in India, and therefore no Ruler of an Indian State can justifiably claim to negotiate with the British Government on an equal footing. Its supremacy is not based only upon treaties and engagements, but exists independency of them and, quite apart

from its prerogative in matters relating to foreign powers and policies, it is the right and duty of the British Government, while scrupulously respecting all treaties and engagements with the Indian States, to preserve peace and good order throughout India. The consequences that follow are so well known, and so clearly apply no less to Your Exalted Highness than to other Rulers, that it seems hardly necessary to point them out. But if illustrations are necessary, I would remind Your Exalted Highness that the Ruler of Hyderabad along with other Rulers received in 1862 a Sanad declaratory of the British Government's desire for the perpetuation of his House and Government, subject to continued loyalty to the Crown: that no succession in the Masnad of Hyderabad is valid unless it is recognised by His Majesty the King-Emperor: and that the British Government is the only arbiter in cases of disputed succession.

5. The right of the British Government to intervene in the internal affairs of Indian States is another instance of the consequences necessarily involved in the supremacy of the British Crown. The British Government have indeed shown again and again that they have no desire to exercise this right without grave reason. But the internal no less than the external security which the Ruling Princes enjoy is due ultimately to the protecting power of the British Government, and where Imperial interests are concerned, or the general welfare of the people of a State is seriously and grievously affected by the action of its Government, it is with the Paramount Power that the ultimate responsibility of taking remedial action, if necessary, must lie. The varying degrees of internal sovereignty which the Rulers enjoy are all subject to the due exercise by the Paramount Power of this responsibility. Other illustrations could be added no less inconsistent than the foregoing with the suggestion that, except in matters relating to foreign powers and policies, the Government of Your Exalted Highness and the British Government stand on a plane of equality. But I do not think I need pursue the subject further. I will merely add that the title "Faithful Ally" which Your Exalted Highness enjoys has not the effect of putting Your Government in a category separate from that of other States under paramountcy of the British Crown.

6. In pursuance of your present conception of the relations between Hyderabad and the paramount power, you further urged that I have misdescribed the conclusion at which His Majesty's Government have arrived as a "decision," and that the doctrine of *res judicata* has been misapplied to matters in controversy between Hyderabad and the Government of India.

7. I regret that I cannot accept Your Exalted Highness's view that the orders of the Secretary of State on your representation do not amount to a decision. It is the right and privilege of the Paramount Power to decide all disputes that may arise between States, or between one of the States and itself, and even though a court of Arbitration may be appointed, in certain cases, its function is merely to offer independent advice to the Government of India, with whom the decision rests. I need not remind you that this position has been accepted by the general body of Indian Rulers as a result of their deliberations on paragraph 208 of the Montagu-Chelmsford Report. As regards the use of the term *res judicata*, I am, of course, aware that the Government of India is not, like a Civil Court, precluded from taking cognizance of a matter which has already formed the subject of a decision, but the legal principle, of *res judicata* is based on sound practical considerations, and it is obviously undesirable that a matter which has once been decided should form the subject of repeated controversies between the same parties.

8. I now pass on to consider your request for the appointment of a Commission to enquire into the Berar case and submit a report. As Your Exalted

Highness is aware, the Government of India not long ago made definite provision for the appointment of a Court of Arbitration in cases where a State is dissatisfied with a ruling given by the Government of India. If, however, you will refer to the document embodying the new arrangement, you will find that there is no provision for the appointment of a Court of Arbitration in any case which has been decided by His Majesty's Government, and I cannot conceive that a case like the present one, where a long controversy has been terminated by an agreement executed after full consideration and couched in terms which are free from ambiguity, would be a suitable one for submission to arbitrations.

9. In accordance with Your Exalted Highness's request your present letter has been submitted to His Majesty's Secretary of State, and this letter of mine in reply carries with it his authority as well as that of the Government of India.

Yours sincerely,
(Sd.) READING.

APPENDIX II

STANDSTILL AGREEMENT

Agreement made this Twenty-ninth day of November Nineteen Hundred and Forty-seven between the Dominion of India and the Nizam of Hyderabad and Berar.

WHEREAS it is the aim and policy of the Dominion of India and the Nizam of Hyderabad and Berar to work together in close association and amity for the mutual benefit of both, but a final agreement as to the form and nature of the relationship between them has not yet been reached;

AND WHEREAS it is to the advantage of both parties that existing agreements and administrative arrangements in matters of common concern should, pending such final agreement as aforesaid, be continued:

Now, THEREFORE, it is hereby agreed as follows:—

Article 1.—Until new agreements in this behalf are made, all agreements and administrative arrangements as to the matter of common concern, including External Affairs, Defence and Communications, which were existing between the Crown and the Nizam immediately before the 15th August 1947 shall, in so far as may be appropriate, continue as between the Dominion of India (or any part thereof) and the Nizam.

Nothing herein contained shall impose any obligation or confer any right on the Dominion

- (i) to send troops to assist the Nizam in the maintenance of internal order, or
- (ii) to station troops in Hyderabad territory except in time of war and with the consent of the Nizam which will not be unreasonably withheld, any troops so stationed to be withdrawn from Hyderabad territory within 6 months of the termination of hostilities.

Article 2.—The Government of India and the Nizam agree for the better execution of the purposes of this Agreement to appoint Agents in Hyderabad and Delhi respectively, and to give every facility to them for the discharge of their functions.

Article 3.—(i) Nothing herein contained shall include or introduce paramountcy functions or create any paramountcy relationship.

(ii) Nothing herein contained and nothing done in pursuance hereof shall be deemed to create in favour of either party and right continuing after the date of termination of this agreement, and nothing herein contained and nothing done in pursuance hereof shall be deemed to derogate from any right which, but for this agreement, would have been exercisable by either party to it after the date of termination hereof.

Article 4.—Any dispute arising out of this agreement or out of agreements or arrangements hereby continued shall be referred to the arbitration of two arbitrators, one appointed by each of the parties, and an umpire appointed by those arbitrators.

Article 5.—This Agreement shall come into force at once and shall remain in force for a period of one year.

In confirmation whereof the Governor-General of India and the Nizam of Hyderabad and Berar have appended their signatures.

MIR OSMAN ALI KHAN,

Nizam of Hyderabad and Berar.

MOUNTBATTEN OF BURMA,

Governor-General of India.

COPY OF A LETTER FROM HIS EXALTED HIGHNESS THE NIZAM TO HIS EXCELLENCY THE GOVERNOR GENERAL, DATED NOVEMBER 29, 1947.

I regret that we have not been able to reach a final agreement as to the eventual nature of the association between Hyderabad and the Dominion of India. As Your Excellency knows, I have not been prepared to contemplate accession to either Dominion, but short of this, I have been ready to negotiate with your Government upon any other basis. I am now enclosing a Standstill Agreement which I am prepared to execute if Your Excellency's Government are also prepared to sign it. It is a disappointment to me that after such protracted negotiations we are unable to do more for the present than carry on existing arrangements subject to such changes as the departure of paramountcy imposes. On the other hand it is essential to put an end to the present state of uncertainty and the fact that the Agreement now to be executed is to endure for a year means that both Governments will be able to turn their attention more fully to the problems of administration without constant preoccupation with the question of our constitutional relationship. To that question we shall eventually have to return, but I am confident that, if during the next year our association in accordance with the terms of the Standstill Agreement is marked by goodwill on both sides, we shall be more likely at the end of that period to reach a satisfactory agreement as to the nature of our long-term association. I regard this Standstill Agreement accordingly as founded upon the principle of good neighbourliness and I am sure that Your Excellency and your Government will approach it in the same spirit. By executing this Standstill Agreement I am in no way permanently prejudicing my rights as an independent sovereign, but I am of course conscious that I am in some important respects suspending the exercise of certain of these rights during the currency of the agreement.

2. It is plain that an Agreement in this general form will necessitate a good deal of adjustment in regard to particular arrangements. In this connection I learn that your Government is prepared as soon as possible to negotiate with mine arrangements for the posts, telegraphs and telephones within Hyderabad to be worked as a Hyderabad system in harmony with the Dominion system. There are, in addition, problems about the Hyderabad Forces, both in regard

the troops and their equipment, which our Governments will need to discuss in the light of the fact that on the 15th August 1947, the Hyderabad forces and Police available for the maintenance of internal order could no longer rely upon the backing of the troops stationed in and near the State by the Paramount Power. This question has already been discussed with the Military Adviser-in-Chief and with his successor and I have no doubt that Your Excellency's Government will have no objection to making any necessary adjustments in these respects and indeed in other cases of the same character (having their origin in the exercise of paramountcy functions), which are already apparent or which may come to light in giving effect to the general provision contained in Article I of the Standstill Agreement. So far as arms and equipment are concerned, I understand Your Excellency's Government are ready and willing to provide Hyderabad with the necessary requirements of its Forces and Police. It is only if for any reason the Dominion Government cannot supply such requirements within a reasonable time that I shall approach other sources of supply, and then only after previous intimation to your Government.

3. There is also the question which has been much discussed between my Delegation and the representatives of your Government about diplomatic and trade representatives for Hyderabad abroad. I am prepared to execute the Agreement on the understanding that the Government of the Dominion will take no objection to the maintenance of the Hyderabad Agent-General in United Kingdom or to the appointment of similar representatives in any other country. I shall be prepared to arrange for the complete co-ordination of the work of those representatives with the diplomatic and commercial representatives of the Dominion of India in such countries and to inform you in advance of any representatives whom I may decide to appoint. I am confident that Your Excellency's Government will be equally ready to co-operate with mine in regard to the import and export trade of Hyderabad.

4. There are several matters which have been outstanding between us for some time and which I should like to see cleared out of the way as soon as the agreement comes into force:—

- (I) No Paramountcy functions remain to be exercised nor was the Hyderabad Residency retained except as a house for the British Resident when there was one in the past. In these circumstances I should be glad if your Government would now hand it over to Hyderabad. Suitable arrangements can be immediately made about the Treasury and your Treasury Officials.
- (II) It is urgently necessary that arms, equipment and, in particular, ammunition should be immediately made available to Hyderabad. We have had no supplies since July and the shortage is interfering with the training of the Hyderabad Army.
- (III) In the same way there has been difficulty in securing the importation of "soft" vehicles for the use of the Army and, in the special circumstances of Hyderabad you will appreciate the importance of mobility having regard to the areas to be covered.
- (IV) I understand that the last of the Dominion troops stationed in Hyderabad will be removed in the course of the next month and I shall be glad of confirmation on this matter.
- (V) The transfer to Hyderabad of all jurisdiction within the State was agreed in principle before the 15th August 1947 and was largely effected before that date and has continued since. There are however, some points still outstanding in this regard in relation to Police jurisdiction on part of the Railways which run through the State. I assume that such jurisdiction will be immediately restored to Hyderabad.

5. It is of course manifest that my rights in regard to such matters as currency, coinage and postal rights are in no way impaired by the Standstill Agreement, but I should be glad if Your Excellency would give me an express assurance that the rights to which I have just referred continue undiminished.

6. I shall like to take this opportunity of suggesting that, in relation to passports, the Dominion of India should agree, as a matter of convenience in a question which is becoming urgent, to the Chief Secretary of my Government or some other appropriate officer issuing passports to Hyderabad subjects which would be countersigned by the Dominion.

7. I am sure that in entering into this Agreement both our Governments intend to do all they can to prevent and discourage subversive movements and propaganda in the territory of the other.

8. I know well Your Excellency's interests in all steps taken to abate communal antagonism. It may therefore be of interest to you to know that, in conformity with earlier declarations on my part, I propose to issue a Firman in the immediate future expressing my firm resolve to protect the lives, right and interests of all my subjects, alike, irrespective of caste or creed.

COPY OF LETTER FROM HIS EXCELLENCY THE GOVERNOR-GENERAL TO HIS EXALTED HIGHNESS THE NIZAM, DATED THE 29TH NOVEMBER 1947.

I acknowledge with thanks the receipt of Your Exalted Highness's letter dated 29th November and the Agreement. While my Government and I note that Your Exalted Highness has no intention of acceding to Pakistan, we very much regret that you should have been unable to execute an Instrument of Accession with India. Both my Minister for States in his Statement of the 5th July and I myself in my speech of the 25th July to the representatives of the States have made it clear that it is the earnest desire of the Government of India to maintain the sovereignty of the States and to work with them as full partners in the administration of the three subjects proposed for accession. My Government cordially reciprocate your hope that, given goodwill on both sides the working of the standstill agreement will provide a basis for a satisfactory long term solution. Placed as Hyderabad is, its interests are inextricably bound up with those of India; and my Government hope that before the present agreement expires it will be possible for Hyderabad to accede to the Dominion of India.

2. My Government will be prepared to discuss with your representative as soon as possible the question of handing over the posts, telegraphs and telephones; and also the future strength and equipment of the Hyderabad Forces.

As regards the supply of arms and equipment, the Dominion Government will be able to supply your legitimate requirements.

3. My Government have no objection to your maintaining an Agent-General in London and appointing similar representatives elsewhere, if necessary. In this connection they are very glad to have your assurance, to which you will appreciate that the Government of India attach great importance, that the activities of such representatives will be fully co-ordinated with those of the representatives of the Dominion of India and will be confined to matters properly relating to trade and commerce.

The Government of India are certainly prepared to co-operate with Hyderabad fully in regard to its import and export trade.

4 As regards the points raised in paragraph 4 of your letter, my Government have authorised me to say as follows:—

- (1) My Government gladly agree that the Residency buildings at Hyderabad will be returned to your Government as soon as alternative accommodation promised by you is made available for our Treasury and officials employed there.

- (2) My Government will take the necessary action in regard to the early supply of arms and ammunition for which an indent has been received from your Government.

- (3) My Government will help your Government in securing the vehicles that they require.

- (4) It is the definite intention of my Government that the troops at present stationed inside Hyderabad territory should be progressively withdrawn according to an agreed programme and that the withdrawal should be completed by the end of February 1948 at the latest.

- (5) On the points remaining to be settled regarding the retrocession of jurisdiction, these can be discussed with my Government by your representative as soon as he is appointed.

5. I am authorised to assure Your Exalted Highness that your rights in regard to currency, coinage and postal matters will in no way be impaired by the standstill agreement.

6. My Government will take up the question of passports mentioned in paragraph 6 of your letter. They are fully prepared to assist you in this respect.

7. With reference to paras. 7 and 8 of your letter, the Government of India desire to assure Your Exalted Highness that it is their earnest desire to promote communal harmony and to maintain peace and security, and they will co-operate wholeheartedly with you to that end.

8. I enclose the agreement duly signed by me.

AGREEMENT WITH HYDERABAD

SARDAR PATEL'S STATEMENT IN THE ASSEMBLY

New Delhi, November 29, 1947.

With your permission, Sir, I should like to make a statement on the result of the negotiations with the Hyderabad Government on the future relationship between that State and the Government of India. The House will recall that I stated on the floor of this House that this was the last phase of these negotiations. I am happy to say that an agreement has been reached and I lay on the table of the House a copy of the Agreement, signed this morning as well as a copy of the Collateral letters exchanged between H. E. H. and H. E. the Governor-General.

As the House is aware, it was in July last that we initiated negotiations with the States for their accession to the Dominion of India, which due to the spirit of co-operation evinced by the Rulers resulted in the accession before the 15th August of all States except Hyderabad, Kashmir and Junagadh. We had negotiations with representatives of His Exalted Highness the Nizam also at the same time. I do not wish to take the House through the many phases of the negotiations. I need only say that when 15th August came no agreement could be reached. At the same time, His Exalted Highness the Nizam was anxious not to break off negotiations and accordingly at his request we decided to give him an extension of two months within which to finalise his attitude. When the negotiations were resumed, His Excellency the Governor-General, with the concurrence of the Cabinet, undertook to

continue them on our behalf. He had several meetings with the Delegations sent by His Exalted Highness and about a month ago a complete agreement had resulted but owing to Developments of which the House is aware the old Delegation resigned and a new one was sent by His Exalted Highness the Nizam in its place. During the negotiations with the new Delegation we adhered to be stand we had already taken up and finally the agreement which we have now succeeded in obtaining from the present Delegation is exactly the same as we had negotiated with the old one

Under this settlement, all agreements and administrative arrangements on matters of common concern which formerly existed between the Crown Representative and the Hyderabad State, except the Paramountcy functions, are to be continued as between the Government of India and the Hyderabad State for a period of one year. These agreements and arrangements cover a wide variety of matters including the three subjects on which accession of all the States has been accepted, viz., Defence, External Affairs and Communications.

I know that Hon'ble Members would have been much more gratified if as a result of these talks His Exalted Highness had found it possible for the State of Hyderabad permanently to accede to the Indian Dominion. Such an accession would have been in accord not only with our cherished desire but also with the interests of both the Indian Dominion and the Hyderabad State. We, however, fully appreciated the internal difficulties in the State and consistent with our policy to secure agreement, not by coercion, but as far as possible with the maximum degree of goodwill on both sides and with due regard to the overall position in India, we felt that an agreement of this nature, even for a limited period, would have considerable advantages over the absence of any agreement whatsoever. The period of one year would enable both of us to forge closer relations and would it is hoped, pave the way for a permanent accession.

The settlement makes it clear that Hyderabad does not propose to accede to Pakistan. This, if I may say so, is only right, for placed as Hyderabad is, its destiny is inextricably bound up with that of India.

I fully realise that Hon'ble Members of this House as well as the public outside have been considerably concerned over the happenings in the State in recent months. Now that accord has been reached, I am sure it will have a wholesome effect on the existing situation and will exercise a beneficial influence in the relations between the two communities, both in the State and outside. We can thus put these happenings back in the past and look forward to a relationship in which amity and cordiality will prevail. An atmosphere will thus be created which will enable people who have left the State to return to their homes. I am also certain that as this settlement is intended to serve as the basis of friendly and cordial relations it will be worked in that spirit. We on our part will do our best to secure this end.

I would also like to refer briefly to the fact that proposals for constitutional reforms are now engaging the attention of His Exalted Highness. On this as well as on the question of final accession, I hope he will readily agree that in the ultimate analysis it is the will of the people that should guide his judgment. There are unmistakable signs in several other States of the triumph of this principle and I feel certain that His Exalted Highness will, as becomes a Ruler of his pre-eminent position, set an example which others can follow.

Finally, I am sure the House would like me to place on record our sense of appreciation of all that His Excellency the Governor-General has done in bringing about such a happy conclusion to the prolonged negotiations.

APPENDIX III HEADS OF AGREEMENT

1. *General.*—The Nizam's Government agree that they will, on the request of the Government of India, pass legislation similar to the legislation of the Government of India on any matter enumerated in the schedule attached.

2. If the Nizam's Government fails to pass the required legislation with due despatch, the Nizam himself will forthwith pass the necessary ordinance under his own powers.

3. *Defence.*—The Dominion Government agree to fix the strength of the Hyderabad Army at a figure not exceeding an overall strength of 20,000. The provisions of the Indian State Forces scheme of 1939 will apply *mutatis mutandis* to these Forces and the Government of India undertake to supply arms, ammunition and equipment on the scales and conditions laid down in the Scheme. The Government of India will have the right of periodical inspection and the Nizam's Government will also give all facilities in regard to such inspection and furnish such information and returns as they may be requested to do by the Government of India from time to time.

4. The Nizam's Government agree to limit their irregular forces to 8,000 in addition to ceremonial and household guards. The Hyderabad Government agree that all other formations of a military character shall be disbanded. Progressive steps will be taken for the disbandment of the Razakars within three months; rallies, parades, demonstrations and speeches by Razakars will cease forthwith.

5. It is agreed that the Government of India will not station their armed forces inside Hyderabad State; but, if in an emergency the Government of India wish to station their Forces inside the State for the period of a state of emergency declared in India by the Government of India under Section 102 of the Government of India Act, 1935, this will be agreed to by the Hyderabad Government. In such an event it is further agreed that the Government of India will be willing to pay to Hyderabad nominal compensation for the occupation of buildings in the State and for other services.

6. If, in any emergency as above, Indian Army units are stationed in the Hyderabad State they will be subject to the appropriate Dominion law governing the armed forces of the Dominion.

7. *External Relations.*—It is agreed that Hyderabad's external relations with any foreign country shall be conducted by the Government of India. Hyderabad will, however, have freedom to establish trade agencies in order to build up commercial, fiscal and economic relations with other countries; but these agencies will work under the general supervision of, and in the closest co-operation with, the Government of India. Hyderabad will not have any political relations with any country.

8. *Continuance of existing agreements and arrangements.*—Subject to the above paragraphs, the existing agreements and administrative arrangements in regard to matters of common concern shall continue and will be given effect to by both sides. The said agreements and arrangements shall not cease to have effect on 29th November, 1948, as was provided in Article V of the Standstill Agreement of 29th November, 1947.

On behalf of the Government
of India.

On behalf of the Government
of Hyderabad.

SCHEDULE

A. *Defence.*

1. Any armed forces raised or maintained by Hyderabad, whether within or without the State.

2. Naval, military and air force works.
3. Arms; fire-arms; ammunition.
4. Explosives.

B. External Affairs.

1. External affairs; the implementing of treaties and agreements with other countries; extradition.
2. Admission into, and emigration and expulsion from, Hyderabad, including in relation thereto the regulation of the movements in Hyderabad of persons who are not Hyderabad subjects.
3. Naturalisation.

C. Communications.

1. Posts and telegraphs, including telephones, wireless, broadcasting, and other like forms of communication.
2. Railways of the Government of India in the State; the regulation of the Nizam's State Railways in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of other railways in the State in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.
3. Aircraft and air navigation; regulation and organisation of air traffic and aerodromes; provisions for the safety of aircraft; carriage of passengers and goods by air.

FIRMAN

1. After protracted discussions between my Government and the Government of India, I am now in a position to announce the lines of my policy. I am most anxious to put an end to the uncertainties which prevail as to the nature of the relationship between Hyderabad and the Dominion of India. The views of the Dominion of India have been made clear to me and mine are well known to them. I have now decided to consult the will of my people upon the question whether Hyderabad should accede to India. I shall, therefore, take a plebiscite in Hyderabad on the basis of adult franchise. In order to ensure that the plebiscite is fairly conducted, I shall arrange for it to be held under the supervision of some impartial and independent body. I shall accept the result of the plebiscite whatever it may be.

2. But I am satisfied that more is required than the holding of a plebiscite, in order to restore confidence and tranquillity. I have, therefore, decided to instruct my Government to proceed in accordance with the following principles. In doing so, they will appreciate that the re-establishment of good-will between India and Hyderabad is the object of my policy and is of greater importance than the terms of any agreement which may be reached between India and Hyderabad in accordance with these principles.

- (i) It is my intention to introduce responsible Government in Hyderabad and to that end to establish a Constituent Assembly early in 1949.
- (ii) In the meantime, there should be a reconstitution of my Government as a result of which a new Interim Government will be formed, in consultation with the leaders of the major political parties.

- (iii) My Government has been able to reach agreement with the Government of India on the nature of the interim relationship between Hyderabad and India pending the holding of the plebiscite. This agreement, which involves some modification of the existing Standstill Agreement, has been embodied in a separate document signed by my Prime Minister.

APPENDIX IV

MR. J. V. JOSHI'S LETTER TO THE PRIME MINISTER OF HYDERABAD

My dear Mir Laik Ali,

During my recent tour of Jalna, Aurangabad, Parbhani and Nanded districts numberless incidents of woe caused by the bad elements in Razakars were dinned in my ears repeatedly by victims as well as respectable persons whose integrity I can safely vouchsafe. I am therefore pained to recount below some of the glaring atrocities for your information, I am also convinced from the statements made to me and my personal scrutiny, that the police and the military who are paid from the public revenue to maintain law and order and to protect the lives and properties of the people of the State pay little heed to curb the ever-growing atrocities of life, property, honour or liberty for the peace loving Hindus in these places nor are the latter given even the least assistance by the local authorities to stop the menace. On the other hand, Hindus notwithstanding their possession of licences for firearms are deprived of their weapons by the police even without acknowledgement. Instances are also not lacking where the police joined the Razakars in their depredations of loot, arson, murder, rape and molestation of womenfolk. As a result most of the people have in their despair sought shelter outside the State.

To be brief, let me plainly say that if no firm action is taken by the Government at once to put an end to these terrorist activities, it is as much as the Government has abdicated its powers.

In the Cabinet meeting you protested against my delivering certain speeches in Aurangabad District, particularly the following:—

“There is no denying the fact that some mischievous elements who have entered the Razakars for their selfish ends, have gone out of control and discipline and are taking undue advantage of the situation. I shall not accept the plea that Hindus, congressites or communists are committing these atrocities in the guise of Razakars. It is better we realise our mistakes before it is too late, and try to rectify them. The fears of Hindus are not illfounded, it is these incidents and actions that have shaken the confidence of your Hindu brothers. Mere assurances shall no longer serve”,

In my Parbhani speech I said as follows:—

“I am loyal, and loyalty demands recognising facts to remedy them before it is too late. Hindus are afraid of the Muslims. They have lost confidence and are leaving their homes. They are today sore. The suspicion is due to the events of loot, arson, and murders that are happening in the country today. At Pathri Hindus are looted and are afraid of their lives. At Sailu, the property of Hindus is being given over to Muslims. Wherever I have gone, in these districts, I have come across sad and pitiable

Hindu faces, who come to me with pitiable tales either of loss of their lives, property or fear of their lives. Rape and rapine seem to have become common. My Muslim brothers, you have a noble tradition of tolerance—remove this outside plague that has come in. I regret that my Razakar brothers cannot also escape the blame. Self seeking and mischievous elements that have entered the organisation are exploiting for their selfish interests. They seem to have gone out of control. Razakars mean servants of and defenders of the weak and innocent.

Expunge this rot and live upto the noble ideals set for you by your revered leader."

In the course of my speech at Nanded I have said:—

"The Hindus are afraid and are leaving their homes and running away, their misgivings do not seem to be illfounded. Much that has happened in the country has shaken their confidence. Wherever I have gone, whether Sailu, Manwath, Jintur or any other place, complaints poured in of Hindu houses given over to Muslims, their lands forcibly occupied. Worse is the fate in Pathri, where the people are afraid of their lives and honour. Villages are burnt, fields lie deserted. What I have seen in Loha shocks me, the wholesale loot of entire Hindu Monda, gruesome murder of three Hindus, arson, and rape of women have become intolerable. My Muslim brothers, I beg of you to act and act quickly to weed out mischievous elements which are acting in their selfish interest and to cleanse the Razakar movement of these communal virus."

"You hold ninety per cent. of services, police, military and civil. You my Muslim brothers have a vast militant organisation of Razakars. You possess arms. The Hindus are weak, and helpless. They do not possess arms, where they have, even when licensed, they are dispossessed. They have none to look to. Mere words shall not do. Excuses in defence shall not convince. You have to bring back confidence by your deeds by living upto the noble ideals of our great and wise beloved Ruler, and the Asafia kings that of Unity and Peace."

I joined the Government in the hope that I would be able to do some service to bring about communal harmony and progress in the State. On account of my great respect for Kasim Razvi, I continued to believe you and him that the complaints against Razakars were all false, but I have seen things for myself. A complete reign of terror prevails in Parbhani and Nanded districts. I have seen in Loha, a scene of devastation, which brought tears to my eyes—Brahmins were killed, and their eyes were taken out. Women had been raped, houses had been burnt down in large numbers. My heart wrung in anguish.

I threw in my lot with the present Ministry in the hope of being useful to both the communities, but I am convinced that I am duped. I could never imagine that under your Government this would be the condition of the village after village. People came to me, as a Hindu Minister, and told their woeful stories. I cried. I have spent sleepless nights after I saw this sight. Under the circumstances I cannot continue to lend my name to a Government which is powerless to prevent these heart-rending atrocities which I have seen with my own eyes, and hence I submit my resignation herewith.

Yours truly,

(Sd.) J. V. Joshi,

23rd July 1948.

DETAILS OF ATROCITIES

District : Aurangabad

Village or Town of incident.	
Aurangabad . . .	Two Hindus were brutally murdered by Muslims, immediately after my leaving Aurangabad. The Police who took the persons in custody were also threatened. The Subedar Saheb was ultimately forced to release them.
Bidkan . . .	While returning from Pattan to Aurangabad, on my way, at Bidkan, I caught red handed Razakars who were exhorting money from wayfarers.

District Jalna

Jalna . . .	A Hindu watch repairer was shot at blank range by a Pathan, injuring the former seriously. This was without provocation. His condition is serious. Two other persons of the shop have also been reported to be injured. Passengers are being harassed every day and the house of one poor Telanga looted, and the womenfolk molested.
Ambad . . .	Arson and loot committed by the Arabs often in the village.
Jalna . . .	House of Baba Marwadi Sukhapuriwala was looted by Goondas amongst whom were Baba Chaus, Hasan Chaus and Idroos Chaus.

District Parbhani.

Athon . . .	The house and fodder belonging to Kapurchand Kachrual were set fire to and he is not allowed to cultivate his lands. They demand repayment of loans from the poor cultivators, as if they had been given loans.
Sailu . . .	The lives of Rama Pahelwan and Pathar Pahelwan who were looked to for protection by the villagers were plotted against and the two had therefore to leave the place.
Sailu . . .	Sait Gokuldas being one of the victims of Razakars has decided to leave the place.
Kalamnuri . . .	Hindus of Shivala and Kalamnuri forced to leave their homes due to loot by Razakars.
Pathri . . .	Hindus forced and threatened to leave the village by Razakars with the connivance of the Police Inspector, and their houses and property taken possession of by them.
Babalgaoon and Limbagaon.	Abduction of women, forcible possession of lands and property, looting and robbery have become too common here. The local police demand large sums of money for giving protection to the Hindus.
Hatval (Partur Tq.)	Entire property of Achutrao Hatwal robbed.
Sailu . . .	The House belonging to Pusaram Sait Marwari, has been handed over to Muslims who would not allow his servants to remove the grains given from even the other houses. Similar illegal occupation of the houses of Shankarlal Asaram Loya and Mallappa Eshwarappa has been resorted to lately.
Kokar-Jowla, Babalgaoon and Potola, Sarola, Gopegaon of Pathri Taluqa.	Large scale looting has become common in these villages.
Patoda . . .	The lands, houses and property of Govind Laxman Divruju of Patoda village have been looted and his father thrown into the river and beaten.
Hadgaon . . .	All Hindu houses in the village have been looted and the people are in great panic, as the culprits from whom certain properties were recovered have since been released on bail.

- Usod (Jintur Tq.) . Entire property of Hiralal Somani was looted and his house burnt down. He was burnt alive and his family members and children murdered.
- Pangra, Kalamuuri Marwari looted and some people killed by Razakars.
and Ojhar,
(Nanded District)
- Manwath . . . Ramkishen Rambaksh was robbed to the extent of Rs. 11,000 by three Muslims on his way to Jalna.
- Kakar Jowla (Pathri Marwaris Pannalal, Madanlal and Goverdhan robbed of Rs. 50,000
Tq.) by Razakars.
- Manwath . . . Corrugated sheets were taken away from the house when Baboo, s/o Laxman could not pay Rs. 500 demanded by a Rohilla. His life was also threatened by the Rohilla. Similar demands for fabulous amounts are daily occurring by a number of goondas in these parts.
- Sarola Tq. Manwath . Gold bangles of one Badrinarayan were robbed and also his lands taken possession of by two Muslims.
- Borgaon . . . Poor weavers of the village are threatened to pay money at the point of swords.
- Pathri . . . A cart full of Kirana goods belonging to Shankarlal was looted in day light by Razakars.
- Thar, Pathri Taluq . On the 14th and 15th two houses of a Marwadi and a Brahmin were looted by breaking open the locks as the owners had left the place on coming to know in time the planned attack of the Razakars.
- Rampuri, Pathri Taluq Rs. 1,000 has been demanded from Madanlal Kachrulal and Gopulal Bankatlal failing which the Razakars have threatened to loot the village.
- Pathri, Pathri Taluq . Devsi Valji was threatened with death and asked to execute a bond for Rs. 6,000 but he escaped from the place apprehending danger to his life.
- Bhisegaon, (Palm Tq.) Pointing a sword at the neck of his son, Shivilal, s/o Bachulal was demanded Rs. 1,000 which was paid, to the Razakars. They took away the firearms in the house and looted it after harassing the women-folk.
- Pimpri, Parbhani Tq. Property worth about Rs. 4,000 was looted by the Razakars. The Taluqdar who was given prior intimation about the attack did little to prevent it.
- Shari, Mirgapur, Similar attacks by Razakars were made against these villages also.
Pangra, Katneshwar.
- Degaon . . . Three persons of whom Mr. Kharkar was one, were shot dead.
- Hingoli . . . Pujari of the temple was brutally murdered.
- Khujda . . . The police on duty to watch a bridge nearby raided the village and shot down three persons for their having declined to send some women.
- Oundha (Nagnath) . A bomb was thrown on the people assembled for the jatra and five killed as a result of firing.
- Gunda . . . The village was looted and burnt with revongo by the Razakars and some people killed because they had resisted the Razakars from raiding the village previous day.
- Talni, Pangra, Vakodi These villages were the victims of similar incendiarism.
of Kalmnuri Taluqa,
and Bamni of Jintur
Taluq.
- Jhari . . . Fifty acres of land cattle and property belonging to Shamrao Bhavrao Deshmukh were taken possession of by three Muslims.

- Jalavpur (Jintur Tq.) . Same was the case with Dhangar's property by Rahimkhan Rohilla.
- Jintur . . . Villagers are harassed by the Muslim Gundas and property of Devidas Rao and Sadashivrao were looted and houses and gardens were damaged and burnt.
- Dhaiphal, Jintur Tq. . Almost all the houses were looted and burnt.
- Manwath . . . Lands owned by Sham Rao Bapu Rao are damaged and forcibly occupied by Dhers. Similarly those of Murlidhar Abaji are subjected to similar interference.
- Kodagaon . . . Mohanlal s/o Purushotam is prevented from cultivating his land by a Muslim. His house and shop were broken open and looted to the extent of Rs. 15,000.
- Katneshwar . . . House of Maruti Rao looted and property worth Rs. 25,000 taken away by the Razakars.
- Nanded District*
- Mudkhed. . . Twelve persons were murdered near the Police station. One Chandru was killed and thrown in the jungle.
- Nanded. . . Hindu ladies are treated most indecently by the customs authorities during their search while Muslims are allowed freely.
- Kapsi . . . As a revenge against the resistance offered by the Patel of the village, the Razakars raped and molested several women and looted and burnt the village.
- Tamsi . . . Except three houses out of 150, the rest were given away to the Refugees.
- Kalali . . . 72 people were killed by the Razakars after besieging the Deshmukh's house for 84 Hrs.
- Hadgaon . . . 75 per cent of the villagers have left the place out of fear and their houses handed over to the refugees. The house of Gangaram was looted during his absence and his two guns taken away. While there were only about 50 Muslims houses here now nearly (500) houses are in occupation of the Muslims and similarly lands belonging to Hindus are also usurped by the Muslims.
- Chorparwa. . . Patel of the village was called for by the Police and shot dead. Most of the fields lie waste.
- Himayatnagar. . . More than 200 Hindu houses are given over to Muslims.
- Keni . . . The Razakars looted the entire village.
- Nerli . . . The lands of Mr. Digambar Rao s/o Dhondopanth were forcibly taken over and cultivated by the Razakars.
- Kamlej. . . Twenty persons were shot dead.
- Jamli . . . A number of houses were burnt, and one Prabhurao was killed.
- Loha. . . There was a dastardly attack on the village for three days continuously and still it was not prevented by the local authorities who are responsible for law and order. Chamanrao was tied to a wooden pillar and tortured, his eyes pierced and then he was shot dead. Panditrao was also killed. The whole village was burnt and looted. Waman Bhadkamkar received a spear injury and his house looted. Narayan Madiwala's wife was raped by 7 persons in the presence of her relatives.

MR. J. V. JOSHI'S LETTER OF RESIGNATION

My dear Mir Laik Ali,

I hope you will please forgive me if I take this opportunity to explain you the real urge of my inner voice.

You are fully aware that my main aim of life and burning desire is to dedicate myself to work to achieve communal peace and communal harmony. I am a very strong believer in communal unity. I sincerely believe that if a country desires to live in peace and prosperity, and achieve that healthy independence in its true and real form, unadulterated sincere communal peace and harmony is not only most essential but pre-requisite to that end. It was with this desire that I joined the present cabinet.

During the tenure of my office, as you are well aware, in my tours in the districts, I have struggled and struggled hard with all the sincerity of my heart, for that noble cause of achieving and maintaining peace between all communities.

You are aware, that I was continuously offering my most humble services to that effect. It was my misfortune that I could not play that useful role, which I was so anxious to perform. Unfortunately the negotiations with the Government of India seem to have ended for the time being. Everything seems to be in turmoil. Apart from the merits and results of the negotiations with the Government of India, I had always insisted that some sort of internal settlement was absolutely essential. If nothing more, at least the maintenance of law and order to ensure internal peace and harmony, under no circumstances ought to have been overlooked. We can never face both external as well as internal stalemate. I will always wish that internal peace is preserved at all costs to maintain law and order.

It is my misfortune to point out that today I find almost the entire Dominion of our Great Hyderabad in a very disturbed state. Nowhere in the State that idol of peace and harmony is visible amongst the major communities. Internal peace is disturbed. Morale of the people has gone down. Mutual suspicion has ensnared both the communities. During my tours, wherever and whenever I have gone, I have sadly found the lamentable picture of distrust and sorrow. Every Hindu is panic stricken. This panic has to a very great extent not been illfounded. Unfortunately I have noticed every Hindu complaining of inhuman atrocities, arson, murder and loot perpetrated by Goonda elements. Even innocent Hindu women are reported to have been molested. These Goonda elements, in my sincere opinion, have entirely gone out of the control of Government.

As I consider myself the disciple of peace and communal harmony, I consider it to be my foremost duty to satisfy the dictates of my conscience to go amongst the masses and strive with heart and soul to cultivate that noble spirit of communal brotherhood. I think it is my foremost duty to sacrifice even my high post in the Government for this purpose.

During these hard days, social service can be the only factor which can bring about brotherhood, peace and prosperity to our country. When I say I am most loyal to Hyderabad and my beloved ruler, it would become only a pretention, if I failed to act upto that principle. Only he is loyal to the king and country who strives his utmost to attain that communal peace, which is sadly shaken at present in Hyderabad. To this end, I want to devote my entire energy and even at the cost of my life if necessary. I think, therefore that my place is amongst the masses and not in the Government chair.

"WAR" seems to be on the lips of every Muslim brother. But may I know against whom are these preparations of war? Our Hyderabad is surrounded on all sides by the Indian Union. There are hard and fast geographical and historical relations between our Hyderabad and the Indian Union. Almost every Hyderabad, be he a Hindu or a Muslim, has his social and economic relations in the Union of India, which are and shall ever be inseparable. There will be total destruction of the entire structure of peace and prosperity for both, God forbid, if the Government of Hyderabad and the Government of India have to adopt the course of armed conflict. I under no circumstances, wish to be a party to such a disaster. I will fight to the last to attain the noble goal of communal peace and brotherhood, which I am convinced can only bring happiness to our country. I always love peace. I pray almighty God to give us all the strength and wisdom to see clearly our correct path and to fight the battle of humanity.

I have personally very high regards for your capacity and noble ideals. I assure his Most Exalted Highness of my loyalty. I pray for his long life and prosperity. I request and hope that I will be excused by His Exalted Highness and your goodself, who have all this time proved to be my sympathisers and well wishers. I have no other alternative left but to request you to permit me to tender my resignation of office of Minister which I hold at present in the Government. I shall thank you to relieve me of my office and request my beloved Ruler to accept my resignation, as early as possible. God bless the Nizam and my beloved country Hyderabad.

Yours truly,

(Sd.) J. V. JOSHI,

23-7-48.

H. E. Mir Laik Ali,

Prime Minister, Hyderabad-Deccan.

**STATEMENT BY MR. G. RAMACHARI, DATED THE 22ND
FEBRUARY 1948**

My main object in joining the Interim Government was to pave the way for an early settlement between the Government and the people, as represented by the Hyderabad State Congress, which I have served for the past ten years in one capacity or another. I lost no time in opening the subject, in fact I did press the matter for some definite settlement. But I was, I confess, sorely disappointed by the indifferent and evasive manner in which this most important and urgent matter was dealt with by the Government. They would not put their finger on the wound.

Meanwhile, the situation in the countryside continued to deteriorate rapidly. There has been no security of life or property in the State for those who will not practically be slaves. Forces of violence and goondaism were let loose. Arson, loot and murder formed the normal events of the day. Armed men rode round the country spilling death wherever they went. Village after village was burnt down; several villages were abandoned out of sheer fright. Even in the jail the hand of the goonda was at work.

EVIL FORCES ACTIVE

The Majlis Ittehad-ul-Muslemin has openly taken to a policy of militarism preaching fire and sword. A do-or-die Jihad has been proclaimed against every one who opposed the Majlis goal of the establishment of an Islamic State. As if this is not enough, their leader goes on proclaiming that Hyderabad is to be the home of the four crores of Muslims of the Indian Union. His fascist mind does not think of the people who have created this beautiful country with their affection and toil out of mediaeval darkness.

It is this state of affairs that I could not tolerate. I insisted that we ruthlessly suppress all these forces before we could think of any reform or change. Otherwise we had no right to continue as a Government. A Government which cannot offer security and peace to its people had no right to call itself so.

The Majlis Ittehad-ul-Muslemin having accepted the responsibility of office would, I thought, change its time and work for a peaceful settlement of all matters of contention. Two months have now gone by but the expected has not happened. The Majlis has grown more rabid than ever. It now declares that the Majlis and not the Nizam, is our ruler. Their leader indulges in sabre-rattling every day and preaches hatred and war. This goes on unchecked while loyal subjects who desire that the Hyderabad administration should be modernized and secularized get beaten and pushed behind the bars.

All this requires an iron hand and a temperament of steel to deal with. No one else but the Nizam can do this. A little delay will mean further complication and untold misery to the millions. My resignation is an expression of a deep frustration and an emphatic protest; it is also a poignant request to our beloved ruler to come to the aid of the suffering subjects of his in this hour of peril.

APPENDIX V

Catalogue of Border Incidents in regard to which protests have been lodged with H. E. H. the Nizam's Government

1. BOMBAY BORDER AREA

No. and Date of communication addressed to H. E. H. the Nizam's Government	Details of the Incident
I. No. 1/AG/48. dated 9-1-48.	(i) On 6-1-48, H. E. H. the Nizam's Military entered Nagur village in the Bijapur District of the Bombay Presidency and intimidated the Patel of that village. (ii) About the 8th of December 1947, H. E. H. the Nizam's Police entered the village of Chavanbhai in the Bijapur District and carried away 48 sheep, which they subsequently released having received a ransom in the sum of Rs. 400 from one Basappa Naikodi. (iii) On 9-12-47, H. E. H. the Nizam's Police entered the village of Wadgari (Akalkot) and took away one Gangappa Chinnayya Somnal. (iv) On 27-12-47, H. E. H. the Nizam's Military took possession of a bus at a place in the Union territory a few miles from Sholapur, scared away the driver and the cleaner by firing a few shots and pushed away the bus to Tamalwadi Naka in the Hyderabad territory. (v) The State authorities encroached on a cart track passing through the village of Bobalad in the Mandargiri Taluq of the Kurundwad (Junior) State by laying a road so as to connect the two State villages of Jeurgi and Mashan.

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Details of the incident

- No. F. 58-P/48, dated the 29-1-48. (i) On or about 31st December 1947, the Nizam's Police attached to the Tamalwadi Toll Station beat one Mr. Sampat Narayan Bagwe, a Police Constable of the Kasegaon out-post Police Station in the district of Sholapur, while returning to Kasegaon, and relieved him of the official documents which he was carrying at the time.
- (ii) It is further reported that they waylaid the pilgrims who were returning to Sholapur from Tuljapur, and robbed them of their ornaments worth about Rs. 2,000.
- (iii) Also they abducted two Waddar women belonging to Budhwar Peth in Sholapur.
- No. F. 58-P/48, dated 29-1-48. About 7 A. M. on the 5th January 1948, one Ali Mohammed, alias Mamu Rohila, belonging to Malunje in your State fired a shot across the border from the Haibatpur village in the Gangapur Taluka at the villagers in Jainpur village in Newasa Taluka in the District of Ahmednagar, thereby causing injuries to two persons, Zumber Bhulba Bhi and Mathi Bhi. He was at the time accompanied by the Nizam's police.
- No. D. 177-P/48, dated 13-2-48. On the 19th December 1947, while 4 persons belonging to Mushigeri village, Dharwar District, were proceeding to Gudur, they were arrested by H. E. H. the Nizam's Police at Gaggaladoni and relieved of their horses and the bundles of sarees which they were carrying for sale at Gudur. They were, however, released subsequently but their sarees and horses were not returned to them.
- No. F. 58-P/48, dated 6-2-48. On the 23rd December 1947 about 50 to 60 soldiers of H. E. H. the Nizam's Military raided the village of Ainapur in Sindgi Taluka, Bijapur District, forcibly entered into the house of the Police Patil of that village expecting to be able to find State Congressmen there, demanded the Police records from him, and wandered about in the village threatening the villagers.
- No. F. 58-P/48, dated 6-2-48. (i) At about 8 P. M. on the 8th December 1947, H. E. H. the Nizam's police opened fire at Urni on the villagers of Sirur, Ahmednagar District, about 300 in number, while they were returning home from Takli, where they had gone to attend a meeting addressed by one Mr. Nana Ramji Patil. As a result of the firing one Nathu Gane Gadekar was killed while his companion Shankar Ganesh was injured.
- (ii) Earlier on the same day, at about 10 A. M. when the villagers of Sirur were proceeding to Takli, they were relieved of their lathis at Urni by the Nizam's police, who promised to restore them on their return from Takli.
- No. F. 108 (3)-P/48, dated 20-2-48. (i) About the 12th January 1948, a batch of 9 Arabs belonging to H. E. H. the Nizam's military raided the village of Sonna, Bijapur District, extorted an amount of Rs. 225 from one Gurulingappa Kinagi of that village and also forcibly removed from his house about 3 maunds of gun-powder. They have also intimidated the Hindu residents of that village and extorted from them an amount of Rs. 150.
- (ii) On the 29th January 1948, two persons, namely Andanappa Kalkappa Kalakareddi and Yellappa Kumber, while they were proceeding from Mundrigi to Gudlaur, were beaten by the State Police while they were still within the limits of the Union territory and relieved of an amount of Rs. 50.
- (iii) On the 31st January 1948, the Nizam's Military raided the village of Bilawad in Bijapur District, looted the house of the Patel of that village and set fire to Government records therein.
- No. 285-P/F. 108, (3)/48, dated 28-2-48. (i) On the 9th January 1948, one Gollappa Shidramappa Padshetti of Golgeri, Sindgi Taluq, District Bijapur, was manhandled by the Nizam's State Military at Hire-Allapur, a village in the State, where he had been on private business, with a view to obtaining information regarding the police and the Home Guards detailed for Bandobast duty at Golgeri.

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Details of the incident

(ii) On the 17th January 1948, at about 6 P.M., Channappa Madiwalappa Kori, Sharnappa Irappa Balabatti, Imamsa Maktumsab Tangadagi, Maktumsab Imamsab Tangadagi, Manasya Halleppa and Nagappa Ningappa Shirsagi, villagers of Honmalli, Singi Taluq, were working in a field belonging to one Dastagirsa Darga in the village of Kulgeri in the State, when they found about 40 men belonging to the Nizam's Military including some goondas, advancing towards them. They fled but were soon overpowered by the Military and taken to a Darga situated about 2 to 3 furlongs from Honmalli village, and beaten with a view to obtaining information regarding the activities of the State Congress. To intimidate them, the Military fired two shots in the air. At about 8 P.M., Imamsa Maktumsab Tangadagi and his son Maktumsa Imamsa Tangadagi were released, but the remaining 4 persons were detained till midnight. On the intervention of Dastagirsa Durga, they were later released.

(iii) On the 13th January 1948, Bandu Kashinath Deshmukh, Tatyasa China Bhavar and Asman Asraji of Sulki village, Taluq Shevgaon, District Ahmednagar, were searched by the Hyderabad State Customs sepoys at Mahar-Takli in the Taluq of Paithan, District Aurangabad. Of these men, Bandu Kashinath Deshmukh was tied and detained whereas the remaining two escaped and fled to Suklu.

(iv) On the 1st February 1948, some goondas assisted by the State Police raided the village of Tadwal, Sholapur District, shot dead one person and looted some others. When the Sub-Inspector of Pangri arrived on the scene, with his men, the State Police opened fire on them. The raiders visited the village in two buses belonging to the Nizam's State Railway.

9. No. 125-S/48, dated 7-3-48.

On the morning of the 2nd March 1948 about 60 men of the Nizam's Police fired on the Bombay Government Armed Police party of 9 men stationed at Halkori (Gajendragad Police Station) without any provocation and also on villagers. The Bombay Police party exchanged firing till all their ammunition exhausted. In the result, three of the Bombay Policemen were shot dead by the Nizam's Police and their bodies were removed to unknown places.

10. No. 427-P/F 108 (3)/48, dated 10-3-48.

(i) On 15th February 1948, while the Tahsildar of Ashti (Nizam's State), camped in the village of Loni, with a party of about 10 Sepoys, in connection with the collection of land revenue, 4 of the Sepoys chased the villagers into the adjoining Union village of Mandve in the Ahmednagar Taluka. While returning from Mandve village, the Sepoys caught hold of one Kesu, a Mahar of that village, and dragged him to the threshing floors of Manaji Krishnaji Nimse and Khashaba Rabaji Nimse, whence they too were forcibly carried away to Loni. Before reaching the village of Loni, one of the Sepoys hit Kesu with a stone who thereupon fell on the ground bleeding profusely. Manaji and Khashaba were taken to Loni and released in the evening. Hardly had they entered the limits of Mandve when they were fired upon by the Sepoys. Khashaba was killed on the spot while his companion Manaji was seriously injured.

(ii) On the 11th February 1948, 16 men belonging to H. E. H. the Nizam's Police trespassed into the village of Turk Pimpri in the Sholapur District and forcibly carried away (i) Abdul Ambir of Pimpri, (ii) Bhagwant Keshav Patil of Jamgaon and (iii) Bapurao Tulsiram Chavan of Jamgaon.

11. No. 1306-P/F. 108(3)/48, dated 15-5-48.

(i) On the morning of the 5th April 1948, one Dnyanoba Tatyasa Naik-wadi who was working in his fields within the limits of Kaudgaon village, Barsi Taluq (adjoining Khanapur village in Osmanabad District), was shot dead by some unknown persons, and when the villagers sought to collect the corpse, they were met by showers of bullets fired from across the border.

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Details of the incident

(ii) On the 10th April 1948, at about 4-30 P.M., a party of about 300 armed men from Osmanabad District trespassed into the limits of Kaudgaon village and fired indiscriminately for about 3 hours, using machine guns and rifles. The Union Police stationed in this village repulsed the attack.

12. No. 1470-P/F. 108(3)/48, dated 19-5-48.

At about 7-30 A.M. on the 3rd April 1948, three Hyderabad State Police Constables (two in uniform and one in plain clothes) trespassed into the limits of Byadgihal village in Sindgi Taluq, Bijapur District, stopped a bullock cart transporting oil-seeds from the State to the Union territory and forced the cartmen, Ningappa and his brother Sharnappa, to unyoke the bulls. On receipt of this news, the residents of Byadgihal village came out in a body to the spot when the State Police Constables released the cartmen, while the plain clothesman, whose name is reported to be Davalsab Mujavar crossed over into the State border. On seeing their colleague bringing in a party of 10 or 12 State Army personnel to their aid the two Constables fired on the villagers, injuring one Kalyanappa Gangappa Asangihal in the wrist. Meanwhile, the Bombay Province Armed Police on patrol duty arrived at the scene and chased the two Constables into the State territory. The State Military party who had meanwhile taken up positions on the other side of the border then opened fire on them. The exchange of fire lasted for an hour.

13. No. 1816-P/F. 108(3)/48, dated 24-5-48.

(i) At about 2 P.M. on the 3rd April 1948, some Arabs, presumed to be freshly recruited into the State Police, armed with muzzle loading guns, looted 4 carts carrying grocery articles from Dudhani to Hadalgi on the border near Hadalgi and Nimbali.

(ii) On the 12th April 1948, an armed Police party from Wagholi in State territory, trespassed into the fields within the limits of Yedsi in Barsi Taluq and ordered some residents of the State who had come to attend the weekly fair in Yedsi and were resting in the fields, to return to their homes and assaulted some of them. The owner of the field, Vishwanath Nilu Deshmukh and his two servants, Daji Hari Deshmukh and Govind Genu Deshmukh, who were working in the fields at the time, were ordered to load the bundles belonging to the State Police, and when they refused to do so they were also assaulted. The bundles were then carted away to the State border and on the way, one of the bulls which was weak and slow was left behind and another belonging to one Anna Bajirao of Yedsi was yoked instead. Meanwhile the Union Police stationed in Yedsi arrived on the scene and retrieved the bundles and the bull.

(iii) On the 26th April 1948, some 60 to 70 residents of Dehkri village in State (where arson and murder was alleged to have been committed on large scale) took refuge in Alijapur village in Sholapur District. On the 27th April, at about 8 A.M. fire was opened on the Hindu locality of Alijapur from across the border by some persons (presumably State Military or Police) armed with powerful and long range weapons. As a result, 4 villagers, Laxman Narayan Vanve, Devidas Ramchandra Chandani, Sada Tulshiram Mahar and Hari Ramchand Ghuge, were killed and 4 others, Ramchandra Ghuge, Bhanudas Yesu Vanve, Yeshwant Ramchandra and Sarubai, w/o Narayan Vanve, received injuries. 30 houses and 5 stacks of kadbis were burnt by the raiders.

14. No. 1816-P/F. 108(3)/48, dated 24-5-48.

On 14th April 1948, at about 12 noon, the villagers of Sarola in Osmanabad District, close to Kajale in Sholapur District, came to Kajale for shelter as their village was looted by goondas consisting of Razakars, Deendars and Arabs from the State. At 1 P.M. a band of Razakars, State Military and Police personnel came near Kajale and opened fire. The police party belonging to Kajale with 20 to 30 villagers armed with sticks went out to repulse the attack, with the result one Police constable was shot dead by the goondas who were in

No. & date of the communication addressed to H.E.H. the Nizam's Government	Details of the incident
	over-whelming numbers. Fire was opened by the goondas from 3 sides and the villagers and the Police party began to retreat. While retreating, one more Police constable and 6 villagers were shot down. The dead bodies of the two Constables and 4 villagers were taken away by the Razakars in a truck along with the arms and ammunition belonging to the Police. Besides, 4 more villagers of Kajale were injured in the attack and were admitted for treatment in the Barsi dispensary.
15. No. 1705-P/F. 108(3)/48, dated 7-6-48.	On the 8th May 1948, 20 cartmen and 6 other villagers (including a woman), all residents of Mangrul, an Union enclave village in the State, while proceeding to Sholapur were detained by the State Police and taken to Tamalwadnaka and their 20 carts containing foodstuffs like jaggery, groundnut, jowar, wheat and groundnut oil were seized. The District Superintendent of Police, Sholapur, deputed on the 10th May 1948 his Deputy Superintendent of Police to enquire into the matter. The Deputy Superintendent proceeded on the same day to Tamalwadi in a police lorry with a party of police constables and, as he neared the naka, signalled his approach to the State Police party stationed there in a manner which they could easily recognise. However, when the lorry was about 150 yards away from the naka, the State Police opened fire and continued to do so despite the Sholapur Police signalling and shouting to stop the firing. As there was no hope of contacting the State Police, the Deputy Superintendent was forced to return to Sholapur.
16. No. 5016-P/F. 108(3)/48, dated 5-6-48.	(i) On the 1st May 1948, the Police Sub-Inspector at Kanapur Customs naka (in Tuljapur taluq, Osmanabad district) detained a lorry belonging to Mr. B. L. Karadi, an excise contractor of Sholapur while engaged in transporting toddy from Arali, an Union enclave village in State territory, to Sholapur, and removed the lorry and the driver to Osmanabad. (ii) On the 13th May 1948, another lorry belonging to the same contractor (Mr. B. L. Karadi) of Sholapur was detained in similar circumstances and taken to Osmanabad. As a result of these unlawful detentions, the contractor has suffered a loss of about Rs. 28,000.
17. No. F. 5013-PF. 108(3)/48, dated 11-6-48.	(i) On the 21st May 1948, one Bhagwan Appa Bhore of Upale, an Union enclave in State territory, who was passing by the Customs naka at Alani, was detained and assaulted by the Police and the Razakars stationed in the Naka. (ii) On the 21st May 1948, 2 she-buffaloes valued at Rs. 300 belonging to one Mahdeo Shirmurti were forcibly taken away by the Razakars stationed in the Customs naka at Dhoki, while they were grazing in the fields of Tadvale village in Barsi Taluq. (iii) On the 23rd May 1948, one Indravahan Ratnaji Gire of Mard (Sholapur Taluq) and his mother Manjulabai, who were passing the Customs naka at Nanaj, were detained and assaulted by the Police and Razakars stationed in the naka and relieved of Rs. 20.
18. No. 5101-P/F. 108(3)/48, dated 15-6-48.	(i) One Mr. Gopal Shankar Karanur of Kasegaon, Sholapur District who visited Tamalwadi in State territory on the 2nd May 1948 to make enquiries regarding the availability of kerosene oil, was laid hold of by the Razakars, belaboured and taken to the Police Station where the Police Sub-Inspector threatened him with death if he did not reveal the real object of his visit to Tamalwadi. The Razakars then tied the hands and feet of Mr. Karanur, carried him some distance away from the Police Station on the road to Ule village, shot him through the hands and brought him back to the Police Station, where he was detained till the next morning. On the morning of the 3rd May, he was again threatened by the Police Sub-Inspector and Razakars, and taken to a house in Tamalwadi from where he escaped after bribing the Razakars with his wrist watch. On reaching Gangewadi in Kasegaon Taluq, he met an armed party of the Bombay Police who sent him to the Civil Hospital at Sholapur for treatment of the injuries inflicted on him by Razakars.

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19. No. 5103-P/F. 108(3)/48, dated 15-6-48.	On the 15th May 1948, an armed party of 30 persons, consisting of Razakars and a State Military personnel, raided Animadu a border village in Sindgi Taluq, Bijapur District, forcibly entered the house of the Police Patil and burnt his records, looted cash and gold ornaments valued at Rs. 915, from the houses of some villagers and forcibly carried away into the State territory 18 persons of whom 15 were subsequently released.
20. No. 5089-P/F. 108(3)/48, dated 15-6-48.	On the 26th May 1948, one Pandurang Gurao of Dudhani village and another merchant of Tolnur village, who were proceeding from Dudhani Bazar to Tolnur in a cart, were set upon by a band of 20 Razakars and robbed of cash and properties valued at about Rs. 1,200.
21. No. 5087-P/F. 108(3)/48, dated 21-6-48.	(i) On the 20th April 1948, an armed party consisting of three State Military personnel and two Razakars ambushed one Laxman Siddappa Hargol of Devangaon village in Sindgi Taluq, Bijapur District, while he was going to the river Bhima with 30 goats, and carried away by force towards Afzalpur in Gulbarga District 5 goats. On entering the State territory the miscreants released four of the goats and took away with them one. (ii) On the 7th May 1948, an armed band consisting of 25 persons from Javali village in the State territory attempted to raid the village of Jalgaon Pra. Kannad in the East Khandesh District, but withdrew when the villagers sought to offer resistance. (iii) At about 9-30 P.M. on the 13th May 1948, an armed band from the Hyderabad State territory opened fire on Bhokangaon village in Chalisgaon Taluq, East Khandesh District, but were beaten back by the villagers who returned the fire.
22. No. 5126-P/F. 108(3)/48, dated 22-6-48.	On the 25th April 1948, some Arabs from Kevad village situated in the Hyderabad State territory on the left bank of the river Sina opened fire on the residents of Undergaon village, situated on the other bank of the river, in Madha Taluk, Sholapur District, killing 3 persons and causing injuries to 4 others.
23. No. 5125-P-1/F. 108(3)/48, dated 22-6-48.	On the 18th April 1948, one Shivling Maruti Mashalkar, who was proceeding from Sholapur to his home in Mangrol Taluq by motorcycle, was arrested by the Hyderabad State Police at Tamalwadi and detained in the Tuljapur Sub-Jail.
24. No. 979-P/F. 151/48, dated 26-4-48.	In April 1948, 13 bags of groundnut, of which 7 belonged to one Kankangouda Mallesagouda, Patil of Hirekot in Ron Taluq and the rest to Irappa Balappa Pattar of Hiregoudar in the same Taluq, were seized by the military authorities of the Hyderabad State while being transported by carts from their villages in Ron Taluq of Dharwar District to Gajendragad and Badami. The groundnut in question was the produce of the Bombay Province and it was not possible to export it to Gajendragad or Badami except by the road passing through the Hyderabad State.
25. No. F.151-P/48, dated 7-5-48.	On the 29th April 1948, while 12 persons from Upale village in Sholapur District were transporting 54 bags of groundnut, in bullock carts, to Barsi in Sholapur District, they were waylaid in the intervening State territory by a party of goondas who seized the bullocks, the carts and the nuts and forcibly removed the cartmen to Osmanabad.
26. No. F.151(1)-P/48, dated 22-7-48.	On the 12th May 1948, two motor trucks belonging to one Narashingrao Shamrao Chakkul of Sholapur, which were returning from Murum in the State territory with groundnut bags, were held up at Nadimgaon by the State Police who unloaded the trucks and drove them away after chasing away the drivers. These two trucks and four others similarly seized by the State Police are now being used by the Razakars for raids on Union villages on the borders of the State.
27. No. 5148-P/F-108, (3)/48, dated 30-6-48.	(i) On the 14th April 1948, one Shankarappa Hanamantappa Chitrali, an oil dealer of Mandargi, who had gone to Belegatti in the State to collect his dues, was arrested by the Sub-Inspector of the State Police at Alawandi, at the instance of one Jandisab Imamsab Jalihal.

No. & date of the
communication ad-
dressed to H. E. H.
the Nizam's
Government

Details of the incident

- (ii) On the 7th May 1948, a party of Muslim goondas from the Hyderabad State territory attempted a raid on Mardi village in the Sholapur District, but withdrew when the Union Police stationed in the village sought to offer resistance.
- (iii) On the 11th May 1948, one Kundalik, younger brother of Govind Pharid Bhalerao of Kasba Tadvale in Barsi Taluq, was abducted by the Hyderabad State Police while he was working in his fields.
- (iv) On the 12th May 1948, about 15 sepoys belonging to the Hyderabad State Army visited Kodaganur in Dharwar District, threatened the residents of Ron and Halkeri villages, who had come there to attend a wedding, fired a shot at the Police Patil of Kodaganur, who however escaped, and broke up the marriage party.
28. No. 5161-P/F.108 (3)/48, dated 29-6-48. (i) On the 29th May 1948, 4 armed Razakars trespassed into the limits of Kakrambe village, an Union enclave forming part of the Sholapur District, threatened and belaboured one Damu Girjappa Bandgar and drove away 32 sheep belonging to one Sopan Devrao Zade of Kakrambe, while they were grazing there.
- (ii) At about 1 A.M. on the 31st May 1948, some Razakars from the Hyderabad State territory attempted to raid Mardi village in Sholapur Taluq, but retreated when the Union Police patrolling the border resisted by opening fire on them.
- (iii) At about 11 A.M. on the 1st June 1948, about 15 armed Razakars from Mashal village in Afzalpur Taluq, Gulbarga District, trespassed into the limits of Tolnur village (under Karjagi outpost, Akalkot Police Station) and drove away 2 bullocks and 1 buffalo belonging to one Nabisaheb Saifansaheb and 10 goats belonging to one Sayyad Saheb Dawalsahab, both of Tolnur. The Union Police party which rushed to the spot was fired upon by the Razakars.
29. No. 5225-P/F.108 (3)/48, dated 10-7-48. (i) At about 8-30 A.M. on the 7th June 1948, an armed band of 60 Razakars opened fire on Dudhani village in Sholapur District from a hill near Dudhani railway station; but when the villagers and the Police party stationed in the village sought to offer resistance the raiders beat a hasty retreat towards Nimbai village in Gulbarga District.
- (ii) At about 9-30 A.M. on the 9th June 1948, a convoy of 19 carts loaded with oilseeds and other commodities and accompanied by 30 villagers, proceeding from Hadalgi, an Union enclave in the State territory, to the Dudhani market, was, while crossing the intervening State territory, attacked at a place called 'Arab Nala' by an armed band of Razakars. The Union Police party escorting the convoy returned the fire. The convoy was however broken up and while some of them reached their destination, 7 carts and 9 villagers fell into the hands of the Razakars who took them to Arjungi village but released them later. During the clash, Head Constable Kushab Sifarmand, Constable Nivritti Ghorpade of the Bombay Police received bullet wounds.
- (iii) On the 10th June 1948, the Special Duty Sub-Inspector of Akalkot and 16 policemen of the Bombay Police, returning from Hadalgi, where they had proceeded on duty, were fired upon by Razakars from behind the hillocks on either side of the road at "Arab Nala" mentioned in item (ii) above. The Bombay Police returned the fire and in the encounter one Constable Bajirao Tatya received a bullet wound.
- (iv) At about 1 A.M. on the 12th June 1948, an armed band of 100 Razakars, raided Tadvale village of Sholapur District, an Union enclave in the State territory situated about one and a half miles from Tuljapur in Osmanabad District from whence the raiders came

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Details of the incident

- The villagers first moved the women and children to places of safety in the adjoining fields and put up a stout resistance, but had to abandon the fight and take refuge in the fields in the face of heavy firing by the raiders. The Razakars then entered the village and looted the houses and returned to Tuljapur with cash, ornaments, etc., valued at over Rs. 2,000.
30. No. 5339-P/F.108 (3)/48, dated 19-7-48. (i) On the 8th June 1948, 4 Razakars armed with axes, trespassed into the limits of Honsal village in Sholapur Taluq and forcibly carried away a bull belonging to one Gurubus Maruti Kanade of that village.
- (ii) On the 14th June 1948, an armed band consisting of about 100 Razakars and State Police trespassed into the limits of Sanganner under Vairag Police Station, and as they began to carry away about 30 cattle in all, the Union Police stationed in the village opened fire on them. The miscreants exchanged fire with the Union Police for some time but subsequently withdrew into the State territory.
- (iii) At about 6 P.M. on the 14th June 1948, an armed band of about 70 Razakars trespassed into the limits of Tandulwadi village in Sholapur Taluq and opened fire on the villagers working in the fields. The Union Police Party which rushed to the spot on receipt of this news was also fired upon by the Razakars, whereupon an exchange of fire ensued. The raiders subsequently withdrew into the State territory under cover of fire.
- (iv) At about 9 A.M. on the 17th June 1948, an armed band of about 60 Razakars attacked Kasegaon village, in Sholapur Taluq, when the Union Police party stationed in the village engaged them. On receipt of this news, the District Superintendent of Police, Sholapur, rushed to the spot with reinforcement, but on sighting them, the raiders retreated towards Tamalwadi Naka, firing as they went, and the resulting exchange of fire lasting for about half an hour.
- (v) On the 17th June 1948, one Sidram Kalappa Tirthe of Kesarjawalge, an Union enclave in the State territory under Valsang Police Station, was, while working in his fields, abducted by some Razakars and taken to Jamge village in Gulbarga District and done to death. His corpse was later found in his fields.
- (vi) On the 18th June 1948, an armed band consisting of about 200 Razakars and State Police personnel, raided Musti village under Valsang Police Station, Sholapur District, whereupon the Union Police camping in the village launched a counter-attack on the raiders. After some exchange of fire the raiders retreated towards Itakal village in Osmanabad District.
- (vii) At about 1-30 A.M. on the 21st June 1948, an armed gang of about 20 Razakars trespassed into the limits of Yedshi village in Barsi Taluq, but soon fled, when the Union Police who were camping in the village opened fire on them.
- (viii) On the 24th June 1948, the Police Sub-Inspector of Akalkot and party, who visited Vegadri village to hold an inquest over three corpses found within the limits of the village, were suddenly fired upon by an armed band of Razakars from the Hyderabad State. The Sub-Inspector returned the fire, whereupon the Razakars retreated towards Hiroli village in Aland Taluq, Gulbarga District.
- (ix) On the 1st July 1948, a band of nine Razakars was engaged in lifting cattle from the fields within the limits of Mardi Village in Sholapur Taluq, when a cow-herd boy named Revan Sadashiv Gulve, who noticed this, went to fetch his brother. On his return, the boy was abducted by the Razakars, taken to their camp and shot dead.
- (x) At about 11 A.M. on the 30th June 1948, an armed band of Razakars trespassed into the limits of Arali village and while they were driving away some 200 cattle grazing in the fields, the Union Police and the village defence party rushed to the spot when they were fired upon by the Razakars. After some exchange of fire the Razakars fled, leaving the cattle behind.

No. & date of the communication addressed to H. E.H. the Nizam's Government	Details of the incident
31. No. 5402-P/F.108 (3)/48, dated 22-7-48.	(i) At about 2 A.M. on the 30th May 1948, the Union Police party stationed in Pimpalwadi Village in Barsi Taluq, on seeing an armed band of Razakars stealthily approaching the village from Yermala in the State territory, challenged them, whereupon the Razakars opened fire. The Union Police returned the fire. At the same time some more Razakars who had entrenched themselves in the fields and hills surrounding the village also opened fire, as a result of which Constable Sakharan of the Sholapur Police was killed, and one Bapur Sopan Dange of Pimpalwadi who was sleeping in the premises where the Union Police were stationed, received serious gun shot wounds. (ii) At about 2 P.M. on the 4th June 1948, two Razakars were found lurking in suspicious circumstances on the outskirts of Jategaon village in Ahmednagar District, whereupon the residents of the village and the Union Police stationed there chased them with a view to apprehend them. Four other Razakars who were taking cover in a trench nearby immediately fired on them, but retreated when the Union Police returned the fire. (iii) At about 12 NOON on the 6th June 1948, an armed party consisting of Razakars and the Hyderabad State Military and Police personnel raided Bhilwad Village in Bijapur District, looted six houses and carried away cash and some properties. (iv) At about 9 A.M. on the 17th June 1948, a party of Razakars and Hyderabad State Military personnel numbering about 40 (including five mounted sowars) pursued some State subjects, from Magangeri village in Gulbarga District into the limits of Khainpur Village in Sindgi Taluq, Bijapur District and opened fire on them while they were in the Union territory causing injuries to one Chandragupta Rajendra. The State Military also fired at Khainpur Village, when the Union Police party stationed in the village retaliated, the raiders, withdrew into the State territory. (v) At about 10 P.M. on the 21st June 1948, an armed band of about 150 Razakars from Mahar-Takali Village in the State, trespassed into the limits of Sukali Village in Ahmednagar District, threw a hand grenade and opened fire on the village. When the village defence party sought to offer resistance, the raiders beat a hasty retreat. (vi) At about 9-30 A.M. on the 23rd June 1948, an armed party consisting of 60 Razakars from Umbrepur Centro and 10 policemen from Chakal-Amba Police Station in the State territory opened fire without any provocation on Sukali Village in Ahmednagar District from across the border near Mahar-Takali village in the State, but took to their heels on sighting the Union Police and the residents of the village preparing to counterattack them.
2. THE CENTRAL PROVINCES BORDER AREA	
1. No. 497-P/F. 108 (1)/48, dated 13-3-48.	On the 20th February 1948, one Dagdu, Constable No. 370 of Basmatnagar Police Station in the Parbhani District was found masquerading as a Sadhu at Rajgaon within the limits of the Basim (Akola Police Station). When accosted, he described himself as a Sadhu from Kanarkheda, Basmatnagar Taluq, Parbhani District. On further interrogation by the local Police, he explained that he was deputed to trace offenders who had escaped from his custody on 8-2-48. He produced his Badge Number as also an appointment certificate which seemed to have been originally issued in favour of one Virsahai, s/o Sheonarain, then changed to Azmat Khan and again overwritten with the name of Gadu, s/o Sadu. He was carrying with him an order purporting to have been issued to him by the Sub-Inspector of Police, Basmatnagar, and directing him to look for absconders Khemaji, s/o Mungaji and Kishan, s/o Tukaram and produce them if found. He has been arrested by the local police, pending verification of his antecedents.

No. & date of the communication addressed to H.E.H. the Nizam's Government.	Details of the incident
2. No. 496-P/F. 108 (1)/48, dated 13-3-48.	On the night of the 3rd March 1948, 4 armed men from the State visited the village of Jam, within the limits of Police Station Dhad in Buldhana District, and fired four shots on the villagers while they were engaged in manufacturing gur in their fields. As a result, one Vithoba Syama Maratha was injured in the abdomen and another Kaduba Saduba Maratha on his right wrist. A third bullet hit a bull.
3. No. 49 -P/F. 108 (1)/48 dated 13-3-48.	(i) On the 3rd February 1948, five persons namely Vithalrao Deshmukh, Nathu Maratha, Dajiba Shamji Teli, Baijnath Marwadi and Jairam Marwadi, belonging to the village of Risod in Akola District, visited Jintur in the State to settle the marriage of Jairam's son. Baijnath Marwadi and Nathu Maratha left by train for Risod, on 4th February 1948 via Parbhani, Purna and Hingoli. The remaining members of the party, who left Jintur on 5th February 1948 via Amberwadi and Bamni by bullock cart, were found murdered at a distance of about 2 miles from Bamni. (ii) On 2nd February 1948, one Gopalpuri Gissai, a sadhu, resident of Warud Topha within the limits of the Risod Police Station, was beaten by the Nizam's State Military at Gugul Pipari village where he had gone for begging alms. He was presumably suspected to be a spy. (iii) In the last week of February 1948, one Dattaram Ekoji of Vyad within the limits of Risod Police Station, visited Ajegaon in the State where he was assaulted and detained by Kazi, a police Constable, and released the next morning on payment of an illegal gratification of Rs. 15.
4. No. 612-P/F. 108 (1)/48, dated 22-3-48.	On the 13th March 1948, at about 11 A.M. two constables, viz. Shek Gafoor, No. 118, and Mahmood Khan of the Kanhergaon outpost of the Hyderabad State, crossed over into Akola District and way laid near Basim a cartman and robbed him of Rs. 6 in cash and two sarees worth Rs. 80, at the point of a dagger. A Sub-Inspector of the Akola District Police, who happened to be camping at Rajgaon at the time, rushed to the spot and apprehended one of them, viz. Gafoor, with the dagger and the stolen property, while his companion, Mahmood Khan, managed to escape.
5. No. 605-P/F. 108 (1)/48, dated 24-3-48.	(i) On the 1st March 1948, while Bhagwan, s/o Bhiwsan Lohar of Badgaon, P. S. Dhad, Akola District, was returning to his village from Rajani in the Hyderabad State, with his sister Subhadra, two Customs constables of the State searched him and forcibly took Rs. 25 from him at the point of bayonet. (ii) On the same date, currency notes to the value of Rs. 2,101 and Rs. 1,900 were seized by the Kanhergaon Customs Office from Abdul Ghani son of Ismail Kachhi, of Basim, and Sitaram, Hiralal Marwadi of Ukli, P. S. Ansing, who were on their way to Hingoli, on the pretence that the notes appeared to be stolen property involved in the Unri Bank Dacoity.
6. No. 566,P, dated 20-3-48.	On the night of the 20th December 1947, a police party headed by Mr. Nazimullah, Sub Inspector of Police, Mauzpuri, forcibly entered the hut of Mania Labhani in the village of Dhandarwadi, Buldana District, that the Sub Inspector shot him with a gun and wounded him in the left leg, and that thereafter he was carried away into the State and admitted into the Government hospital at Jalna from which he escaped on the 18th January 1948.
7. No. 952-P/F. 108 (1)/48, dated 22-4-48.	On the 10th March 1948, Yedu Singh Rajput of Jamma, and Kisan Buva of Madh, P. S. Dhad, Buldana District, were, while returning from a visit to Jalna, searched by sepoy of the Hyderabad Army at Waghrol and relieved of annas -/12/- and Rs. 15 respectively at the point of dagger. A sum of Rs. 20 is also reported to have been taken away from them by the Sub Inspector of Police Jalna.

No. & date of the communication addressed to H.E.H. the Nizam's Government	Details of the incident
8. No. 1460-P/F. 108 (1)/48, dated 18-5-48.	(i) At about 10 A.M. on the 17th April 1948, a party of 20 armed muslims and four horsemen crossed the river Painganga and trespassed into the Indian Union territory within the limits of Murli village (Police Station Bittergaon), carried away a pair of bulls worth Rs. 600 and some she-goats valued at Rs. 600 and retreated into the State territory in the direction of Himayatnagar village. (ii) On or about the 29th April 1948, a Komti woman named Vornma of Ankisa, Police Station Sironcha, while proceeding to visit her father in Hyderabad State, was detained by the State Police at Medigatta, relieved of Rs. 15 cash and not permitted to proceed on her journey.
9. No. 108 (1)-P/48, dated 24-5-48.	On the night of the 5th/6th May 1948, fifteen Muslims from Bandi in the State territory armed with muzzle loading guns attacked the house of Mr. Jairam Kunbis in Asola village, Risod Police Station, Akola District, and decamped with property worth Rs. 500.
10. No. 1770-P/F. 108 (1)/48, dated 29-5-48.	(i) On the 26th April 1948, about 35 sepoy of the Hyderabad Army headed by a Tahsildar and some State Police officials visited Ganjapur and opened fire across the river into Yeotmal District on the refugees from the State taking shelter there. The local people returned the fire and the gun battle which ensued lasted for about 2 hours. (ii) On the 1st May 1948, 3 Mahar girls of Mahojabanji in Akola District, who happened to cross the border, were molested by the sepoy of the State Army stationed on the frontier. (iii) On the 8th May 1948, 2 sepoy of the State Army trespassed into the limits of Azizpur village (P. S. Lonar, Buldhana District) and carried away 2 goats valued at Rs. 18, belonging to one Sk. Chandu. (iv) On the 12th May 1948, some Muslim goondas from Paradha in the State, fired 7 shots at village Dhamangaon in Buldhana District; in reply the villagers fired 4 shots.
11. No. 5010-P/F. 108 (1)/48, dated 3-6-48.	On the 19th May 1948, 2 fishermen of Kharbi village in Yeotmal District, while engaged in fishing in the Painganga river, were challenged by a party of 6 or 7 armed men from across the border in Hyderabad State territory, and fired at while they began to run away out of fright.
12. No. 5019-P/F. 108 (1)/48, dated 3-6-48.	On the 11th May 1948, R. S. Chouhan, C. I. D. Inspector of the Buldana District Police, was detained at Asifabad Road Railway Station and his luggage thoroughly searched by the State Police Constable on duty there, although he explained the purpose of his visit and produced a certificate issued by the District Superintendent of Police, Chanda, stating that he was visiting the State in connection with the investigation of a case of forgery involving 4 persons from the State who have since been prosecuted.
13. No. 233-S/48, dated 31-5-48.	On the night of the 28th/29th May 1948, a party of armed raiders from Purad in the Nizam's territory attempted to raid the Dhamangaon village within the limits of the Dhadi Police Station in the Buldana District, but were foiled in their attempt owing to the return of the fire by this Special Armed Force platoon of the Province, stationed in the village.
14. No. 5046-P/F. 108 (1)/48, dated 8-6-48.	At about 1 P.M. on the 27th May 1948, six armed Razakars from Balswami village in State territory, entered Taradkhed Village (under Police Station Dhad in Buldana District), and fired a shot in the air but soon retreated into the State when they saw the villagers gathering for offering resistance to them. Again, at about 3-30 P.M. on the same day, 60 Razakars armed, with muzzle loading guns trespassed into the limits of Taradkhed village but on seeing that the villagers had prepared themselves to meet the attack withdrew into the State territory after firing a shot in the air.

No. & Date of communication addressed to H.E.H. the Nizam's Government.	Details of the incident
15. No. 5115-P/F. 108 (1)/48, dated 17-6-48.	(i) At about 2 P.M. on the 26th May 1948, about 45 armed Razakars opened fire on Januna Village in Buldana District but withdrew when they saw the villagers prepared to meet the attack. (ii) At about noon on the 1st June 1948, three Muslim residents of Sawangi Village under P. S. Parad in the State territory, namely, Wajid Khan, Namdar Khan and Nyamat Khan, trespassed into the Indian Union territory and forcibly carried away 31 heads of cattle belonging to the residents of Satgaon, Kumbephal and Takli Villages in Buldana District, while they were grazing in the fields of those villages. On the representation of the villagers Wajid Khan first released only 7 cows but as a result of the intervention of the Sub Inspector of Police at Dhad in Buldana District, the Village Officers of Sawangi released the remaining cattle.
16. No. 5165-P/F. 108 (1)/48, dated 29th June 1948.	(i) In the second week of March 1948, one Jiwaji Bajaram Kapewar of Kotagundam (under Police Station Sironcha, Chanda District), while on a visit to Madhepur in the State, was arrested and detained by the State Police who later released him after receiving an illegal gratification of Rs. 25 from one of Jiwaji's relatives who had come in search of him. (ii) On the 17th March 1948, Govinda, s/o Punjaji Dohar and Kisan s/o Bhano Dohar, residents of Sinkhed Baja (under Police Station Kingaon Raja, Buldana District), who were proceeding to Jalna and Partur in the State, were severely belaboured by the Customs Officials at Waghrol in the State and relieved of Rs. 7 and Rs. 10 respectively. Govinda is still confined to bed as a result of the injuries received by him. (iii) On the 30th March 1948, an armed party of 12 persons opened fire from a military truck across the river Wardha on Saknur Village (under Police Station Bhada, Chanda District), situated on the other bank of the river and withdrew after firing some shots. (iv) On the 2nd April 1948, one Shankar s/o Bhikusa Munim, of Deulgaon Raja in Buldana District, who was proceeding to Jalna was robbed of Rs. 5,000 by the State Police. (v) On the 12th April 1948, a party of armed Razakars opened fire at Walseongi on the marriage party of one Gulambeg S/o Umanbeg of Deolghat in Buldana District, which was proceeding to Fardapur in the State, killing one and causing injuries to several others. (vi) On the 13th April 1948, one Sonaji Raghoji Dhangar of Rajura (under Police station Jaulka, Akola District) was wrongfully searched by some State Officials at Kanhergaon and relieved of Rs. 25.
17. No. 5172-P/F. 108 (1) /48 dated 29-6-48.	(i) At about 11 a. m. on the 10th June 1948, five armed Razakars from the State, trespassed into Yewta Village (under Police Station Chikli, Buldana District) but took to their heels when the villagers began to chase them. (ii) On the 13th June 1948, an armed band of 40 Razakars pursued some of the residents of Walana Village in the State territory up to the border of Akola District from where they opened fire, without any provocation whatever, on the Special Armed Force Platoon stationed on the Union side of the border. The Armed Force Platoon returned the fire, whereupon the attackers dispersed. (iii) On the 16th June, 1948, an armed band of Razakars from the State trespassed into Warudtopha village in the Basim Sub Division and threatened the villagers. A Special Armed Force Platoon rushed to the spot and gave chase to the raiders who however managed to escape.
3. MADRAS BORDER AREA.	
18. No. 1/AG/48, dated 9-1-48.	On the 1st January 1948, H. E. H. the Nizam's police entered the Union territory near Tiruvur in the Kistna District of the Madras Presidency and fired two rounds as a result of which one was killed. They also took into custody and carried away another person belonging to Tiruvur village.

No. and date of communication addressed to H.E.H. the Nizam's Government

Details of the incident.

- A party of armed men unlawfully entered in the Union territory near the village of Bhagavanulapuram, a hamlet of Tunikipadu in the Kistna District, apprehended 3 persons belonging to the family of one Perala Sivaramayya, seized and carried away the paddy which they were carting to Bhagavanulapuram.
3. No. F. 101-P/48, dated 13-2-48. Also Madras Govt's letter No. 8309/47-2-Public (General A), dated 14-12-47. About the 14th November 1947, two residents of Kurnool, viz. Mr. T. K. R. Sarma, Jt. Secretary, Town Congress Committee, Kurnool and Mr. Pulliah, Office Secretary of the District Congress Committee, Kurnool, were arrested by the Nizam's Government at Atmakurin in the Hyderabad State and detained unlawfully.
4. No. F. 108(2)-P/48, dated 20-2-48. (i) On the 30th January 1948, one Darelli Bichalu of Dundiralapadu (Kistna District), was shot dead by 3 State Reserve constables at Rapalli while he was returning from Nagirikonda in the Hyderabad State where he had gone the previous day to see his eldest daughter. (ii) On the 1st February 1948, the State Police trespassed into Kalvapalli, a village abutting the Miryalagudem-Huzurnagar Road, assaulted a few villagers and abducted three others, who were subsequently released.
5. No. F. 108(2)-P/48, dated 21-2-48. (i) On the 9th February 1948, about a dozen constables of the State Armed Reserve Police are reported to have trespassed into Podur, a border village in Kurnool District, intimidated the villagers with swords and retreated to Sultanpur, a border village in the State. (ii) On the 10th February 1948, from the same village (Sultanpur), some Ittehad-ul-Muslimeen Volunteers raided the village of Satanakota in Nandikotkur Taluk and carried away 12 sheep.
6. No. F. 108(2)-P/48, dated 21-2-48. On the afternoon of the 6th February 1948, a band of about 20 men from the Hyderabad State, armed with guns and swords, raided Kodaprakatur village, a hamlet of Morvakonda in Nandikotkur Taluk of Kurnool District, fired a few shots, looted two houses and carried away property worth Rs. 16,000.
7. No. F. 108(2)-P/48, dated 8-3-48. On the morning of the 25th February 1948, at about 7 A. M. 80 armed men, believed to belong to H. E. H. the Nizam's Military, raided the village of Nadichagi in the Adoni Taluk of the Bellary District. They looted the houses of five persons and carried away properties valued at Rs. 22,990 in all. Further, they inflicted injuries on 14 persons, of whom 6 received serious gunshot wounds. While retreating across the Tungabhadra river into the State territory, two of the dacoits shot at the villagers, as a result of which one Venkamma and another Madibalayya received serious injuries.
8. No. 430-P/F. 108 (2)/48, dated 11-3-48. On the afternoon of the 23rd February 1948, about 50 goondas from the State raided the village of Singavaram in the Nandigama Taluk of the Kistna District, looted 14 houses and carried away properties worth about Rs. 2 lakhs. The raiders attacked the Munsiff of the village and inflicted an incised injury on his left forearm with a sword. With a view to frighten the villagers they also fired a few shots in the air. They also carried away the National Flag which was hoisted on the local Congress Office. The raiders were found retreating in two lorries into the State towards Khammamet.
9. No. 483-P/F. 108(2)/48, dated 13-3-48. About the end of February 1948, one Settupalli Singireddi, a native of Alur, Nandigama Taluk in the Kistna District, was arrested at Jagannadhapuram in the Warangal District, which he visited with a view to see his friends and detained in the Warangal Jail unlawfully.
10. No. 454-P/F. 108(2)/48, dated 13-3-48. On the 23rd February 1948, while Head Constable No. 1052 attached to Jaggayyapet Station (Kistna District) and 5 other constables were proceeding to Panuganchiprolu on bandobust duty in connection with a fair held there, H. E. H. the Nizam's Police detained them at Kodada, made them stand in a row and held an identification parade with a view to find out which of them stopped a car at Nelamarri on the 20th February 1948.

No. & date of the communication addressed to H. E. H. the Nizam's Government.

Details of the incident

11. No. F. 108(2)-P/48, Dated 22-3-48. On the night of the 15th March 1948, about 40 armed men from the State raided the village of Devamada in the Kurnool District, scared away the villagers by firing shots in the air, looted the house of one Narayana and carried away cash, clothes etc. worth about Rs. 1,000.
12. No. F. 108 (2)-P/48, dated 17-3-48. On the 2nd March 1948, H. E. H. the Nizam's State Police visited the village of Mulugumadi in Tiruvur Taluq (Kistna District), and kidnapped 18 persons, some of whom are reported to be women. As they left the village, they fired shots in the air with a view to threaten the villagers.
13. No. 584-P/F. 108 (2)/48, dated 24-3-48. (i) On the 2nd March 1948, the State Military visited the village of Kottapalli in Kistna District and carried away six farm servants of the Karnam of that village to Bhimavaram, where they were interrogated and eventually released. (ii) On the 5th March 1948, one Vangavati Venkataratnam of Siripuram village (Kistna District) was detained by the Kodada Police and beaten with a view to elicit information regarding the whereabouts of certain State Congressmen and Communists. Not having secured any useful information from him they released him on the 6th March. (iii) On the 6th March 1948, one Kumarakunta Saidulu, a merchant of Munagala, was detained by the Kodada Police and assaulted by the Jemadar with a view to eliciting information regarding certain Congressmen and Communists who were suspected to be taking shelter in the Union villages. (iv) On the 14th March, 1948, at about 2 P.M., Sri B. B. Subba Rao, Sub-Inspector, Hospet Town Station and Swamidoss, Police Constable No. 1245, were arrested by the State Police at Kopbal, which they visited in connection with the examination of certain witnesses involved in a criminal case. Notwithstanding the fact that they were in uniform at the time and their remonstrances that they were concerned with merely the examination of certain witnesses, the Sub-Inspector, Kopbal, chose to arrest them and later produced them before the Asst. Superintendent of Police, Kopbal, who ordered their release, after administering a warning that they should not in future enter the State without previous permission.
4. No. 681-P/F. 108 (2)/48, dated 30-3-48. On the 7th February and again on the 21st February 1948, the State Police and Military stationed at Kodada unlawfully intercepted certain prisoners while being escorted by the Madras Police from Munagala to Jaggayyapet and forcibly took them away.
15. No. 716-P/F. 108 (2)/48, dated 3-4-48. At about 10:30 A.M. on the 23rd March 1948, Reddiboyina Narasimham and 6 other residents of Guntur District, proceeded in a ferry from Govindapuram, situated on the banks of the river Kistna, on a visit to Chinthirala Village in the Hyderabad State, and that as soon as the boat reached the other side of the river, they came upon a party consisting of 10 men belonging to the State Reserve Police and 40 to 50 goondas. Out of fright, Narasimham and others jumped into the river with a view to swim back to the Madras border, whereupon the State Police fired some shots at them. All of them, except Narasimham, reached the shore safely. The body of Narasimham, who is suspected to have died as a result of the firing, was washed ashore within the limits of Chinthirala Village on the morning of the 25th March, when the villagers buried it under the orders of the State Tahsildar at Raghunathpalle.
16. No. 108 (2)-P/48, dated 6-4-48. At about 3 P.M. on the 26th of March 1948, while one Ramulu of Thatakulagudem hamlet, Zeelugumilli village of Polavaram Taluk, was grazing his sheep in a field, two men belonging to the State Military accompanied by 20 goondas, trespassed into the field and carried away 10 sheep worth about Rs. 150. Ramulu protested, whereupon one of the Military men jabbed at his back with the butt end of his gun. Ramulu fell down and the 2 military men followed by the goondas retreated into the State territory towards Aswarapet.

No. & date of the communication addressed to H.E.H. the Nizam's Government.

Details of the incident

17. No. 1001-P/F. 108 (2)/48, dated 22-4-48. (i) On the 7th March 1948, when the special Deputy Superintendent of Police Kanchikacharla, and the Refugee Deputy Tahsildar, Nandigama, were proceeding to Lingagiri, their jeeps were held up by the Hyderabad State Police at Huzurnagar. The two officers protested against this action of the State Police and were allowed to proceed after some delay.
- (ii) On the 15th March 1948, when Mr. Mohammed Ismail, Branch Postmaster, Komarabanda Village, Munagala Pargana, was returning from Jaggayyapet where he had proceeded on official duty, he was detained by the Hyderabad State Police at Kodada and searched. Due to the intervention of the Postal Inspector he was released on bail the next morning. Mr. Ismail states that a pamphlet containing prejudicial literature was foisted on him by the State Police.
- (iii) On the evening of the 8th April 1948, Madras Special Police Constable No. 3686, while travelling in a bus from Jaggayyapet to Munagala, was detained by the State Police at Kodada, interrogated about the strength of the Police and the armament position at Munagala, and released the next morning.
18. No. 847-P/F. 108 (2)/48, dated 22-4-48. On the 23rd March 1948, at about noon, a party of five constables of the State Reserve Police trespassed into the Union territory within the limits of Budavada village, Kistna District, lay hold of seven villagers out here hunting in the fields, tied down their hands and forcibly marched them to a place two furlongs away, where another party of 25 constables headed by a Tahsildar and a Tobacco Excise Inspector was stationed. The villagers were interrogated here regarding the whereabouts of certain Congressmen and Communists of the State and subsequently released. The villagers were assaulted with sticks while being marched from the fields to the place of interrogation.
19. No. 1245 P/F. 108 (2)/48, dated 1-5-48. In November 1947, one Kanteti Muttayya of Nidamanur, Bezvada Taluq, when he visited Khammammett for purchasing maize and green gram seeds, was taken into custody as soon as he detained at Khammammett Railway Station and detained in the Nizamabad Central Jail.
20. No. 1436-P/F. 108 (2)/48, dated 8-5-48. At about 1 P.M. on the 21st April 1948, a party of armed Arabs from Huzurnagar in the State, trespassed into the Indian Union territory within the limits of Lakkavaram village in Lingagiri Pargana and carried away by force some buffaloes grazing in the fields. The Arabs, who were given an unsuccessful chase by the Madras Reserve Police and the villagers of Lakkavaram, fired three shots in the direction of their pursuers. The State Officials at Huzurnagar to whom the matter was reported, evaded taking any steps for the return of the cattle, but the Arabs released the cattle after extorting Rs. 400 from the owners.
21. No. 1461-P/F. 108 (2)/48, dated 10-5-48. On the evening of 15th April 1948, when a party of nine pilgrims including 3 women from Velangi village, Ramchandrapur Taluq, East Godavari District, arrived at Borgampahad en route to Bhadrachallam, they were stopped by some State Military personnel, interrogated and searched. As it was nightfall by the time the search was completed, the Military personnel entrusted the pilgrims to a non-descript individual aged about 38 years, to provide them shelter for the night. This person led the party to a solitary building in the village and during the night threatening the pilgrims with a dagger forcibly carried away one of the women, raped her and relieved her of her earrings and Rs. 85 in cash. At day break, he led the party to the river Godavari and warned them that if they complained about the molestation they would be shot. The pilgrims crossed the river and reached Bhadrachalam where they narrated the incident to the local people.

No. & date of the communication addressed to H. E.H. the Nizam's Government

Details of the incident

22. No. 1464-P/F. 108 (2)/48, Dated 20-5-48. On the morning of the 30th April 1948, 2 Constables of the State Police trespassed into the limits of Narsimhulagudem village (in Kistna District), and set fire to the sheds put up in the village by one Nimmaganti Papiash for providing shelter to the refugees from the State. Next, at about 12 noon, a party of the State Army Personnel under the Command of some Officers, visited the village in 4 trucks and 2 jeeps and exchanged fire with the State Congressmen for about two hours, who offered resistance to them.
23. No. 1623-P/F. 108 (2)/48, dated 24-5-48. At about midnight on the 7th May 1948, some 10 men in khaki uniform (apparently State Police Constables) raided Tholasapuram village in Kurnool Taluq, fired some shots in the air when the villagers fled from their houses in panic, assaulted some villagers causing injuries to three, forced their entry into several houses in the village and looted properties valued at about Rs. 1,000 from two houses. The same night, about half a mile away from this village, the raiders waylaid two carts on the Sankesula Road and robbed two persons named Kuruva Jalakanti Chinnanna and Komati Thammayya of cash and ornaments valued at about Rs. 825.
24. No. 1566-P/F. 108(2)/48, dated 24-5-48. At about 7 on the morning of the 8th May 1948, a party of the State armed police from Seethampeta village in the State Territory pursued into the Union territory within the limits of Polampalli village in Nandigama Taluq, some State Congressmen, caught hold of one of them named Surayya, shot him in the chest and left the place. The injured man died at 5 P. M. on the same day while being removed to Polampalli village.
25. No. 1693-P/F. 108 (2)/48, dated 26-5-48. At about 2 P. M. on the 4th May 1948, a party of 3 constables of the Hyderabad State Police in quest of some communists suspected to have abducted three other constables, trespassed into the limits of Lakshmipuram village in Lingagiri Pargana and fired two shots in the air. They then assaulted a shepherd woman named Chintalapaty Pichamma and robbed her of a silver bangle worth about Rs. 15 and assaulted and abducted her husband Chintalapathy Rangayya, who was grazing his sheep.
26. No. 1790-P/F. 108 (2)/48, dated 29-5-48. (i) On the morning of the 18th May 1948, a party consisting of about 10 armed Razakars and some State Police Constables, trespassed into the limits of Jayanti Village in the Kistna District and carried away by force 5 sheep. They also kept under restraint for a while one Adavi Gangayya, one of the owners of the sheep and snatched away his axe.
- (ii) At about 12 noon on the same day (18-5-48), ten persons of Jayanti village working in the fields within the limits of Yerupalem village in the State territory, were kidnapped by some Razakars with the assistance of the State Police.
27. No. 011-P/F. 108 (2)/48, dated 3-6-48. At about 11 P. M. on the night of 22nd May 1948, a party of 6 Razakars trespassed into the fields within the limits of Chinnakothaliki village in Adoni Taluq, Bellary District, pelted stones at the shepherds guarding some 1,000 sheep pinned there, severely assaulted and wounded in the left thigh one of the shepherds, and carried away two rams and one sheep. Immediately on receipt of this news, the police party stationed at Nagaladinne rushed to the spot where they were attacked by armed bands of 50 to 60 Razakars who had meanwhile gathered there. The police party opened fire whereupon the Razakars retreated into the State territory from where they returned the fire.
28. No. 5187-P/F. 108 (2)/48, dated 2-7-48. At about 6 P. M. on the 10th June 1948, an armed party consisting of 4 State Army personnel and 4 Razakars in pursuit of some State subjects, entered the fields within the limits of Vemulanarva village in Kistna District (opposite to Alapad village in the Hyderabad State) and fired about 47 rounds in the direction of the village. The Razakars apprehended one of the fugitives taking refuge in the fields and made him over to the Military who carried him away into the State territory.

No. and date of the communication addressed to H.E.H. the Nizam's Government

Details of the incident

29. No. 5188-P/F. 108 (2)/48, dated 2-7-48. (i) On the evening of the 15th June 1948, an armed party of the Hyderabad State Police trespassed into the fields within the limit of Saravaram village in Lingagiri Pargana and set fire to a cattle shed belonging to a refugee from the State.
- (ii) At about 9 A.M. on the 17th June 1948, an armed party passing along the Aswarapet-Khammamett road in a State Military truck, got down from the truck near Medisettigudem village in West Godavari District, challenged two constables of the Union Police interrogating in the Union territory a suspicious character, opened fire on them, pursued them upto some distance in the Union territory and withdrew before the Special Armed Police reached the spot.
30. No. 5263-P/F. 108 (2)/48, dated 17-7-48. (i) At about 11 P.M. on the 21st June 1948, an armed band of about 100 Razakars opened fire on Tunikipadu village in Kistna District, but retreated towards Venkatapuram in the State territory, when the Special Armed Police stationed in the village returned the fire.
- (ii) At about 9 A.M. on the 22nd June 1948, an armed party of 18 Razakars from Madhira in the State territory attacked Sivapuram hamlet of Anigandapad village in Nandigama Taluq, Kistna District, by firing some shots at random from its outskirts. The villagers grew panic stricken and began to flee, whereupon they were pursued by the Razakars who stabbed a young dhobi and his child, as a result of which the latter died. They also robbed five villagers of their jewellery and tore off one woman's ear lobes while forcibly snatching her ear-rings. As they withdrew they burnt down two huts belonging to Zali Venkanna and Bandi Lingayya and two hay ricks belonging to Cherukuri Anantiah and Mallela Venkiah.
- (iii) On the 22nd June 1948, while the residents of Mote village in the State were fleeing into the adjoining Indian Union territory, the State Police opened fire on them, as a result of which one Bolleddi Ramayya, a Harijan boy, aged about 9 years received a gun shot wound on the left thigh while in the Union territory. The boy has been admitted into the hospital at Munagala for treatment.
- (iv) At about 4-30 P.M. on the 23rd June 1948 an armed band consisting of 100 Razakars and State Police opened fire from Dachinenipalli village in the State territory across the border on Jonnalagadda village in Nandigama Taluk, Kistna District, but withdrew when the Special Armed Police stationed in the village returned the fire.
31. No. 5227-P/F. 108 (2)/48, dated 17-7-48. On the 18th June 1948, one Mr. K. Chalapati Rao of Linga Samudram village, Kandukur Taluq, Nellore District, while he was proceeding from Hyderabad (where he had come on business) to Nellore, was detained at Jadcherla Railway Station by the Razakars, harassed and relieved of his diamond rings etc. of the total value of Rs. 8,100.
32. No. 5423 P/F. 108 (2)/48 (i), dated 23-7-48. (i) On the afternoon of the 25th June 1948, a party of the Hyderabad State Police trespassed, in four motor trucks, into the limits of Narasimbulagudem, a border village in the Krishna District and besieged the huts in which some refugees from Mote village in the State had taken shelter. The State Police laid hold of five of the refugees, forcibly carried them to Mote village and released them after severely belabouring them. Further, they assaulted three women, also refugees from the State and robbed them of their jewels.
- (ii) At about 4 P.M. on the 27th June 1948, led by the State Tahsildar of Nallabandagudem a party of 18 armed State Police Constables trespassed into the limits of Ahnavaram village in Nandigama Taluq and forcibly carried away 126 sheep. The District Magistrate of Kistna has already taken up this matter direct with the Taluqdar of Nalgonda, who promised to enquire into it.

No. and date of the communication addressed to H.E.H. the Nizam's Government.

Details of the incident

33. No. 5423-P/F. 108 (2)/48 (i), dated 23-7-48. (i) On the night of the 18th June 1948, Pothanna, a Gunge Messenger of the Madras Public Works Department, while returning to Kurnool from the Pagatur village in the Mahabubnagar District of the State whether he had proceeded to take readings on the river Krishna, was arrested by the State Customs Officials at Basawapuram and sent to Alampur for detention by the State Police.
- (ii) On the morning of the 26th June 1948, Mr. M. I. Daniel, Revenue Inspector, Jaggayyapet and Mr. Venkateswara Rao, Clerk to the Deputy Tahsildar of Jaggayyapet and Mr. Satyaraju, Assistant Inspector of Excise, Bezvada, proceeded on duty from Jaggayyapet, to the Munagala enclave, by the Mail Bus. On the way the Bus was detained at Nallabandagudem Customs out-post within the State territory for an inordinately long time and the Revenue Inspector, who instructed the Bus Driver to restart quickly, was threatened by Razakars and State Police who also attempted to molest him and Mr. Venkateswara Rao. Later, the State Naib Tahsildar, sent for the Revenue Inspector and threatened him with arrest and other dire consequences. The bus was however, allowed to proceed.

APPENDIX VI

REPORT ON ENQUIRES AT NANAJ ON MONDAY 26th JULY 1948

After meeting Brigadiers BHATIA and GURBACHAN SINGH at TANDALWADI at about 0900 hours today I proceeded with them to SHOLAPUR where we visited the C.C.S. and spoke to 5 wounded soldiers of the Indian Union. Two were seriously wounded and all were suffering from multiple gun shot wounds which could only have been caused by L.M.Gs, STENS & RIFLE.

From questioning them it was learned that they were in the leading lorry of a convoy which was proceeding to BARSII with rations for the coy there, and which was fired upon at NANAJ village on the morning of 24th JULY 1948.

During questioning, two of the wounded, one Havildar and Naik stated that they heard an order to 'Fire' given by someone at the 'WHITE HOUSE' (A).

We then proceeded to NANAJ village where we were met by Lt.-Col. PRITHI PAL SINGH. This officer was proceeding to BARSII on 24th JULY with the convoy when it was attacked.

As the leading lorry reached a point just N of the culvert at the S. end of the village burst of fire was opened up from the first white building E of the road A. This building is approx. twenty yards from the road. Further fire came from the next building N (B) and another house W of the road (C). As a result of the opening burst of fire 5 soldiers were killed and 5 wounded. Lt.-Col. PRITHI PAL SINGH assures me the firing was intense—particularly from the white house.

These three houses have all been 'built up' in as much that each has an earthen sanger on its roof—each with loopholes, as one expects to see in the N.-W.F.P. districts.

Inspected the white house and there are a great number of 303 empty cases still on the roof.

At the SHOLAPUR end of the village is a chain road stop. Lt.-Col. PRITHI PAL SINGH wishes to emphasise that at the time, in question, this chain was down—offering free passage through the village.

The leading vehicle was riddled with bullets and Col. PRITHI PAL SINGH'S jeep was hit, as were some other vehicles.

A pitched battle then ensued and the troops of the convoy eventually took possession of and occupied the village at 1345 hours of that day. They had no further casualties, but 20 of the party who opened up the attack were killed. Of these seven were definitely Pathans, the remainder were of local origin but all were armed and some had steel helmets.

I was shown the body of a dead man who was killed during an attack on the troops in the village at about 2200 hours on 25/7. He was dressed in normal civil clothing and was armed with a 303 rifle when killed.

All throughout 25th, groups of armed men hovered around the village at a distance of about 1200 yards. These were observed through binoculars and the naked eye. Several were identified as Pathans from their dress and appearance.

I was shown a number of rifles of all types including 303s and 410 muskets, several steel helmets—one of which had POLICE printed on it, several police belts and one sarfi-i-khas police belt. A Jemadar's uniform of the N.D.P. and two sam browne belts—and one box 410 ammunition-ball and a broken Sten Gun butt.

With Brig. BHATIA and Lt.-Col. PRITHI PAL SINGH I visited the Grain Store in the centre of the village—the store was intact, and stocked full with sacks of grain. This store was inspected at my suggestion, as I had heard some had been taken away.

The village patel, police patel and customs patel were not present at this moment, neither could we find any person suitable for questioning. Lt.-Col. PRITHI PAL SINGH informs me that the village and police patel were available earlier this morning.

I saw two injured villagers, one woman and a child being treated by the unit Regimental Medical Officer (irrespective of religious, creeds).

Brig. BHATIA is of the opinion that this was a prepared ambush, but whether it was intended for troops or civilians busses it is not possible to say. The troops, however, were sikhs and wearing Olive Green.

K. L. WESTON, Lt.-Col.

26-7-48.

G. B. SINGH, Brigadier.

26-7-48.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II – PROCEEDING OTHER THAN QUESTIONS AND ANSWERS)

Wednesday, 11th August, 1948.

The Assembly met in the Assembly Chamber of the Council House at a quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Malankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11.45.A.M

RESOLUTION RE-ABOLITION OF ENTRIES OF CASTE AND RELIGION, ETC., FROM GOVERNMENT REGISTERS, FORMS AND RECORDS.

Mr. Speaker: The House will now proceed with the further discussion of the following Resolution moved by Shri R. R. Diwakar on Tuesday, the 17th February, 1948 and not concluded on that date:

"This Assembly is of opinion that for any purposes connected with the State or its services, the Government of India shall not recognise any caste, sub-caste, sect or religion and that in future it shall abolish the mention or entry of caste, sub-caste, sect or religion in any forms supplied by Government or in any records or registers kept by Government."

The last speaker on the subject was Dr. Panjabrao Deshmukh.

Dr. P. S. Deshmukh (C.P. and Berar: General): Sir, I had already pointed out in the portion of my speech delivered on the 17th of February that this Resolution was a little premature and the remedy suggested was not liked by a very large section of the people. I had also pointed out that however abhorrent the existence of caste may be, it is a fact of the Hindu society, and unless we advance educationally and make further progress from the point of view of the better organization of the Hindu society, a proposal like this was likely to be misunderstood and misconstrued. It has got to be realized that even up to date, the Hindu Law which is in force is based on a caste system. The adoptions, the marriages and so many provisions of law have to take full cognizance of the existence of the caste system and however keen we may be to see that the caste distinctions go out of our life, and that caste quarrels and disputes are eliminated, this is not the way in which it would be possible to do it.

At the present time as we all know, Sir, the progress of the Hindu society is very much one-sided. The education as well as wealth is concentrated in the hands of a very small minority castes. Fortunately or unfortunately these minorities and these castes and communities can be easily specified, and when such a proposal emanates and especially when we find that the real sponsors of this idea belong to these exploiting small castes, there is a natural feeling of

[Dr. P. S. Deshmukh]

suspicion in the minds of the so-called majority communities, which are backward, which are living in rural areas, which have had no share—not at all an adequate share—of education in the country nor of any amenities of life in the whole length and breadth of India.

So, Sir, although I agree with the principle behind the Resolution, I had suggested that this is not the proper time at which such a Resolution should be pressed. I had also wanted that the Government should not make a precipitate declaration of their policy however welcome the principle behind it may be. And the announcement that was made by Government, I am prepared to call it most unfortunate because that does make people to believe that it is the intention of Government that the advanced shall remain advanced and the backward shall remain where they are. There has got to be some helping hand given to the rural people of the backward castes and communities and unless that is done, unless we are, on a somewhat equal basis, till then free competition should not come in. You cannot expect a village boy whose life is surrounded by everything adverse to education to compete on equal terms with one who has every facility at his command in spite of the fact that a village boy is not in any way inferior either in brains or character to a boy living in a town. We are not on any footing of equality—not even seeming equality. I think, Sir, merely to pronounce that everything should go by merit, that there is no need of any help to anybody who suffers from handicaps, within whose reach we have not been able to carry education, would not be a good thing and you cannot expect it to be approved by the whole people.

So I suggest that although we approve of the good intention and the aim behind the Resolution, there should be every effort made to remove the handicaps and to help those persons who are backward. I can mention the innumerable handicaps suffered by the rural areas from an instance from my own life. In the third primary standard, Sir, I had to waste one year even after having passed the third standard examination because the fourth class was not till then opened in my own village. It is impossible to ask a boy coming from rural areas to compete and expect that he shall stand first-class first. It is impossible for him to compete with anybody who had colleges and universities next-door to him. How can he, Sir, compete on the basis of share equality. All these things have got to be taken into consideration. I do not mean that there should be any proportionate representation or any reservations—that is not my idea. But there is a very large group of people, there are millions of people, who are suffering from this handicap and if we go in a precipitate manner it is likely that their interest will suffer. Only the other day I heard an instance of the Bombay Government having recruited, out of 42 sub-judges, 38 persons belonging to a very small minority community; two were Christians and the remaining two I am told were Muslims. These are things which are facts. We cannot be blind to facts. In the Central Provinces as well as in Bombay the majority of people feel despondent, feel desperate, that their interests are not being protected, that those who are in authority are merely interested in their relatives and their own people whose caste they know without being included in the applications. Those things they are doing almost every day, and this is the reason, Sir, why the majority of the people, the rural people especially, view all such attempts which are clothed in very good language, which make a show of being on a very high level, with suspicion. All these things create suspicion in the minds of the people and any premature pronouncement by the Government and any commitment on this subject would be disastrous and would be disliked by a large section of the people.

I would much rather that if such a suggestion is to emanate, it should be examined in all its bearings much more carefully than has been done or is

RESOLUTION *Re* ABOLITION OF ENTRIES OF CASTE AND RELIGION, ETC., , FROM 167

GOVT. REGISTERS FORMS AND RECORDS.

likely to be done. And while a Resolution like this is before the House I would rather suggest, if there is room for compromise, that the whole question of how to eliminate castes and sub-castes and racial and communal feelings should be investigated and a proper remedy put forward. Unless some such thing is done we are likely to believe that simply because some people happen to occupy high places at the present day they are trying to exploit the position to the utmost of their ability under one name—or the other.

This is a good principle as I have said several times; but it is prematurely brought forward. And if this Resolution is accepted in any shape or form by this Government it will create considerable dissatisfaction in the country, which ought to be the concern of the Government to avoid.

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, with the general principle underlying the Resolution, there is a good deal of sympathy and the Government would like to go towards the fulfilment of the object of the Resolution as far as possible. But at the same time it must be remembered that long-established habits are not easily wiped off by either passing a Resolution or forcing the pace against the will of ignorant, vast masses of humanity. The Members of this House must be aware of what we have done in the Constituent Assembly. We have not been able to wipe out reservations either for the Anglo-Indians or the Christians or Muslims or Sikhs. Although we are trying as far as possible to remove these major distinctions of community from our Legislatures, we are not able to ignore these facts. So also we have to reckon with the existing state of things which have continued for centuries. Therefore, while it is true that since August 15th there can be only one nationality in Free India which covers all the castes and communities and there should be no distinction on the basis of religion also, we cannot ignore the fact that in spite of our attempt to provide in the constitution and our efforts both in the Provinces and in the Centre to wipe out the curse of 'untouchability' nobody will say that we have succeeded. We have to make tremendous efforts. Therefore, I would urge the Mover of the Resolution not to force the pace, because the object of the Mover can be served only by educating the people and by taking them with us as well as by allowing the forces of democracy or the impact of democracy to work. We have had not one election after the 15th of August and we have not had the constitution also passed. We will have to make a tremendous effort in this direction and we are anxious to go as far as possible. On behalf of Government I am prepared to say that we are ready to examine this case further and to appoint a Committee to go into the whole question and see how far we can take action in this matter without creating a confusion in the country or a conflict or an explosion. It is not so easy as is supposed to be. It is a good thing to do, but we must not force the pace too much. That is all I can say on behalf of the Government and I hope the Mover of the Resolution will be satisfied by the attitude that Government has taken that a committee may be appointed to examine the whole thing and Government would as far as possible give effect to the recommendations of the Committee.

Shri R. R. Diwakar (Bombay: General): Mr. Speaker, Sir, in view of the fact that the Government has accepted the objective and in view of the fact that some people unfortunately look upon the Resolution with some kind of suspicion, I would say that what the Resolution wanted to do was merely to retrace the steps which the British Government had taken to encourage caste consciousness, caste organisations and caste conflicts. It was the deliberate attempt of the British Government since 1923 especially to encourage all these tendencies in the body politic of the Indian nation. If we do not realise this

[Shri R. R. Diwakar]

fact, then of course I think we are looking at this question from a very wrong point of view. Therefore, the Resolution really pointed out that any encouragement that is being or has been given by the Government in its records or in application forms etc. ought to stop. That was the only object. In fact, very recently, in applications from refugees for loans caste had to be mentioned. Even in railway risk note forms caste has to be mentioned. . . .

Mr. Speaker: Order, order. The honourable member is making a regular speech.

Shri R. R. Diwakar: I would like to explain.

Mr. Speaker: It need not be done at length.

Shri R. R. Diwakar: So, that was the intention of this Resolution and nothing more, but as I say, in view of the fact that the Government is going into the matter—and I am sure that the National Government would do its best to see that a very strong and consolidated body politic emerges in this country—I beg leave of the House to withdraw my Resolution.

Mr. Speaker: The honourable member wishes to have leave of the House to withdraw his Resolution.

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

RESOLUTION RE MEASURES TO CHECK RISING PRICES OF NECESSARY COMMODITIES

Mr. Speaker: The next Resolution is Seth Damodar Swarup's. But I find that he is not there and Pandit Govind Malaviya has been given authority on his behalf.

Incidentally, honourable members must know that there is a time-limit prescribed. The ordinary time-limit is 15 minutes, but in view of the fact that a very large number of honourable members wish to speak, the Mover may take 15 minutes and others will take about 10 minutes.

Pandit Govind Malaviya (U.P.: General): Sir, I was under the impression that under the Rules the Mover is entitled to 30 minutes, but I shall confine myself to 15 minutes.

Mr. Speaker: I will just verify.

Pandit Govind Malaviya: It is all right. Your ruling is perfectly enough for me.

Mr. Speaker: It is not a ruling. I said from memory. I will just look up. Yes, it is thirty minutes; the honourable member is right.

Pandit Govind Malaviya: But I shall try to confine my speech to 15 minutes or so.

Sir, it is in a spirit of grave anxiety and concern that I rise to move:

"This Assembly views with grave concern the continuing rise in the prices of the necessary commodities of life in the country, and is of opinion that the Government should forthwith appoint a Commission to visit the different provinces and to report within three months upon the causes of such abnormal rise and to suggest measures for effectively bringing down immediately these soaring prices of all necessities, specially of food grains, eatables and cloth."

It is no exaggeration to say, Sir, that the people of India are groaning under the weight of these high prices. The misery and suffering which prevail in the land are simply indescribable. Only a few days ago the latest review of the movement of foodgrain and other commodity prices was published and it showed a still further rise in all the five groups mentioned in it. Cereals have reached the unprecedented figure of 448.2 as against the 100 of August 1939;

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pulses had another rise of 11 per cent., and reached 421.2; textiles rose by another 6.8 per cent. and reached 417; under other groups like food articles, industrial raw materials, semi-manufactured goods; manufactured articles and miscellaneous, there was an all-round rise. Besides that, we know from our daily experience that the prices of articles required for every day life have become impossible. It is not merely the articles which are given in that list, but every little thing, every article of daily need and requirement, is well beyond the reach of the average man in India today. Ghee is selling at about 2½ chataks to a Rupee; wheat is selling about 22 chataks to a Rupee; sugar is a rupee a seer; vegetables are selling anywhere between a Rupee to two Rupees a seer; potatoes are selling at a Rupee and a half a seer; meat, fish, poultry and eggs are in the same condition; even salt, Sir against the tax on which our revered late Mahatmaji led such a campaign, even that salt, Sir, today is not available for less than 4 annas a seer. Sometimes people have been known to have had to pay a Rupee for a seer of it. Milk which is the foundation-stone of national health, milk which is the sustenance of children and of expecting and nursing mothers, that milk, Sir, is not available in this country in a pure form for anything less than a Rupee a seer or so. That is how things stand. Similarly, Sir, there are numerous other articles. Cloth has become a luxury. Parents and housewives, even when in distress about cloth, do not dare to think of purchasing it. If any child, a little school boy of the family, is to be shod, one needs at least about ten Rupees to get an ordinary pair of shoes; his books, his pencil, his pencil-cutter, everything has assumed proportions in prices which are well beyond the reach of an ordinary average family; accommodation, transport, day to day ordinary cost of services, everything that is essential to enable a person to live have reached prices which are all but impossible. Mahatmaji once talked of Himalayan blunders; he was big like the Himalayas to cover them up. I wonder what we shall do about these Himalayan prices, Sir, under the weight of which life in the country seems to be crushed.

Sir, it is a very difficult situation that we are faced with. Society can be divided into four sections, 2 upper and 2 lower. The upper sections do not very much matter, Sir, because somehow or the other—I shall not go into it—whatever be the cost of things, they can somehow carry on. But the middle class and the poorer people are finding it utterly impossible to carry on as things are. I know, Sir, that the Government is doing its very best to meet the situation. I know from personal contact, Sir, that every Minister is doing all that is humanly possible to meet this situation. Nothing is being left undone by them, but, Sir, what is wanted is results. The effort is there, but unless the results are achieved, things will simply not do.

Sir, our immediate future prospects also do not seem to be very bright. The excessive rains which we have had during the past one month, almost all over north India, have largely destroyed the seed-grains which had been sown in the fields. The Kharif crop, therefore, is almost gone. There is a saying in Hindi: "Mahangi men ata geela". I don't know how the situation will stand at the end of a few months.

Sir, everybody feels happy that the Government have decided to tackle that octopus of inflation. But, Sir, it seems to me that the government's great difficulty is that on the one side, its mental tendencies and ideological outlook are socialistic which wants to do whatever may be possible in one particular direction, and on the other hand it has got, Sir, to work under the sheer force of circumstances about it; and I dare say, Sir that if Acharya Narendra Deo or Shri Jai Prakash Narain were there in spite of their empty criticisms, they could have done nothing else. The difficulty, therefore, Sir, is that on the other hand, the government tied down on all sides by the force of existing circumstances, has to function through the old old order, bureaucratic, capita-

[Pandit Govind Malaviya]

listic, ponderous and unimaginative. Sir, as I said, we want results. We want that the Government should be able to adopt some method or some way by which we may be able to bring down these prices. I do not wish to rush with suggestions, Sir, in that matter. It is for the Government to devise the way.

May be, Sir, that (i) the scheme propounded by Acharya Vinoba Bhave for realization of Government revenues in kind as a temporary measure may prove effective; or, may be, Sir, that (ii) a determined and effective method of subsidised low prices of some of the main necessities of life may help the situation. We know, Sir, that in England and other countries throughout the war even when they were in the gravest of difficulties, the prices of necessary commodities of life in most instances were kept down almost at the pre-war level by subsidies from the State. Milk throughout the war was sold in England at 5d. to the quart. Sir, may be that by that method we can bring down the prices of grains and cloth and thereby seriously affect the entire price structure in the country.

May be, Sir, that (iii)—, I say this without the least desire in any way to criticise or apportion blame anywhere, but we know that almost all the ills and difficulties that we suffer from today are due to the present difficulty of railway transport. May be, Sir, that if we could hand over the complete railway organisation and administration into the hands of a body created *ad hoc* for the purpose for the time being; if we could completely re-orientalise the railway administration, we may be able to get over that terrible bottle-neck where every thing seems to be stuck up today.

Or Sir, may be, that (iv) as a temporary measure, to meet the danger and crisis that we are faced with, the handing over of this entire problem into the hands of the big industrialists and capitalists of the country so that they might treble the production which we have today, may do the needful. On the contrary, Sir, may be that (v) a complete taking over by the government of all the production units of the country for the purpose of creating within them the necessary congenial atmosphere for much increased productivity will be necessary to meet this serious menace. Whatever it may be, the Government must take immediate action in this direction. No Government, Sir howsoever good it may be, no Government, howsoever patriotic it may be, no Government, Sir, howsoever adored it may be by its people, can hope to live if its people die of hunger and want. The Government that we have in this country today is our own. No better team, no better Government, no better set of people could be found to carry on the heavy responsibility that lies on their shoulders. Sir, the eyes of the famished children, the ill-fed youth and the semi-starved mothers of this land are raised towards them. The immediate urgency, Sir, is to devise ways by which the present day impossible prices will be brought down and the people will be enabled to get what is absolutely essential to enable them to live. If we can achieve that, Sir, we shall not only have solved our great problem, but we shall have made a success of the independence that we have so dearly won for our country.

I understand, Sir, that our great Prime Minister has probably an idea that these Commissions only delay things. None will be happier than myself if some method is found to accelerate things and to achieve results quicker than three months which is the time within which this Commission is, in this resolution, asked to report. What we want is result. What we want is that the high prices and the inflation which prevail in this country should be effectively checked. It is not difficult to see who profits by them; it is not difficult to see who reaps the benefit out of them. We should find some way or the other by which we should be able to make it possible for the middle class man in this country to procure from day to day with the means at his disposal, what is essential to enable him to keep his body and soul together. If we do that much, Sir, we shall have solved the biggest problem not only of this country.

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but probably of this age and the whole of mankind will thank this Government for it.

I commend this resolution for the acceptance of this House.

Mr. Speaker: Resolution moved:

"This Assembly views with grave concern the continuing rise in the prices of the necessary commodities of life in the country, and is of opinion that the Government should forthwith appoint a Commission to visit the different provinces and to report within three months upon the causes of such abnormal rise and to suggest measures for effectively bringing down immediately these soaring prices of all necessities, specially of food grains, eatables and cloth."

I find there are some amendments to the resolution. I do not know whether the honourable members wish to move them.

सेठ गोविन्द दास : सभापति जी, मैं इस प्रस्ताव का समर्थन करता हूँ। प्रस्तावक महोदय ने कोई कारण स्पष्ट शब्दों में उपस्थित नहीं कि कि जिनकी वजह से चीजों का भाव इस तरह से बढ़ रहा है और न उनमें ने हमारे सामने उन उपर्यों को रखा है जिनसे चीजों के भाव घटाये जा सकते हैं।

Seth Govind Das (C.P. and Berar: General): Mr. Speaker, Sir, I support this Resolution. The Mover has neither elucidated any causes for the continuing abnormal rise in the prices of commodities, nor has he placed before us any measures which may be adopted to bring down these soaring prices.

Mr. Z. H. Lari (U.P.: Muslim): On a point of order, Sir, I have tabled some amendments to the resolution. I thought the first mover is moving his amendment. I should be given an opportunity to move my amendments.

Mr. Speaker: Order, order. There is no point of order in this. I made a special reference to this. I said I do not know whether honourable members wish to move them. Nobody got up.

Mr. Z. H. Lari: I stood up. I thought this gentleman was going to move the amendment.

Mr. Speaker: The honourable member perhaps did not know the member and that is how the mistake has arisen.

Pandit Thakur Das Bhargava (East Punjab: General): I thought Mr. Lari would move his amendments first. So I did not rise up.

Mr. Speaker: I will give the honourable member an opportunity after this gentleman finishes speaking.

सेठ गोविन्द दास : मैं यह कह रहा था कि प्रस्तावक महोदय ने स्पष्ट रूप से न तो उन कारणों को रखा जिनसे चीजों के भाव बढ़ रहे हैं और न उन उपायों को रखा कि जिनसे हम इस सम्बन्ध में कुछ कर सकते हैं। दोनों बातें बहुत कठिन हैं, यह मैं जानता हूँ, और दोनों में विशेषज्ञों की राय जरूरी है यह भी मैं मानता हूँ। परन्तु चीजों के भाव बढ़ने के कारण क्या हैं उन कारणों को मैं संक्षेप से रखना चाहूंगा। मेरी दृष्टि से पहला कारण चीजों के भाव बढ़ने का यह है कि हमारी उत्पत्ति कम होती जा रही है और इस उत्पत्ति की कमी का कारण मुख्यतः हड़तालें हैं जहां हड़तालें नहीं होतीं वहां भी जो लोग काम करते हैं, मेरा मतलब मजदूरों से है, उनके

[सैठ गोविन्द दास]

मनों में स्फूर्ति का अभाव है। जितना काम उन्हें ईमानदारी के साथ करना चाहिये उतना वे नहीं करते। दूसरा कारण मेरी दृष्टि से व्यापारियों का स्वार्थ है और उसमें इस समय कुछ दूर तक हमारे किसान भी शामिल हो गये हैं। किसान जितना अनाज उत्पन्न करते हैं और व्यापारी जितना माल अपने कारखानों में बनवाते हैं न तो उनमें से किसान जल्दी से अपना अनाज और दूसरी वस्तुयें बाजार में भेजते हैं और न व्यापारी जो कि चीजों को अपने कारखानों में बनवाते हैं उन्हें भेजते हैं। इस माल का आगे भाव बढ़ेगा, और बढ़ेगा, और बढ़ेगा, इस आशा पर उसे रोक रखा जाता है। तीसरा कारण मेरी दृष्टि से भाव बढ़ने का यह है कि कंट्रोल के सम्बन्ध में सरकार की नीति विलकुल स्पष्ट नहीं है। लोगों को सदा आशंका रहती है कि किसी भी वस्तु कंट्रोल की नीति को फिर काम में लाया जा सकता है और इस आशंका के कारण जनता चीजों को खरीदने में दौड़ लगाती है। जितनी चीजों की उसे आवश्यकता होती है उससे अधिक चीजें खरीदती है। उनको वह जमा कर रखती है, इस भय के कारण कि सम्भव है कि आगे चल कर जब उसको आवश्यकता हो तब वे चीजें न मिलें, या सरकार की नीति में ही, जहां तक कि कंट्रोल का सम्बन्ध है वहां तक परिवर्तन हो जाय। चौथा कारण यह है कि वैगनों (wagons) के न मिलने से माल के आवागमन में बड़ी रुकावट होती है। मेरी दृष्टि से यदि हम विशेषज्ञों को अलग रखें तो व्यापक रूप से ये कारण हैं जिनकी वजह से चीजों के भाव बढ़ रहे हैं।

तब प्रश्न यह उठता है कि भावों को नीचे लाने के लिये हमें क्या करना चाहिये। स्वभावतः सब से पहले जो चीज हमारे सामने आ जाती है वह यह है कि फिर से कंट्रोल किया जाय। फिर से कंट्रोल करने से वस्तुस्थिति कहां तक सुधरेगी इस सम्बन्ध में स्पष्ट रूप से कुछ कह देना बड़ी कठिन बात है। कंट्रोल का अब तक हम को जो तजुर्बा रहा है उससे यह स्पष्ट हो गया है कि कंट्रोल के कारण चोर बाजार और कंट्रोल के कारण रिश्वत खोरी यह चीजें बराबर बढ़ती हैं और इसीलिये पूज्य महात्माजी ने यह कहा था कि कंट्रोल की नीति को हमें समाप्त कर देना चाहिये। अभी भी जिन चीजों पर कंट्रोल है उनकी ओर यदि हम दृष्टिपात करें तो हमें वस्तुस्थिति का थोड़ा बहुत ज्ञान और अन्दाजा हो सकता है। मैं एक ही चीज का दृष्टान्त दूंगा, पेट्रोल का। पेट्रोल पर कंट्रोल है। हम यह जानते हैं कि इस देश में लड़ाई की आशंका है हमको यह भी मालूम है कि देश की रक्षा के लिये सरकार का जो पेट्रोल का कंट्रोल है वह विलकुल उचित है। पर इतना होने पर भी शायद इस देश का कोई शहर ही नहीं, पर कस्बा और जहां पर यह पेट्रोल के पम्प लगे रहते हैं उनमें से कोई भी स्थान ऐसा नहीं होगा कि जहां चोर बाजार में ऊंचे भाव देने पर पेट्रोल न मिलता हो। तो हमने देखा कि जहां तक कि पेट्रोल का सम्बन्ध है, जो पेट्रोल देश की रक्षा के लिए आवश्यक है उस सम्बन्ध में भी यह दशा है। मेरा तो यह मत है कि यदि इस समय की ऊंची कीमतों को देखकर हमें कंट्रोल

करना ही आवश्यक जान पड़े तो फिर वह कंट्रोल पूरा होना चाहिये। अधूरे कंट्रोल से काम नहीं चलेगा। वह केवल नगरों में हो, यह नहीं बल्कि वह गांव तक जाना चाहिये और जहां तक कि मनुष्य के जीवन के लिये जिन् दो प्रधान आवश्यकताओं का सम्बन्ध है एक अनाज और दूसरा कपड़ा, उसका तो फिर पूरा पूरा कंट्रोल हो जाना चाहिये। जितना अनाज का उत्पादन होता है वह सब का सब सरकार ले ले। जितना कपड़ा बनाया जाता है वह सब का सब सरकार ले ले और इनके वितरण की व्यवस्था भी सरकार करे।

या तो इस तरीके का कंट्रोल हो। और अगर इस तरीके का कंट्रोल सम्भव नहीं है तो फिर मैं कहूंगा कि कंट्रोल की नीति के सम्बन्ध में कोई आशंका जनता के मन में नहीं रहने देनी चाहिए और यह स्पष्ट हो जाना चाहिए कि कोई कंट्रोल होने वाला नहीं है। तब सवाल उठता है कि यदि कंट्रोल नहीं होता तो हमें क्या करना चाहिए। इस सम्बन्ध में जैसा मैंने कहा है मैं विशेषज्ञ तो नहीं हूँ लेकिन इधर उधर घूमने का मुझे बहुत अवसर मिलता है और जिन बातों को मैंने देखा है उनके आधार पर मैं कुछ कहना चाहता हूँ। हमारा जनता के साथ जो सम्पर्क स्वतन्त्रता मिलने के पहले था वह दिनों दिन कम होता जा रहा है। मैं यह मानता हूँ कि हमारे देश की जनता चाहे अपढ़ हो पर जहां तक स्वाभाविक ज्ञान का सम्बन्ध है वहां हमारी जनता अज्ञानी नहीं है। साथ ही वह देशभक्त जनता है उस जनता में किसान भी आजाते हैं उस जनता में मजदूर भी आजाते हैं, उस जनता में सारे वर्ग और सारे फिरके आजाते हैं। और मैं तो यह मानता हूँ कि बिना शस्त्रों के एरोप्लेनों (aeroplanes) के, तोपखाने के, रिसाले के, और पैदल के जनता के साथ सम्पर्क रखने के कारण हम स्वराज्य प्राप्त कर सके हैं। मैं इस बात को नहीं मानता कि केवल अंतर्राष्ट्रीय परिस्थिति से हमें स्वराज्य प्राप्त हुआ है। अगर पूज्य महात्माजी ने हमें इतना सजग नहीं कर दिया होता, यदि राष्ट्रीय भावनाएँ हमारी जनता में भर न दी होतीं तो इस अन्तर्राष्ट्रीय परिस्थिति में हमें और अधिक पीसा जाता। मैं यह मानता हूँ कि हमें जो स्वराज्य प्राप्त हुआ है, वह जनता के सम्पर्क से प्राप्त हुआ है। उसी प्रकार यदि हम जनता से सच्चा सम्पर्क फिर से स्थापित कर सकें तो मेरा यह मत है कि हम वर्तमान परिस्थिति को काबू में ला सकते हैं। जैसा मैंने अभी आपसे कहा है कि मजदूर के हृदय में सरकार के प्रति वह श्रद्धा और विश्वास नहीं है। हम उन्हें समझाएँ कि यदि हड़ताल से उनकी थोड़ी सी वेतन वृद्धि होती है तो भी एक ओर तो उनकी वेतन वृद्धि होती है, दूसरी ओर उत्पादन की कमी के कारण चीजों का भाव बढ़ता है। अगर पूरा हिसाब लगा कर देखा जाय तो स्पष्ट मालूम हो जायगा कि वेतन वृद्धि से उनको जितना लाभ नहीं होता, उससे कहीं अधिक हानि उनको उत्पादन की कमी से होती

[सैठ गोविन्द दास]

है; जो चीजों का भाव बढ़ता है उन चीजों को अधिक दाम देकर खरीदने में। उसी प्रकार हम व्यापारियों को समझावें। व्यापारी किसी समय बड़े देशभक्त रहे हैं लेकिन मुझे यह कहते हुए बड़ा खेद होता है कि इस समय उनकी देशभक्ति स्वार्थ भक्ति में परिणत होगयी है। यदि हम मजदूरों को समझा सकें, यदि हम व्यापारियों को समझा सकें, यदि हम जनता को समझा सकें तो मुझे विश्वास है कि हम इस परिस्थिति पर काबू पा सकते हैं। हमारे कहने से लोग लाखों की तादाद में जेलों में गये हैं, फांसी पर चढ़े हैं लाठियों और गोलियों के शिकार हुये हैं। यदि हम उनको कहें कि इस समय देश के ऊपर, आपकी राष्ट्रीय सरकार के ऊपर आपत्ति है और उस आपत्ति का निवारण तभी हो सकता है जब सब लो मिलकर उसका निवारण करें, तो मेरा यह विश्वास है कि बिना कंट्रोल लगाये भी हम इस समय की परिस्थिति को सुधार सकते हैं। मुझे कुछ बातें और कहनी थीं, लेकिन मेरे पास समय नहीं है। इसलिये मैं अन्त में सिर्फ इतना ही कहना चाहता हूँ कि इस विषय पर विशेषज्ञों की राय लेकर सरकार को कुछ न कुछ बहुत जल्द करना चाहिये। मुझे इन कमीशनों पर और इन कमेटियों पर बहुत कम विश्वास है। इसका कारण यह है कि २५ वर्षों तक लगातार इस असेम्बली में रहते हुये मैंने बहुत सी कमेटियाँ और कमीशन पिटली विदेशी सरकार के समय में देखे हैं। मैं नहीं चाहता कि राष्ट्रीय सरकार इन कमीशनों और कमेटियों के जाल में फंसे। सरकार के पास विशेषज्ञ हैं, उन विशेषज्ञों की राय लेकर सरकार को इस सम्बन्ध में तुरन्त कुछ न कुछ करना चाहिये। मुझे इस बात का विश्वास है कि यदि इस सम्बन्ध में ठीक ढंग से कुछ किया गया तो बिना कंट्रोल के हम इस आपत्ति को दूर कर सकेंगे।

(English translation of the above speech).

Seth Govind Das: I was just saying that the Mover has neither clearly stated the reasons responsible for this rise in prices of commodities nor has he suggested any means by which we can tackle this situation. I realize that both the issues are very complicated. I do admit that we must elicit the opinion of experts on both these points. But I would like to narrate briefly the various causes for the rise in prices. According to my view-point there are four reasons for this. Firstly, the production is falling down and this is mainly due to the strikes. Where there are no strikes, there the workers—I mean the labourers—lack in speed. They do not put in that amount of work which they ought to do honestly. Secondly, the sordid motives of our businessmen and to some extent of our peasants also who have joined hands with them in this respect is also responsible. Neither the peasants nor the businessmen send to the market their entire produce foodgrains and other commodities, and the articles manufactured in their factories respectively. They hoard these goods in the expectation that the prices of their goods will rise further and further. Thirdly, the Government has not got a clear-cut policy regarding the imposition of control. People always apprehend that any time the controls may be re-imposed. This apprehension leads to a run amongst the masses to purchase the goods and they thus buy more than what they actually require. They hoard them as they fear lest these may not be available at later date when they are

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really in need, or the Government may change its policy of control. Fourthly, lack of wagons results in transport bottle-neck. According to my reading, even if we leave out the experts, these are the obvious reasons responsible for the rising prices.

Then the question arises as to what steps should we take to bring down the rise in prices. Naturally the first thing which strikes us is that we should re-impose the control. Apparently it seems very difficult to say how far the re-imposition of control will ease the situation. As a result of the experience we have had till recently on the working of control, it has become quite evident that this system gives rise to black-market and corruption. These evils flourish under its regime. Therefore, the revered Mahatma Gandhi had observed that we should wind up the control system. Even now if we look towards the controlled articles, we can form some idea about the real state of affairs. I will quote the instance of only one article, say petrol. Petrol is controlled. All of us know that clouds of war are looming large on the horizon of the country. We also realize that the control which the Government have imposed on this commodity is fully justified in the interests of the country's defence. Notwithstanding all this, there will not perhaps be a single place either in the cities or towns in this country where these petrol pumps are installed that petrol is not available in black-market on payment of high prices. So we have seen that such a state of affairs exists even in the case of petrol which is so vital for the country's defence. I am, therefore, of the opinion that if on account of these present-day soaring prices, it is considered expedient to introduce control, then there should be a complete control. Partial control will not serve the purpose. That should not be enforced only in towns but in villages also, and so far, as the two main necessities of life are concerned viz., cloth and food; these should be completely controlled. The Government should procure the entire produce of foodgrains, and also acquire the total quantity of cloth that is manufactured and itself arrange for their distribution. Either the control should be imposed in this manner or if it is not possible to introduce such a control, then I would say that we should remove all sorts of apprehensions from the minds of the masses and tell them plainly that no control is likely to be enforced. Then the question arises as to what should we do if there is no control. I have already given suggestions in this respect though I am not an expert. But I have had many opportunities to move about and would like to say something on the basis of my experience and knowledge so gained. The contact which we have had made with the masses before the achievement of freedom is becoming lesser day by day. I admit that our masses may be illiterate, but so far as common sense is concerned, they are not ignorant. In fact they are patriotic in their outlook. These masses comprise of peasants, labourers, and all classes and communities. And above all, I feel that we have been able to achieve independence merely by keeping close contact with the masses and without the help of arms, aeroplanes, artillery and infantry corps. I do not believe that we got independence as a result of international political changes. Had the respected Mahatma Gandhi not awakened us to such an extent and inspired national consciousness in the masses, we would have been further crippled and crushed by the impact of international situation? I do admit that the independence which we have achieved is due to the result of our contact with our masses. I am, therefore, of the opinion that if we are able to re-establish the same old contact with the masses in the real sense we can cope with the present difficulties. Just as I have told you the labourers do not cherish in their hearts the same faith and confidence in the Government. We should make them understand that if on the one hand by resorting to strikes, they are able to secure a small increase in their wages, on the other, loss in production results in the rise of prices of commodities. From an analysis of all the factors, it would be evident that they lose more by the fall in production than what they gain by an increase in wages, because they have to purchase their goods on the payment of high prices. Similarly,

[Seth Govind Das]

we should explain to the businessmen. For some time past the businessmen had been first-rate patriots. But it deeply pains me to have to say that at present their patriotic creed has been transformed into that of selfishness. If we are able to impress upon the labourers, merchants and the masses, I am sure, we can control this situation. Lacs of people courted imprisonment in our footsteps and have gone to the gallows, became victims of lathi-charges and had bullets. If we tell them that at this juncture the country and the national Government are in the grip of severe difficulties which can only be removed if every one makes a concerted attempt in this direction. I am sure, by doing so we can remedy the present state of affairs even without resorting to control. I wanted to say something more but have no time. Therefore to sum up, I would like to say this much only that the Government should take immediate action in this respect after consulting the experts. I have very little faith in these Commissions and Committees. This is due to the reason that during the last 25 years' of my membership of this Assembly, I have had occasions to come in touch with many such committees and commissions set up during the time of the alien Government. I do not wish that the National Government should be caught in the net of such committees and commissions. The Government have got experts and after obtaining their advice, it should forthwith proceed in the matter. I am fully confident that if something is done in the right direction, we will be able to tide over the present difficulties without the imposition of control.

پلڈت تھاکر داس بھارگو: جناب ماننہ سپیکر صاحب! میں جناب کی اجازت سے

یہ amendment پیش کرنا چاہتا ہوں -

"That in the Resolution for all the words occurring after the word 'should' the following be substituted:

'adopt immediate and suitable measures to stop the rise and bring down the prices to a reasonable level'."

اس amendment کے پیش کرنے سے میری مراد یہ ہے کہ گورنمنٹ کے ہاتھ اس

موقعہ پر کسی خاص تجویز کے ساتھ نہ باندھے جائیں۔ یہ amendment ایک طرح سے

اس کمیشن کی تقرری کے جو تین ماہ تک سارے دیش میں ایک خردبین لیبر پورے

اور سب جگہوں کے واقعات کو اچھی طرح سے جانچ کر کے تجویز کرے کہ جو واقعات

زیادتی قیمت، کساد بازاری کے دیش میں رونما ہو رہے ہیں ان کو کس طرح سے

تھیک کیا جائے۔ اس amendment کی رو سے گورنمنٹ کو کمیشن مقرر کرنے کی

ضرورت نہیں ہے۔ گورنمنٹ کو اختیار ہے کہ اپنے experts کی رائے کے مطابق اور تجربہ

کے بنا پر اور ان کمیٹیوں کے ذریعہ جو کہ گورنمنٹ نے پہلے ہی سے مقرر کی ہیں دیش

کی اس مصیبت کو حل کرے۔ لیکن اگر گورنمنٹ کسی ایسے کمیشن یا کمیٹی کو مقرر

کرنا ضروری سمجھے تو بھی اس amendment کے منظور ہونے سے گورنمنٹ کو ایسا کرنے کا

اختیار ہوگا غرضیکہ گورنمنٹ کو یہ حق حاصل ہوگا کہ وہ کمیشن مقرر کرے یا نہ کرے۔

ان الفاظ کے substitute کرنے سے کمیشن کی تقرری include بھی ہو سکتی ہے اور

exclude بھی ہو سکتی ہے۔ اور گورنمنٹ اس کمیشن کی تقرری کے بغیر ہی اس معاملہ

کو طے کر سکتی ہے۔

جناب والا! یہ جو آج کے دن بڑی سخت سسپہ دیش میں ہے۔ اس کے متعلق 10 over اس ہاؤس کی توجہ دلائی ہے۔ ان سب باتوں کو میں دھرانہ نہیں چاہتا ہوں میرا جائزہ ہوں کہ دیش کے اندر بہت سی چیزوں کی جتنی ضرورت ہے اس سے وہ کم ہر لیکن میں یہ ماننے کے لئے تیار نہیں ہوں کہ یہ soaring prices اس کسی کی وجہ سے وجود میں آئے ہیں۔ سوال یہ ہے کہ کیا دیش میں ان چیزوں کی کوئی خاص کمی واقع ہوئی ہو جس کی وجہ سے prices اتنے بڑھ گئے ہیں۔ میں احمد آباد کے متعلق یہ عرض کروں گا کہ وہاں پر بہت سا کپڑا پروا ہوا ہے۔ اور وہاں کے کارخاندار اس بات کے بے حد خواہشمند ہیں کہ دیش کے اندر ان کا کپڑا چلا جائے۔ لیکن وہ کپڑا دیش کے اندر نہیں پہنچتا ہے۔ ابھی کچھ دن ہوئے میں نے دہلی کے جیل اور ایسٹ پنجاب کے جیلوں کو دیکھا۔ اور اگر کوئی ممبر صاحب دوزخ کا نمونہ دیکھنا چاہیں تو وہ ان جیلوں کو دیکھ لیں کہ وہاں پر قیدی نگئے ہیں اور انکی لنگوٹیاں بھی پھٹ گئی ہیں۔ اور وہ ویسے ہی وہاں پر پھرتے ہیں۔ یہ اس وجہ سے نہیں کہ گورنمنٹ انکے کپڑے کے لئے روپیہ خرچ نہیں کرنا چاہتی ہے اور نہ ہی اسکی یہ وجہ ہے کہ جیل کے افسران انکو نکلا رکھنا چاہتے ہیں۔ یہ صرف اس وجہ سے ہے کہ transport کی سہولیتیں نہیں ہیں۔ گورنمنٹ نے اور جیل department نے یہ حکم دے دیا ہے کہ انکے لئے کپڑا خریدا جائے۔ لیکن کپڑا یہاں آ ہی نہیں سکتا ہے۔ ایک طرف احمد آباد کے کارخانہ دار چاہتے ہیں کہ انکے کپڑا دیش میں چلا جائے اور دوسری طرف لوگ نگئے پھرتے ہیں۔ اسلئے میں نہایت ادب سے عرض کرتا ہوں کہ ان soaring prices کی وجہ یہ نہیں ہے کہ production میں کمی ہے۔ بلکہ اس حالت کے وجوہات کسی کے علاوہ اور بھی ہیں۔

شاید میرے ساتھ اس اسمبلی کے ممبر صاحبان اتفاق نہیں کریں گے مگر میں یہ عرض کروں گا کہ grain production کے متعلق جو کچھ figures ہم کو گورنمنٹ دیتی ہے وہ درست نہیں ہیں۔ اس دیش کے اندر اسکی production کی کمی نہیں ہے بلکہ کافی production ہوتی ہے۔ اور وہ production ہمارے لئے کافی ہے۔ دیکھنا یہ ہے کہ یہ جو تکلیف ہمارے دیش میں آئے دن پیش آ رہی ہے اسکی کیا وجوہات ہیں ہر ایک آدمی یہی assume کرتا ہے۔ کہ یہاں پر اناج کی کمی ہے۔ اسلئے prices بڑھ جاتے ہیں۔ اصلیت یہ ہے کہ اناج پیدا کرنے والوں کو واجب قیمت دینے و consumer کو مناسب قیمت پر اناج ملنے کے لئے قیمتوں کو reasonable level پر لانا نہایت ضروری ہے۔ جن حالات کی بنا پر یہ prices اٹھ بڑھ جاتے ہیں ان کے متعلق میں ایک مثال پیش کروں گا اس برس ضلع حصار میں 2½ کروڑ من چلا پیدا ہوا اور یہ 2½ روز من چلا غالباً سارے ہندوستان کے لئے کافی تھا حصار میں اسکی قیمت پانچ یا ساڑھے پانچ روپیہ فی من کاشتکار کو ملی

[پلڈت تھاکر داس بھارگو]

لیکن بلکال اور مدراس میں بیس یا بائیس روپیہ قیمت تھی - حالانکہ حصار میں انا چٹا پیدا ہوا تھا لیکن پھر بھی دیس میں اسی کی کمی پوری نہ ہو سکی - اسکی وجہ یہ ہے کہ اسکو دوسرے علاقوں میں لے جانے کے لئے ٹھیک انتظام نہیں تھا - اس ٹھیک انتظام اور پکی پالیسی نہ ہونے کی وجہ سے دیس میں یہ تکلیف ہوتی ہے - ایک طرف producers اپنی چیز کو دیگر علاقوں میں نہیں بیچ سکتے اور نہ ٹھیک قیمت وصول کر سکتے ہیں اور دوسری طرف ضرورت والوں کو مناسب قیمت پر چیزیں میسر نہیں ہوتی ہیں - ضرورت اس امر کی ہے کہ حکومت نے جو کمیٹیاں اب سے پہلے اس بارے میں بنائی ہیں اسکے سفارشوں پر اور جو پالیسی مقرر کی گئی ہے - اُسپر پکی طرح سے عمل پیرا ہو کر اس کام کو ٹھیک کر دیا جائے - روزمرہ بدلتے ہوئی پالیسی ہماری بربادی و نقصان کا باعث ہے -

میں نے کچھ دن ہوئے فیروز پور کے علاقہ میں جو کچھ حالت لوگوں کی دیکھی و سنی وہ نہایت افسوس ناک ہے آپ لوگوں نے اخباروں میں بھی پڑھا ہوگا - کہ وہاں پر ایک نوجوان نے کہانا نہ مانے لگی وجہ سے خود کشی کر لی - میں ایک ایسے علاقہ سے تعلق رکھتا ہوں جہاں پر آج کا قحط عموماً رہتا ہے اور وہ علاقہ قحطزدہ رہتا ہے - لیکن وہاں پر بھی آج کے دن وہاں پر لوگوں کی مصیبتیں بمقابلہ پہلے کے کئی درجہ بڑھ گئی ہیں - اور انکی حالت نہایت ناگفتہ بہ ہے اسلئے میں اس کمیشن کے مقرر ہونے کے حق میں نہیں ہوں جو کہ تین مہینے دیس کا دورہ کر کے پھو تجاویز پیش کر دے اور تب اس مصیبت سے بچنے کا علاج سوچا جائے اور اس پر عمل کیا جاوے ورنہ ایسی حالت ہوگی جیسا کسی نے کہا ہے

تا تریاق از لیراق آورد شود
مار گزیدہ مردہ بود

جن تین مہینوں میں یہ کمیشن دورہ کریگا اس میں خرچہ بھی بہت آگیا اور اتنی دیر لوگوں کو بے حد تکالیف کا سامنا کرنا پڑیگا - اور یہ نہیں معلوم کہ ان تین ماہ میں کیا کچھ ہوگا - گورنمنٹ اس معاملہ سے بے خبر نہیں ہے - انکو ہو ایک بات کا پورا پتہ ہے - ہر ایک پراونس میں ایک ایک منسٹر food اس کام پر ہے اور یہاں پر ہمارے گورنمنٹ میں شری جیرام داس دولترام اسکو deal کرتے ہیں اور ہم ہر روز radio پر سنتے ہیں کہ وہ کانفرنسیں اور کمیٹیاں اس بارے میں بلاتے رہتے ہیں - تو اس سے بھی یہ پتہ چلتا ہے کہ گورنمنٹ کو اس بارے میں سب کچھ معلوم ہے - اسلئے اس معاملہ میں کسی کمیشن کی ضرورت نہیں ہے وچو ہات موجودہ تکالیف سبکو معلوم ہیں سیدھی بات تو یہ ہے اور وہ یہ ہے کہ گورنمنٹ کی جو بھی پالیسی ہو اس پر زور سے و مضبوطی سے عمل کرنے کی ضرورت ہے - یا تو گورنمنٹ پورا کنٹرول

پیداوار اور تقسیم پر حاصل کرے اور اس پالیسی پر عمل کرے یا قیمتوں کو ایک دفعہ مقرر کر دے وہ prices جو کہ ضرورت سے زیادہ بڑھ گئے ہوں انکو ایک reasonable level پر لائے مثلاً فلہ کپڑا وغیرہ - ان کی قیمتوں کو نہ ہی زیادہ high ہونا چاہیے اور نہ ہی زیادہ low - اسلئے reasonable قیمتوں کو مقرر کر دیا جائے تاکہ ان اشیا کو پیدا کرنے کا incentive کمزور نہ ہونے پائے حکومت کو چاہیے کہ وہ ان چیزوں کو خود خریدے اور دیس کے اندر مختلف جگہوں پر دوکان کھولے اور لوگوں کو مقررہ قیمت پر یہ چیزیں مہیا کر دے - دیس میں اگر producers hoarding اور profiteering کرتے ہیں تو اُسکی وجہ کنٹرول ہے اسلئے یا تو پورا control کیا جاوے ورنہ کنٹرول کے سوال کو چھوڑ دینا ہی بہتر ہے - جس چیز کی اصلی ضرورت ہے وہ یہ ہے کہ گورنمنٹ کو چاہیے کہ وہ ایک مستقل پالیسی اختیار کرے اُسپر پوری طرح سے مضبوطی سے عمل کرے اگر گورنمنٹ partial control کریگی تو اس سے یہ soaring prices کنٹرول نہیں ہو سکتے ہیں - اسلئے میں نہایت ادب سے عرض کرونگا کہ ضرورت اس وقت مستقل مزاجی سے عمل کی ہے اس بارے میں مزید تحقیقات کی ضرورت نہیں ہے اور نہ ہی کسی کمیشن نے مقرر کرنے کی ضرورت ہے - بلکہ ضرورت اس بات کی ہے کہ ایک پکی پالیسی اختیار کی جائے اور اسپر عمل درآمد کیا جائے - اور ان کمیٹیوں سے جو کہ گورنمنٹ نے پہلے سے ہی بنائی ہے مدد لینی چاہیے - یہ جو تین مہینے کا عرصہ ہے یہ نہایت غیر مناسب ہے اور اس عرصہ میں حالات کا پتہ نہیں کہ کیسے دھینگے - اسوقت فوری action کی ضرورت ہے - اسلئے میرے خیال میں اس کمیشن کو مقرر کرنا نقصان دہ ہی ہوگا - فائدہ مند نہیں ہو سکتا - اسلئے حکومت کو چاہیے کہ وہ ایک پالیسی مقرر کرے اُسپر زور کے ساتھ عمل کرے اور hesitation, vacillation, کے پالیسی کو ترک کر دے

(English translation of the above speech).

Pandit Thakur Das Bhargava: Mr. Speaker, with your permission, Sir, I beg to move the following amendment:

"That in the Resolution for all the words occurring after the word 'should' the following be substituted:

'adopt immediate and suitable measures to stop the rise and bring down the prices to a reasonable level'."

My object in moving this amendment is that the hands of the Government should not be tied down to any specific proposal at the moment. This amendment aims to oppose the appointment of a Commission which is to go round the whole country and conduct a survey with a microscope and siftingly enquire into the conditions prevailing in the different parts and suggest measures to be adopted for counteracting the present state of affairs arising out of the soaring prices and scarcity of essential commodities. According to this amendment, there is hardly any necessity for the Government to appoint the Commission. The Government is fully competent to relieve the country of the

[Pandit Thakur Das Bhargava]

throes of bad times through which it is passing by invoking the assistance of its own experts, the committees it has already constituted and above all by its experience. But if it is considered expedient to appoint such a Commission or Committee, it will have the right to do so even after this amendment is accepted. In any case it would rest with the Government either to appoint the Commission or not. By substitution of these words the appointment of the Commission can be included as well as excluded, and Government can tackle this problem without it. Sir, the Mover has drawn attention of the House towards this important problem which is at present facing the country. I do not want to repeat all these things. I know that the production of many articles in the country is far less than the demand. But I am not prepared to admit that these soaring prices are due to shortage. The crux of the problem is whether there has been an appreciable fall in the production of these commodities in the country which has resulted in high prices. I will mention the case of Ahmedabad where huge stock of cloth is lying and the mill-owners are very much anxious that this should be sent out to all parts of the country, but it does not reach the proper quarters. Only recently I happened to visit the jails in the East Punjab and Delhi. If any honourable member wants to see a picture of a veritable hell, he should visit these jails. The prisoners are living in a naked state and roam about in tattered loin cloths. This is not due to the reason that Government does not want to spend money for providing them with cloth nor that the Officers of the Jail like to keep them in a naked state. It is due only to lack of transport facilities. The Government and the Jail Department have issued orders that cloth should be purchased for them. But the cloth cannot be moved to the place. On the one side, the Ahmedabad mill-owners want that their cloth should be sent throughout the country and on the other people are moving about in a naked state. Therefore, I would respectfully submit that the reasons for these soaring prices cannot be attributed to shortage in production only but there are other factors apart from this. Perhaps many members of this House will not agree with me, but I would submit that the figures regarding production of foodgrains which the Government usually supplies are not correct. There is no fall in production of grains in this country but on the contrary there is adequate production, which can cope with our requirements. We have to find out what are the causes which are responsible for the day-to-day troubles arising in this country? Everybody assumes that there is a shortage of foodgrains here and for this reason only prices rise. It is really very essential that the prices of foodgrains are brought to a reasonable level in order to ensure proper return to the peasants and their supply to the consumers at a fair price. I will just quote an example which will illustrate the causes leading to the steep rise in the prices. During this year, 2½ crores of maunds of grams were produced in the Hissar district, and this quantity is probably quite sufficient for the entire country. The producer in this place was paid a price at Rs. 5 or 5/8/- per maund. But the price in the Provinces of Bengal and Madras ranged between Rs. 20 and 22. Although such a huge quantity of gram was produced in Hissar, yet it could not meet the deficit of this commodity in the country. This is due to the reason that there are no proper arrangements for its transport to other parts of the country. For lack of proper arrangements and firm policy the country has to face such difficulties. On the one hand the producers cannot supply their goods to other parts of the country, and secure fair prices and on the other those who are in need cannot get them on reasonable prices. It is high time that the Government takes steps to remedy this state of affairs by firmly acting upon the recommendations of the Committees already set up by it and pursuing with determination the policy which had been laid down. Everybody change in our policy is harmful and likely to lead us to ruination.

I will just narrate to you the pitiable condition of the people living in the Ferozepur District, which I happened to notice recently. You might have read in the newspapers also that a youngman who could not get food to eat committed suicide. I come from a place which is generally short of foodgrains and is generally famine-stricken, but the people there are experiencing far more difficulties at the present time than they used to do in the past. Their condition is deplorable. Therefore I do not favour the appointment of this Commission which may submit its proposals after touring the country for three months, and then only we will think of the remedy. Otherwise the position would be as described—

"Ta taryak az Iraq anwurda shawad, mar guzeeda murda bood".

which means that by the time the antidote is brought from Iraq, the snake-bitten person might die. Three month's tour to be undertaken by the Commission will involve heavy expenditure and during this period people will have to face innumerable hardships. Moreover, it is not known what might happen during these three months. The Government is not ignorant about this matter and is in full touch with the trend of events. Every Province has got a Food Minister. Here in our Government, the Honourable Shri Jairamdas Daulatram deals with matters connected with food. Everyday we listen on the Radio that he is convening conferences and setting up committees. From this it follows, that the Government is fully aware to the situation and there is hardly any necessity for appointing a Commission. Everybody is aware of the causes for the present-day difficulties. To be frank, I would say that it is quite imperative that the Government should vigorously and firmly pursue its policy—whatever it may be. Either the Government should impose complete control over the production and distribution and act upon such a policy or fix the prices once for all and bring to a reasonable level those prices which have risen abnormally, such as for food and cloth. The prices for these commodities should neither be very high nor low. Therefore, reasonable prices should be fixed so that the incentive to produce may not be weakened. The Government should themselves procure the commodities and open shops in different parts of the country and supply them to the public at fixed prices. If the producers in this country indulge in hoarding and profiteering, this is on account of the existence of control. Therefore, either complete control should be enforced or it would be better to abandon the idea of control altogether. What is actually required is that the Government should adopt a firm policy and enforce it strictly and resolutely. If the Government maintains a partial control, then these soaring prices cannot be controlled. Therefore, I would very respectfully submit that a contingency has arisen at present when it should act firmly and resolutely. There is neither any necessity for instituting a further enquiry into this matter nor for the appointment of a Commission. All that is needed is to formulate a definite policy and to act upon it. We should elicit the help of those Committees which the Government has already set up. This period of 3 months is quite disproportionate and it is not known what shape the events might take during this time. Immediate action is called for at the moment. Therefore, in my opinion the appointment of the Commission will prove harmful rather than useful. Thus I would urge the Government to lay down a specific policy and firmly adhere to it. It should abandon the policy of hesitation and vacillation.

Mr. Speaker: Amendment moved:

"That for all the words occurring after the word 'should' the following be substituted: 'adopt immediate and suitable measures to stop the rise and bring down the prices to a reasonable level'."

Pandit Govind Malaviya: Is it open to me to accept that amendment now?

Mr. Speaker: Yes.

Pandit Govind Malaviya: Because, as the mover of the amendment explained.....

Mr. Speaker: Let there be an opportunity to other members to express their views. The honourable member may then be in a better position to express his acceptance or rejection.

Shri M. Ananthasayanam Ayyangar (Madras: General): May I make one suggestion? The substance of Resolution No. 3 is practically the same. I would submit that our friends may move their amendments but this resolution may also be moved and both the resolutions may be taken together for purposes of discussion.

Mr. Speaker: I will allow the amendments to be moved at this stage. The third resolution of course seems to be almost identical except that it appears to be more restrictive in its terms and I am also doubtful whether that resolution will not be barred by this resolution being discussed and passed.

Shri M. Ananthasayanam Ayyangar: Whereas Resolution No. 2 is comprehensive, Resolution No. 3 addresses itself to particular sections of the community which are poor and the Mover wants that some concessions should be shown to them. I would therefore submit that he may also be allowed to move his resolution, so that there may be a general discussion on both the resolutions and the Government may reply as to what they are proposing to do.

Mr. Speaker: I doubt whether it can come in as an amendment. An amendment in this case will be that for the original Resolution, this Resolution is substituted.

Shri M. Ananthasayanam Ayyangar: Resolution No. 3 may be moved as an independent Resolution.

Mr. Speaker: I will consider the matter during the Lunch recess. To me it appears a difficult thing to allow both of them simultaneously, though the one is covered by the other. I see no particular point in the third resolution being moved. The gentleman who has tabled the resolution will have ample opportunity of speaking on this. The importance would be only on the question of voting.

Mr. Z. H. Lari: Sir, I move:

"That in the Resolution,—

- (i) the words 'to visit the different provinces and' be omitted;
- (ii) for the words 'three months', the words 'forty-five days' be substituted; and
- (iii) the words 'and that the Governments concerned should accept the report and implement it without any delay', be added at the end."

Mr. Speaker, the resolution before the House relates to a matter which is very grave: not only is it grave but it requires immediate solution. The mover has given figures to show the difference in prices between August 1939 and those prevailing at present. I would prefer to concentrate the attention of the House on the increase that has taken place during the last 12 months and specially after the recent policy announced in December 1947.

The index figures for April 1947 for food articles stood at 279, while at present after 12 months it is 391. The figure for all commodities in April 1947 was 289 and now it is 389. What is more glaring is that wheat in December 1947 was available at Rs. 13 per maund in U.P. and now it can be had only at prices ranging between Rs. 24 and 30. According to the recent pronouncement of the Honourable the Premier of the United Provinces price of cloth has increased by 400 per cent. during the last six months. Now the question is why is it that during the last six months the prices have risen so high. With all my respect and admiration for the Government here and in the provinces I am constrained to say that the rise in prices is primarily due to the action or

inaction of the Governments in power both in the Centre and in the provinces and with your permission I would elucidate this point.

Has there been any shortage of Commodities? The reply can only be in the negative. Only the other day Pandit Govind Vallabh Pant said: "Our trouble today is not due to any failure of crops or fall in production. The last Kharif was not below the average and the Rabi, if anything, was better." As regards cloth production, according to the recent statement of the Honourable Minister for Industries and Supply, it has increased. In 1947 it was 3,850 million yards and this year during the first six months it was 2,130 million yards. The sugar acreage has increased by about 10 per cent. It follows that something else is responsible for this increase in prices and my humble submission is that the first thing which laid the basis of the rise in prices were the steps taken by the Government primarily the governments of the United Provinces and Bihar with the concurrence of the Central Government. I mean the so-called Sugar Deal of 1947. What was the position on the 7th December when the decontrol was announced? The price of sugar on that date stood at Rs. 21/5 per maund. Dr. Rajendra Prasad, the then Food Minister, while speaking in the Assembly said:

"It is now for the Government to release the sugar and purchase at whatever price it likes and it proposes to take the bulk of the purchase. They (meaning the mill-owners) have come forward with a proposal to keep down the prices of sugar and there has been an arrangement that the prices cannot be allowed to go beyond what they would have been if control had continued."

What was the result. By one stroke of the pen a few days later the price of Rs. 21 and some annas was raised to Rs. 35 and some annas. That paved the way for the increase in prices. *Anrita Bazar Patrika* was really correct when it said that sugar deal had sabotaged the policy of decontrol and now even the Prime Minister of U.P. had to admit that these increases had not only whittled down the area of wheat but has made the cultivator withhold the crop in his own possession. Therefore I say that the beginning in the rise was made by the Governments concerned, primarily the governments of the United Provinces and Bihar and I regret to say the Central Government stepped in to share in the profits realised thereby showed the way, and set the tone. They sowed the seed and now we have to reap the crop.

The second thing followed decontrol of cloth in January. A measure was introduced in this House by the Honourable Minister for Industries and Supply and on that occasion he was pleased to say:

"As you know our part of the scheme is that in future every piece of cloth should bear the ex-mill price and also the retail price stamped, so that in future we may be able to know at any time whether....."

— Then further on he said: "I shall take such steps as will make it impossible for the mills to function." That was the assurance given on the floor of this House. Immediately after that there was, what should I say profiteering by Government? They said to the millowners "Well you can sell your cloth 35% over and above the stamped price, provided you give all this to me." The result was that cloth which was selling at 100% more than the stamped price by the end of March 1948, shot up in price and according to the Bulletin of the Ministry of Industries and Supply the position was that in U.P. superfine cloth was selling at 100 to 300 per cent. above the marked prices. fine between 80 to 150 per cent. and coarse between 50 to 100 per cent. above the stamped price. That was the position according to the bulletin issued by the Government at the end of March 1948. And what does the Government do? Instead of taking measures against the millowners, the Government on the 24th April 1948 even abolished the system of stamping prices. What was the result? When the Government knew, and the public knew, by the end of March 1948 that the prices of cloth, in spite of stamping, had gone so high,

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was it not then necessary to take measures to control rather than remove that very small check which indicated to the public—and to the Government also—what was the rise in prices? This was the second sin of commission made by the Central Government. It only further strengthens the belief that so long as you can fill the pockets of the Central Government and the Provincial Governments, you can proceed on with the rise in prices with impunity.

What are additional reasons for further soaring of prices? You will find that it is primarily due to hoarding or smuggling. In his statement the Honourable Minister for Industry and Supply said that the Premier of East Punjab had told him that out of 60,000 bales, sent to East Punjab only 10,000 bales had been made available to the public. And the figure he gave today of the seizure of cloth in the process of smuggling was that its price came to Rs. 1 lakh. Now realize what is the proportion between the actual seizure and the actual smuggling: it means ineffective steps adopted to prevent smuggling. And who is responsible, if not the Government and the Government alone?

Only the other day, on 31st July, the Honourable Pandit Pant, Premier of U.P., said that it is held that the producer is holding his crop. He does not say "I also believe it". But everybody knows it. Now, may I know whether any searches were made for these foodgrains? Has anybody been prosecuted for this? I know of my own Province where hundreds of houses were searched for a broken spear but not to recover the foodgrain which is the life-breath for the teeming millions who are dying for want of foodstuffs.

Inflation is another factor responsible for the rise in prices. Have any steps been taken by the Government to meet this evil which covers everything else? No policy can succeed unless attempts are made either to decrease or to absolutely remove the excess purchasing power in the country. The other day I read in the press that the Government is considering the matter and I saw a cartoon in Shankar's magazine that they have now discovered that there is something like inflation. Somebody thought that it was a big animal; some thought it a dream; but now Government has realized it. But then that realization remains in the minds of the Honourable Members and there is no tangible evidence of any attempt to meet the evil.

Take the cloth policy which has been announced: that appeal which has always failed with the traders is to be found throughout that statement. The question was how to reduce the price immediately. The scheme says that for four months the cloth which is in the possession of wholesalers and retailers is enough. But the question was how to make that cloth available at reasonable price. It says "We will rely on the human sentiments of the traders". What a hope and what a lucid interval at that time to say that even after the experience of twelve months you can expect that the cloth which was sufficient for four months will be made available. Anybody going now to the shops will find that the cloth shops are empty. Even in execution of elementary order, I read in the press, there has been laxity. Bombay received the order to freeze cloth stocks with mills earlier than Calcutta, to Nagpur it came on 3rd August and godowns were sealed in Calcutta some days later. What is the amount of cloth that must have gone out and entered the black-market to suck the people whose dire need is cloth. On the whole the result comes, to this that the rising prices are due in the first place to profiteering tendencies of the Government; in the second place indifference to check smuggling and detect hoarding; and thirdly failure to formulate any policy to check inflation. About the same time, namely, November 1947, Russia also adopted the same policy—they de-rationed commodities.

Mr. Speaker: The honourable member may continue his speech after Lunch.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Narayan) in the Chair.

Mr. Z. H. Lari: Mr. Speaker, Sir, just when the House rose for Lunch, I was going to refer to the relative position in Russia following de-rationing there. Before I take this up, I would like to make a few submissions pertaining matters which have already been referred to.

I mentioned that there has been hoarding on a large scale. I know of my own Province where at the main market place of Hapur the arrivals are now 500 maunds per day while in normal times they used to be between 5,000 and 10,000 maunds per day. It is practically admitted by the report of the Director of Economics and Statistics for June where he says at page 3: "...the arrivals are comparatively low in U.P. and East Punjab...". Recently, the Ministry there announced what they called a "New Food Policy". Of course there was that wordy warning to hoarders, but I have yet to find any step taken to translate that warning into reality.

There is another factor which has contributed to the rise in prices, and which has already been mentioned, namely the transport difficulties. It is not that the Government is not aware of it. In the Bulletin which I have referred to, it is mentioned definitely in the "Remarks" column that so far as U.P. is concerned "Transport facilities from outside production centres are very poor". The result is that not only are there transport difficulties, but corruption has increased. I can say from sources very close to me that where the freight is Rs. 60 you have to pay Rs. 200 per wagon before you can get a wagon. Now, whence is this money to come? The trader has to recompense himself for this payment and the result is again an addition to the increment.

Now, about the same time in 1947 Russia de-rationed. But what did she do? That country made a distinction between de-rationing on the one hand and price fixation on the other. Coupled with that they also raised the value of the money. The result has been that during the last six months they have reduced the general prices twice and the country and the people there have been able to save in terms of money 57 million roubles. You can appreciate the value of it when you see that the entire taxes in Russia—income-tax as well as agricultural tax—comes to 31 million roubles. That is to say, within six months the population there, by virtue of fixation of price had saved so much amount which exceeds the annual income of the Government there. Why? It may be that Stalin, the originator of that policy is still there while here the Father of the Nation, under pressure of whose opinion de-rationing and de-control came in, perhaps is not here. May be that, but the fundamental thing is that the Government instead of controlling the prices left it to the industrialists to fix prices.

Only recently when the Honourable Minister for Supply made a statement in regard to the cloth policy, he said that the Tariff Board had made certain recommendations about prices and that Government is going to fix prices. But the significant words are "In fixing prices we shall take the recommendations of the Board into view to a certain extent". I am surprised at this. Why this rider? The Tariff Board devoted sufficient time to determine the proper prices and when the Report came the Government spokesman said, "I will take into consideration this Report to a certain extent".

Now the result of all these factors, taken as a whole, has been that the prices have gone up from month to month, from week to week and even from day to day. When a friend of mine said that the Commission cannot go about moving for months, he said a sensible thing. There is no necessity for the Commission to go about in different Provinces. The remedy is known; the disease

[Mr. Z. H. Lari]

is there. The only question is to fix the policy and to apply it with determination.

Now, what is the way out? The Government has got so many engagements, it has got so many preoccupations—Kashmir and Hyderabad are engaging their attention. Then what is the remedy? After all the population cannot wait for long. The only remedy is: Appoint a Food Commission with full powers—not that they should make recommendations which will again go to the Secretariat and remain on the files for months and months, possibly some of them may be accepted and some rejected and then even enforcement may take time. Therefore the Mover was perfectly right when he said that there should be a Commission. But remedy must come as early as possible. There is no question of unearthing such reasons as are not known; this matter has been before the country and the world for months. I feel that if a Commission fully empowered to enquire into the causes responsible for the rise in prices, with full powers to recommend what should be the policy, is appointed and that Commission concentrates itself on that problem and makes recommendations and the Government is prepared to accept those recommendations, I think a way out of the present *impasse* may be found. China is a standing reminder.

There is a limit to everything! Human patience has also got limits. The sacrifices made by the Government in the cause of Independence created a fund of sympathy for them, but I think they have overdrawn over it. But for the problems of Hyderabad and Kashmir, there would have been at least sentimental uprising against the Government. (An Honourable Member: "Question"). Let the Government wake up, give up their lethargy. Let them rise and strike. Strike at what? Strike at the profiteering tendency in the Governments concerned; Strike at the hoarders, at all anti-social elements and last but not the least strike at the corrupt and the corruptor. That is the way to save the country. Otherwise we may go the same way as China is going. With these words I move the amendment.

Mr. Speaker: Amendment moved:

"That in the Resolution,—

- (i) the words 'to visit the different provinces and' be omitted;
- (ii) for the words 'three months', the words 'forty-five days' be substituted; and
- (iii) the words 'and that the Governments concerned should accept the report and implement it without any delay', be added at the end."

Shri K. Santhanam (Madras: General): Mr. Speaker, Sir, I agree entirely with all the previous speakers regarding the seriousness of the situation. The rise in prices is certainly unprecedented; the hardship inflicted on the masses is certainly undeniable; and no one will deny that prompt measures are required. Therefore, the real issues before the House are: What are the causes of this inflationary rise of prices and what are the measures which the Government of India can adopt?

Before I deal with these two issues I would like to utter a word of warning. Economic events are powerfully influenced by human factors. If in our enthusiasm to find remedies we exaggerate the situation, we ourselves become a cause of its further deterioration.

Prof. N. G. Ranga (Madras: General): Quite right.

Shri K. Santhanam: Sir, as I have said the situation is serious, but I would like to point out that there is nothing very desperate, there is nothing very tragic, about it. The rise in prices of our country is, taking 1939 as 100—food articles range between 350 and 400; industrial raw materials from 300 and 450; semi-manufactures 250 to 350 and manufactured articles about 350—400.

RESOLUTION RE MEASURES TO CHECK RISING PRICES OF NECESSARY COMMODITIES

Shri M. Ananthasayanam Ayyangar: Cereals have gone up to 451.

Shri K. Santhanam: My figures are from the report of the Economic Adviser's Office dated the 10th July 1948.

So I think it is a fairly recent one.

Shri M. Ananthasayanam Ayyangar: Mine is dated the 12th June, 1948.

The Honourable Shri Jairamdas Doulatram (Minister for Food): Cereals may be 451. But food articles include not only cereals but other food articles like salt, tea and many other things.

Prof. N. G. Ranga: But it was only 357 in May 1948 according to the Reserve Bank of India. One can go on quoting these things.

Shri K. Santhanam: In the world commodity survey which is given in *Eastern Economist* of August 6, the movement of prices throughout the world is described. For wheat it is 305 pre-war price; for fats and oils it is 400; for sugar it is 375; for cotton it is 362 to 430 and so on. Therefore, the inflationary rise in our country is not very much greater than the average rise in the whole world. I do not say that as a matter of consolation. I only point out that we need not be very tragic; we need not indulge in undue lamentations.

Then, Sir, what are the factors contributing to this rise? I divide them into three classes. There are factors of production; factors of distribution and thirdly monetary factors, which are contributing to this inflation. Of course, greater stress is laid on the factors of production. There is no doubt that the ultimate remedy is increased production, but unfortunately many of the factors of production are intractable. You can solve them only slowly. Time is required. For instance, there is a lot of talk about capital equipment, but we are not able to produce capital equipment and those who produce them have got too many clients and we have to wait for our turn. So it is no use, for immediate effect, to count on large-scale shipments of capital goods from other countries.

But there are some factors which we ought to effect. Something has been said about labour. I do feel that labour should be given a fair deal in the coming negotiations about profit sharing; at the same time, a great nation-wide attempt should be made to impress upon labour how they should, in the interests of the masses, in the interests of the vast millions of agriculturists, step up production in all manner of ways. This is one of the factors which is capable of immediate improvement.

Of course, there is the question of efficiency. The labour efficiency has gone down a great deal. It was said that in the Railway Workshops, it had gone down by as much as 50 per cent. I therefore think that no efforts should be spared to increase this efficiency. It is only by improvement of labour attendance and labour efficiency that we can hope to increase production to any appreciable extent in the near future.

Sir, the factor of distribution has not been properly attended to. I think the greatest contributor to this rise is the breakdown in distribution. Of course, nowadays it is the fashion to say one day that by control we can do everything and another day that by de-control we can do everything. I think both these attitudes are not correct, because control means organisation of distribution throughout the country. What a big country we have, we forget. With five hundred thousand villages, we have to organise distribution, according to licence according to official orders. We have to re-order the entire distribution machinery if we want control. If it is de-control, it is organised on the basis of profit-making throughout the country. Therefore, any attempt to disrupt distribution machinery is likely to lead to disastrous consequences.

[Shri K. Santhanam]

Whether it is control or de-control, it is the re-adjustment of distribution machinery which takes many months and probably some years. It is because we are playing with one policy after another that all this confusion has arisen. If the Government thought that we must have control and stuck to it, we would not have been in this position. If after taking the measure of de-control they had decided upon it and had left all the free channels open and stuck to de-control, we would not be in this position. It is because of the doubt, it is because of the confusion in the minds of the Governments that we are largely in this position. Therefore, whether one likes control or de-control, it is not a matter of importance. What I want to impress upon the Government is that if they decide upon the policy of control, let them, here and now declare that they are going to stick to it, whether it is three years, four years or five years, until they have solved all the problems of corruption and all the other administrative problems and put the machinery in order. If people think that after imposing control now, Dr. Syama Prasad is going to reverse it within the next six months I think that whatever he might do, all his efforts would be in vain. Therefore, let us, as a nation, as a body, pull our weight together and then we are likely to succeed. Either way we are likely to succeed. If we stick neither to control nor to de-control, we will be falling between two stools and we will be nowhere.

Thirdly, Sir, there are the monetary factors. I think this also has not been given proper attention and this is one of those factors which can be immediately tackled by the Government. One thing the Finance Minister has done and to which we must all pay tribute is that he has sat tight and has not allowed any increase in the note issue. He has put a ceiling on the rise in monetary prices and has decided that there should be no more increase in the note issue. But unfortunately, owing to the division of the country, much of the Indian currency which was circulating in Pakistan has come to us and therefore it has caused a further *de facto* increase so far as India is concerned. I suggest that the Finance Minister should take immediate steps to withdraw this amount of money, that is to say, if one-sixth of India has gone out, then at least one-sixth of the note circulation should be withdrawn and he should take all the measures that are possible. One measure which I think is possible and immediately practicable is that he should insist on compulsory saving. Of course, voluntary saving is much superior. He has given time to the people to come forward with voluntary savings; but owing to many reasons, owing to some lack of confidence, owing to general public distrust, people want to cling to the cash that they have got in their hands and if scores of families hoard up each fifty rupees, you know what a big amount it comes to. Therefore, immediately Government should undertake measures of compulsory saving. Now higher wages for labour and higher salaries for the poor distressed middle classes are right, but by doing justice to them, we are only increasing the inflationary factors. They do not save the money; they do not put it in the bank and they are willing to pay higher prices. Therefore, at the risk of some unpopularity, some criticism, the Government should not offer bonuses and increased dearness allowances especially for those above a certain minimum for the next three or five years, because depression is coming very soon. At that time we will require a lot of purchasing power to meet that depression. Therefore it is time to force people, if necessary, to save and then be ready to meet the depression when it comes. I think these are the measures which the Government should adopt. I do not see any purpose in a Commission. We have had the Food-grains Enquiry Committee with all the reports; we have had a series of conferences with Ministers of Industries. To spend any more time on Commissions will be a sheer waste. Finally, it is the Government who will have to decide. They know they have all the information at their disposal, so that in any policy they adopt they will have to meet with difficulties, with all kinds of criticism. They will have to decide, take a

final decision and stick to it. Therefore, no more time should be wasted; they should decide and they should stick to their decision for the next three or five years and take all the consequences. Even if they make mistakes, it is better they show grit and determination rather than become wavering and change their policy every two or three months.

Begum Aizaz Rasul (U.P.: Muslim): The motion before the House deals with a subject which has been engaging the attention of the people of this country for a long time and I am glad that an opportunity has been afforded by the moving of such a resolution on the floor of this House in order that this matter may be discussed. I need not go into details because there is no one here who does not realize the seriousness of the position. The speeches that have been made on the subject today have amply brought before this House the condition of affairs. Mr. Lari has very ably put before the House the reasons that have gone to contribute towards the abnormal rise of prices. Therefore, it is no use wasting time in lamentations or in telling the members of this House that the situation is bad. The only thing to do is to revise ways and means to improve the conditions and to relieve the millions of people of this country from the great hardships that they are experiencing, especially for the last one year or so.

[At this stage Mr. Speaker vacated the Chair which was then occupied by Shri K. Santhanam (one of the Panel of Chairmen).]

Sir, mention is often made of the poorer classes and it is said that they are groaning under these high prices, but at the same time, it should not be forgotten that the so called rich classes are also finding it extremely difficult to make both ends meet. I, as a woman holding the purse-strings of a household can from my own personal experience say that it has become well nigh impossible for me to make both ends meet as far as the expenses are concerned. It is however, not only that prices are high; commodities are sometimes unattainable and this necessitates one to go to the black market. Sir, I am one of those people who have never encouraged the black market in order to get the necessities of life, but I ask the Honourable House to consider that thousands of people are doing it not because they want to but because they are obliged to out of sheer necessity and although it is anti-social, one cannot help it. De-control has taken place in this country and we have been seeing things going from bad to worse. As I said, it is no use lamenting over what has happened, but in every walk of life, not only the necessities of life, but in everything prices have gone up so high that it is absolutely impossible for the people to live. Only a few days ago I received a notice from the school where my children are being educated that their fees have gone up by 25 per cent. Sir, education, food, clothing, servants, everything is getting more and more difficult every day. And I think that it is high time that some sort of measures were devised in order to meet the situation and to improve these chaotic conditions.

There is a basic factor which I would like to bring to the notice of the House, for the scarcity of wheat; upto recently the people in the rural areas did not eat wheat. It is commonly known that the ordinary tenant in the U.P. lived on jowar and chena and did not eat the high class wheat that was left for the consumption of the cities and towns. It is also known that during the last years of the war, these people benefited so much by the great rise in prices that it was easy enough for a tenant to pay his rents by selling a very small quantity of his wheat at the beginning and by retaining the remaining amount not only for his and his family's consumption, but also in order to get a high price later on. I am absolutely of the opinion that as long as the price of wheat does not go down, the prices of other commodities will remain high and therefore the main thing that the Government should consider at this moment is how to increase production of wheat and how to get wheat from the cultivators, who are hoarding it in order to get a very good price later on, because whereas before, the tenant had to pay his rents by selling the wheat

[Begum Aizaz Rasul]

coming from the fields, now it is not necessary for him to do so, and therefore he hoards until the very last moment when he can get the highest price that he wants for it and therefore, ways and means have to be devised in order to get as much wheat as possible after leaving a sufficient quantity for the consumption of the cultivator.

Prof. N. G. Ranga: Why leave that also?

Begum Aizaz Rasul: No. Why should we get it? I am not against it. I do not grudge the people of the rural areas eating wheat but the consequential increased demand must be met with somehow. It is also a fact that the tenants have benefited so much by the inflation, by the rise of prices during these last few years of war that they are now in a position not to sell the wheat in the open market. They are black marketing . . .

Prof. N. G. Ranga: Certainly not.

Begum Aizaz Rasul: I stand to correction, but that is my personal experience and I know that, I can say this for my province that every tenant today, if his house is searched, will have so much wheat that even if a sufficient quantity is left for his family's consumption, there would be quite enough that can be released and brought into the open market to be sold to the consumers. He is not doing this; he is hoarding it, he is keeping it till the last moment in order to get the highest price.

Pandit Govind Malaviya: The procurement figures for U.P. were very good.

Mr. Chairman: I would suggest that the speaker should be allowed to continue the speech uninterrupted.

Begum Aizaz Rasul: The honourable Mover has pointed out that the figures of procurement are very good. I do not think it is quite true, because, I have been a member of the Civil Supplies Committee and I know that

3 P.M. whereas compared with other provinces, the figures in U.P. were good, they were not as good as they ought to have been. The United Provinces, as every one knows, is a surplus province, has been a surplus province for wheat and yet what do we find? It has been necessary for the Government of that province to import wheat from other provinces and even then they have not been able to meet the requirements of the people. As was quoted by the honourable Mover himself, wheat today is selling in the market at 1 seer 4 chhataks for a rupee. Now, Sir, is this a tolerable state of affairs? I hold to my opinion that as long as the price of wheat does not go down, the other necessities of life will certainly go on becoming more expensive and unobtainable as they are doing today. Therefore, the whole crux of the thing is that the production of wheat must go up and that necessary steps should be taken to see that as much wheat as can be procured should be brought to the open market. I will not waste more time of the House, because, as I have said, most of the points have been made out and there is nothing that the honourable members of this Honourable House do not know as regards the conditions in the country. Things must and should improve but we go round in a vicious circle—the bottleneck of transport is always in the forefront, then labour, then other things and that I feel that democracy in this respect has failed and we need a dictator who will be able to sweep away all these difficulties and give to the people their daily needs in food and clothing. It is a sad and indeed a tragic thing that Mahatma Gandhi, the father of the nation, should have been taken away from us. While far from being a dictator, he wielded such an influence even in the economic field that if he had been alive, on account of his steady influence and his judgment and foresight, the country would have been saved the great hardships that it is undergoing at the present moment. He knew that the country was rampant with corruption, bribery, black marketing and all the other evils of a social system that have unfortunately been increasing day by day in this country in the last few years. Unfortunately we have lost in him a leader of great capacity and therefore,

it is now up to the Government to devise ways and means in order to do what is best for the country. In my opinion, Sir, a Commission that will tour the provinces will hardly do any good. A Commission, given absolute powers to do what in its opinion is right to relieve the conditions that are prevalent at present, to report as soon as possible, with a full promise from the Government that its findings will be given effect to immediately so as to improve the conditions and end this state of affairs is the best thing that is needed under the present conditions.

The Honourable Pandit Jawaharlal Nehru: (Prime Minister and Leader of the House): Sir, some of my colleagues of the Government, will, I understand, speak on this resolution if they have the opportunity and the time, and deal with the various departments and the different aspects of the nation's economy with which they are most concerned. At this stage, however, I wish to put before the House a few considerations, and the reactions of the Government generally to this resolution that has been placed before the House.

I am glad that this resolution has come up or rather that this subject has come up before this House. It helps in some way. It might have been better if this subject had been discussed at some later stage during this session; at any rate from the Government's point of view, it would have been more convenient and Government might have been able to give a more positive lead to this House or a more positive assurance to this House as to what they were going to do about it. Nevertheless, the subject is of such vital significance that the more this House considers it the better. Now, I look upon this debate, if I may respectfully say so, not as one in which any, what I might call, final directions are given, but rather one in which the House tells us and tells itself, the various approaches to the question and how one might tackle it, so that we may keep the various facts of the problem before us and be in a better position to come to final conclusions.

The resolution in so far as it calls attention to a certain state of the country is obvious. It is not necessary for any member of the House to remind the Government or any one else that the economic conditions in the country are bad, due to inflation, due to rise in prices and due to hundred and one things. What is necessary is to find out how to check this, how to overcome and how to conquer this; that is the problem. In the resolution itself a suggestion is made that a commission may be appointed. If the House so wants it, the Government is prepared to appoint a commission. But, I must confess that I do not see the value of such a commission and I entirely agree with my honourable friend Bhargava when he said earlier in the day that Commissions have normally been appointed in the past to sabotage anything or to postpone decisions and not to meet any difficulty. I do not think that a commission going round the country could possibly give us more facts or figures than we have or that we can possess. The House knows that periodically the Government have been in touch with the provincial Governments, their Premiers and their Ministers for Food, Industries and the like. They have often complained that they are summoned to Delhi so often and that their work in their provinces suffers. It is a just complaint. Nevertheless, it is very important that we should confer with each other and act co-operatively and jointly and these conferences have a great importance. Therefore, there is nothing really in the nature of facts that we can get by going round the country. That would immediately afford an excuse not only to the Central Government, but to the provincial Governments also to say that the commission is considering this problem, let us wait and see what they say, and they will do nothing. While they wait and do nothing, events do not stop; events are marching ahead and it is no good shutting our eyes to that fact. We need not be alarmists; but conditions have been deteriorating. A thing like inflation if it gets loose

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completely, goes ahead at a headlong pace. This is no time for commissions and committees.

As I said, I do not propose at this moment to indicate with any preciseness what measures Government are likely to take. I would listen to the criticisms and the suggestions of the members of the House and then give thought to them, all of us together jointly and then place such proposals as we have formally before the House at a later stage for them to consider. The House knows that recently we have changed our policy in regard to textiles and for all practical purposes control on textiles has been introduced. We are watching that situation carefully and I have no doubt that, if it is necessary, we shall impose even stricter control there or anywhere else—now while the policy of Government in these matters has to be carefully considered, even in regard to that policy two or perhaps more fundamental matters arise. One is, trying to improve the situation as it is by such measures as appear to us feasible and proper; the other is, trying to seek for the causes of this economic distemper rather more deeply and trying to meet them. That is a bigger problem perhaps and that is ultimately the right approach. But at the moment of some crisis or various kinds of crisis it becomes sometimes a little difficult to go too deep down and upset a certain set-up because at the moment one suffers from it, whatever the ultimate advantages from it might be. However, there is that deeper approach and what I may call a somewhat more superficial approach,—may be one has to strike a balance between the two. Now whatever policy Government might adopt, one thing seems to me exceedingly important and that is the machinery which helps us in adopting that policy. The fact of the matter is that we live in the matter of adopting policies from hand to mouth. Many of us are eminent and able men with very definite and clear ideas on the subject; I am not challenging that fact but I am talking about Government machinery for the moment. An Honourable Member criticised us by saying that we are still following the old bureaucracy, and the rest. I do not agree with him in that. Of course the old bureaucracy is there as the old opposition is there in different garbs, and the old everything is there; we are all old now in our several ways. But it is no good blaming that bureaucracy; some of them are good, some of them are bad and some of them are indifferent. Some of them are experts in particular departments and no Government can be carried on administratively or otherwise without the experts' help even if the experts sometimes go wrong. And I think it is rather ungenerous and unkind always to raise our voice and cast a burden on the administrative personnel or the experts that may be there to advise Government; and certainly I do not wish to shelter myself behind anybody else's fault. But when I talked about machinery, and specially the economic machinery, I was thinking of something rather different. In olden times I believe the general economic policy in India was really not determined in India at all; it was determined in Whitehall or in the city of London or wherever else it might have been determined; it was only given effect to here and minor changes here and there might perhaps have been allowed. It was not necessary, therefore, for any extensive or intensive machinery to develop here which might help in the formulation of policy. Now we are far too much accustomed to talk in rather vague terms of high policies, whether it is a capitalistic policy or socialistic or communistic or any other policy. They have a certain value because they represent a certain approach to fundamental problems. Nevertheless when any Government has to adopt any policy that policy cannot be adopted by passing a vague resolution about socialism; that is not a policy, it is an approach to a policy. Now when we have to have detailed policies we cannot talk in vague terms. And as soon as you get away from vague terms you must have data, you must have statistics, you must know exactly what is happening and where and how. And what is more, you have to watch the changing data, the results of a particular policy from day

to day, so that you can remedy an error or take another step whenever you feel like that. Now in most countries, whether they are socialistic like Russia or capitalistic like the U.S.A. or England or something half-way between the two, you will find an elaborate machinery for gathering data, for finding out and advising Government, apart from the normal statistical machinery which we have not got here to any large extent. Government have to have special advisers and economic experts, Councils, Boards, etc., which are in day to day touch with everything that is happening, produce data and statistics, consider the problem as a whole and advise Government or the special Minister under whom they work. Now what do we do here? We have able economists here, we have able people in various departments, we have able Ministers and the rest; but as we function, each person is specially concerned with his own department, that is, his own Ministry. For instance, there is our Minister for Industry and Supply; he has got a tremendous job on his shoulders; he has to work terrifically hard in the day to day routine work and the determination of policy here and there; but necessarily his outlook is largely confined to the problems that come before his Ministry. So also with other Ministries, whether it is Food or Finance or anything else. Now it is no one's particular job to think of the whole economic picture of the whole of India, partly because nobody has the time to do so and partly because it is nobody's special job to do it. That I consider to be a very serious lacuna in our administrative and other apparatus. It should be the job not only of a Minister but of a group of advisers to think specially and almost exclusively of the economic picture of all India as a whole, balancing it, understanding the effect of one thing over another and then advise on that basis. Today the advice we get would be good advice from competent economists even if it is for the whole of India; but probably they may not have enough data because we cannot have all the data. But normally we get split-up advice, if I may say so. Of course it is possible for heads of various Ministries and departments to meet together and consider a question; and that is normally what they do. Nevertheless even when they meet they meet in a hurried moment for half an hour or so; some problem comes up before them and they apply their minds for that half-hour to that problem and give their opinion and go away and find out something else. It is not as if any of them had applied his unencumbered mind to the subject and brought out topics and proposals which Government or the Assembly or anybody else might consider. So I think one of the essential things we have to do is to frame some policy from day to day, we have to do something to meet the immediate menace. But what I consider more important at the present moment and for the future is to set up a machinery so that proper policies can be framed. That machinery may consist—we have come to no decisions but these are only ideas—of a Minister for Economic and Social Affairs, but the Minister can do precious little unless he has got that background of information and advice by experts. He should have a few competent men who will concentrate on those problems from an All-India point of view and advise with statistics behind them. Now obviously such a Minister would rather tend to overlap with other Ministries which deal with economic matters. That would be unfortunate and that might sometimes create friction and delay. The more I think of it the more I feel that such a Minister of Economic Affairs should have no administrative or executive functions. His special job should be, without any such functions, to consider these problems with the help of his advisers, to confer with each individual Minister in regard to his problem so as to co-ordinate the activities to a Central policy; but the responsibility for the Ministry will remain on the particular Minister in charge of it and it will not be that of the Economic Minister. If I may say so, he should only confer occasionally so as to keep in touch and co-ordinate but he should not have any executive authority.

Now, I am just thinking aloud and not putting forward any scheme or proposal before the House, because I am terribly anxious, as every member of

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this House must be, that something should be done to meet this rising menace in this country. We have many very grave problems before us; as the House knows, we are carrying on a bit of a war in a part of the country. In spite of this, I think the biggest problem for us, and the most vital problem is this economic problem, because that ultimately lies at the root of the problem. If our roots get weak, then all the branches, leaves and flowers dry up. Therefore, I can assure the House that so far as we are concerned, we attach the highest importance to it and I am not afraid of confessing to this House that my mind in regard to what steps we should take has been far from clear and I have sought guidance from others and I should continue to seek guidance from others in this House. Therefore I welcome this resolution because I thought the Government would get some guidance from the members of this House which would enable them to think aright. Within the course of the next few days—within a week I think—we are likely to meet certain representatives of various groups of economic interests: some representatives of labour: some representatives of industry: other representatives, experts: some economists and the like.

Prof. N. G. Ranga: What about the peasants? Do they not come anywhere in the picture?

The Honourable Pandit Jawaharlal Nehru: I was not aware of the fact that the peasants were a leisured class! I mentioned labour.

Prof. N. G. Ranga: But they are separate from industrial labour.

The Honourable Pandit Jawaharlal Nehru: Well, they are certainly peasants!

Prof. N. G. Ranga: They are so big that they escape notice and they get nowhere!

The Honourable Pandit Jawaharlal Nehru: So we do wish to consult and confer with important interests and who can forget the peasants of India, so long as Mr. Ranga is here to represent them.

So that is all I venture to place before the House for the present, and I should like to seek the indulgence of the House not to be more precise on the part of Government as to what we are going to do, except that we hope in the course of this Session we shall put forward more precise proposals before.

Shri Khandubhai K. Desai (Bombay: General): Mr. Speaker, This House is very glad that an opportunity has been given to us to discuss this question. Today, the inflation is practically ruining the country at every stage. I had an occasion about two months back to draw the attention of the Government to the rising spiral of prices and I stated in that context that the grant of belated and sporadic monetary increases to the wage-earners and salaried employees is not appreciated by them. You, Sir, while you were speaking on this issue stated that there was a rise to the extent of about 250 per cent. But I think that that is not the proper way to look at this question. If we look to the index figures we will find that the cloth index in the first week of July was 452: for cereals 468: for pulses 443: sugar 450 and vegetable oils 547. These are the articles with which the common man is concerned and as such, I think that during the last year of the policy of de-control which the Government had followed the index has gone up in essential commodities by about 150. In 1947 the index was roundabout 300. Therefore, Sir, unless steps are immediately taken to bring down the prices to a level which the common man will be able to pay, I think we are heading towards economic collapse. It is agreed on all sides in this House that the situation is serious. The disease is deteriorating every day and we have got our doctor, the Honourable the Finance

Minister, and I think that he with his monetary experience of a generation will be able to save the position, if he so wills it.

It has been stated in season and out of season that the problem before the country is more production. I agree, Sir, that the problem before the country is more production. But looking to the conditions obtaining in the country as practical people, we must decide whether in the near future—within a year or two—are we going to get increased production? My answer to that is, no. Capital goods are very difficult to obtain. Even for manufactured products, you must get capital goods according to the sterling settlement which has been arrived at in England and it will take time before they arrive. It will easily take two years before you will be able to take out even one unit of production from the capital goods which would have to be erected here in this country.

In regard to agricultural products, let us understand that there is a limit to production. All the irrigation projects, all the projects that we have got in view to increase the food products as well as the raw materials will easily take five to seven years before we will get the desired increased production. Therefore, the Government must come out and boldly take the people into confidence and say: Here is our economy. It is not wise to rely upon some potential production that may turn up after five to seven years. The country must reconcile with the scarcity economy and not talk in terms of the economy of the plenty: that is the position before us. Therefore, my suggestion is that taking into consideration the consumption side which is there, the production side, which as I have already stated, is not capable of being increased to an extent which will absorb the surplus purchasing power that we have got in the country. Therefore my suggestion is that the purchasing power which is there in the country in the form of about Rs. 1,200 crores of paper currency and about Rs. 2,400 crores in Government securities, loans, bonds, etc.; and about Rs. 1,200 crores in the form of deposits in banks, making a total of Rs. 4,800 crores—this large amount lying with rich persons for operation are unnecessary and therefore a substantial portion of it according to need, should be frozen for a period of 5 years because, it is this amount which is playing havoc with our markets. Otherwise, there should have been no reason why the prices of foodstuffs should have gone up to such an extent in U.P. which is admittedly a surplus province. After the de-control prices were coming down but after a month or two the prices, we found, began to shoot up. I personally feel that it is the speculators who have got more money in their pocket to play with the market, who have raised the prices and therefore in my opinion the best remedy that I can suggest is to withdraw this purchasing power—this power of the purse which indulges in speculation—by freezing it to the extent that the Finance Minister thinks proper. It is this credit which the rich people have got either in the banks or in government securities that is responsible. After all even securities are also liquid money. At the same time it must also be understood that our agricultural classes, whose cause is so ably represented by Prof. Ranga, have also got their purchasing power, which has been released owing to their indebtedness being wiped out more or less during the last 3 or 4 years and owing to the land revenue which they are paying in money. So in terms of commodities they are paying less than what they used to pay before. Of course nobody grudges them that but even that purchasing power also requires to be curtailed. This purchasing power which is there among the masses and the rural classes particularly can certainly be absorbed if we have got consumption goods. We have to consider whether the standard of living of the peasant has gone up. The standard of living has not gone up. Money does not give them a higher standard of living. It is commodities and services which will raise their standard of living and as I have said we have come to the conclusion that as far as production of essential commodities is concerned it is limited. We have to supply them the commodities which they require in order to increase their standard of living. Under the circumstances that purchasing power also

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should be curtailed, if possible, by a sort of deferred payment. That purchasing power can be curtailed till such time when they will be able to get consumer goods. Therefore I would very earnestly request the Finance Minister to give more thought to this particular aspect of the problem and forget for the time being the old, classical and orthodox methods of dealing with the problem of prices and inflation.

I understood the Honourable the Prime Minister to say that any step taken piecemeal is not going to solve our problem. The whole question has to be looked at in an integrated way. The Honourable Dr. Syama Prasad Mookerjee has announced the textile policy of the Government and unless this policy is integrated with their policy on the question of cotton and their policy in regard to other raw materials used in the production of cloth and at the same time unless that policy is correlated to the food problem, in my opinion, it is not going to have the desired results. Therefore I welcome the suggestion that the Honourable the Prime Minister has made that there must be a Ministry of Economic Affairs, which will not only tender advice from time to time to the Government of India but will also direct the provincial governments to follow an integrated policy so far as economic affairs of this country are concerned.

There was one small point which has been made by some of the members and it is almost a cruel criticism of the railways. It has become a sort of fashion to say that everything is bad because the railways are not working properly. May I ask if other ministries are working properly? Give a dog a bad name and hang it seems to be the fashion. Food prices are higher because the railways are not working properly, cotton prices are higher because the railways are not working properly, textiles are more costly because the railways are not working properly. I know the railway administration has deteriorated along with the deterioration in other sectors of our industry and economic life. So what may happen is that if we put the whole blame on one department it means that the other departments will not try to improve their portion of the job which they should do. That is the position. Particularly in this respect I would welcome the policy which the Prime Minister has enunciated that there must be a Ministry of Economic Affairs which will find out where the railways failed, where the Ministry for Industries and Supply failed, where the Food Ministry failed, etc. I think that is the best way in which you can evolve an integrated economy in this country. Unless the disease is tackled immediately I think we are in for trouble. Therefore, I do not approve of the suggestion made in the resolution that a Commission be appointed. What is there for, a Commission to investigate? Everybody knows what are the causes. The question is whether our Government which is guided by the Finance Minister in this matter is going to take immediate steps here and now and not wait even for a month. During the last one year the rupee that was worth about 5 annas has gone down to 3½ annas and if steps are not taken immediately it will come down to two annas. Therefore the problem is urgent. The disease is sapping every day our very lifeblood and so immediate steps should be taken by the Government in order to allay the anxieties and the worries that are more or less exercising the mind of all the workers in the country.

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Sir, if I intervene at this stage my reason for doing so is that frequent references have been made in the course of the debate to several items which come within the purview of my ministry. It is obvious that the question that is being discussed cannot be looked upon in an isolated fashion. We have to take an overall view of the existing condition in the country and also to explore how we have to attack the problem from all sides. At the same time occasions do arise when Government cannot sit idle and allow things to drift and have to take certain decisive action regarding special items. That is the

reason why we decided a few weeks ago to reimpose control with regard to the textile industry.

I am not going to deal with the general questions which are indeed serious. The Finance Minister will deal with the special question relating to inflation but I wish just to place a few observations regarding the experience which Government have had with regard to the working of the de-control policy on textiles.

We decided to introduce a de-control policy in January last. There was a demand from various sections of the House itself, as also a demand which was voiced from many sections of the public, that after a few years of control policy Government should adopt a de-control policy with regard to certain special commodities. When we started this policy of de-control the position really was not very unsatisfactory—we had in the country about 100,000 bales of cloth which was due to be sent to Pakistan, but which Pakistan was unable to take for reasons which I need not enter into here.

Pandit Hirday Nath Kunzru (U.P.: General): How many hundred thousand bales have you now in reserve?

The Honourable Dr. Syama Prasad Mookerjee: About 300,000 bales.

Pandit Hirday Nath Kunzru: Yet you have to re-introduce control?

The Honourable Dr. Syama Prasad Mookerjee: If my honourable friend will hold himself a little in patience I shall explain the reason why we have to do so. It appeared that there was increased production. Production had gone down in 1946 and 47 and, on account of various factors which came into operation, production came up considerably in 1948, though not to the 1939 level. But taking into account the fact that workers were working for eight hours a day instead of nine hours previously, production was satisfactory. There is very often a confusion in the minds of members and also the public that even during the regime of de-control Government should take effective steps to control the prices. I would like to tell the House that that is a demand which cannot possibly be met by any government. Either you have de-control or you have control. If you have a policy of de-control, naturally you must allow the forces of demand and supply to play and then watch how things may develop.

Prof. N. G. Ranga: There was also a demand that all the mills should be taken over and run by Government.

The Honourable Dr. Syama Prasad Mookerjee: If we take over the mills and run them that is a policy of control.

Prof. N. G. Ranga: That will be more effective control.

The Honourable Dr. Syama Prasad Mookerjee: Let us first of all make up our minds whether a policy of de-control has to continue or a policy of control has to come. I would beg of the members of the House to consider whether they want de-control and thereby allow economic forces to play or whether they want the Government to come into the field and introduce effective control, may be hundred per cent.—from production right up to distribution in respect of all essential commodities.

When we introduce the policy of de-control, prices went up. We had the stamping of prices. There was an agreement—a gentlemen's understanding—that these price structures will be observed in practice. But of course it did not depend on the mills alone. It depended on the trade also, and it did not depend on one section of the trade only, because the middlemen who came to function between the millowner and the consumer were numerous. The increase of prices was the result of certain steps which were taken by the industry, as also by different sections of the trade. The result was the consumers suffered. During the period January to April there was the stamping of prices. But actually those prices were not being observed. The result was that Government lost even with regard to income-tax, because the books of account only

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showed the stamped prices and they had no reference whatsoever to the increased prices at which cloth was being openly sold.

You, Sir, speaking a short while ago rightly pointed out that Government cannot change its policy overnight, and once having introduced a policy of de-control it was certainly up to the Government to allow the policy of de-control to have its full part to play. A chance was given to the industry and to the trade. I am not here to blame all sections of industry or the trade, but I can assert without fear of any contradiction that the Government and the people of the country have been very heavily let down by some sections of the industry and trade so far as textile was concerned. The fact remains that production went up and yet prices were not reduced. Prices were not reasonable; prices were not fair. You may ask why the Government did not take action previously. The chief difficulty of the Government was that if Government had to take any action, it must bear some relationship to reasonable prices which Government had to fix. For that purpose Government ordered an enquiry to be made by the Tariff Board. And within a week of the receipt of the report of the Tariff Board Government decided on its policy and also took action without any unreasonable delay whatsoever. The policy which we have now introduced is control. As the Prime Minister pointed out, the situation is being watched, and if it is so necessary we shall have to stiffen this control. But I can say this, that we have taken effective steps for the purpose of securing the entire production of mill-made cloth. The mills have been told that the entire production will be placed at the disposal of Government and will be sold at prices which will be fixed by Government. Therefore, unless there is any leakage, unless production goes down, or production goes out from behind the scenes—against which also proper steps are being taken by Government—we get the entire mill production in our hands.

Pandit Hirday Nath Kunzru: May I enquire whether cloth is going to be rationed? If not, how is price control going to be made effective?

The Honourable Dr. Syama Prasad Mookerjee: Cloth will have to be rationed, if necessary. So far as distribution is concerned, we have left it to the Provinces. If I can very briefly explain what the scheme is, we have taken charge of the entire mill production of cloth. Now this cloth is being priced according to the schedule fixed by us. It will not be allowed to move to the Provinces except through agencies for whose integrity the Provincial Governments will have to be responsible. It will therefore be known that so much quantity of cloth goes to a particular Province. How that cloth will be distributed will be a matter to be decided by the Provincial Government itself. Here it may be possible for the Provincial Government to license existing traders and to secure the distribution of some portion of the cloth through them or, if the Provincial Government feels that it has an organisation strong and efficient enough to be able to distribute the entire requirements of the Province through its own shops, it is open to the Provincial Government to do so. At any rate we have now evolved a policy which, if properly worked out, will enable Government to have the cloth reach the hands of the consumers at reasonable prices.

The question was raised by Mr. Lari "what about the interim period? Why is it that the traders have been given the privilege and the opportunity of selling the cloth which is now with them through their own agencies?" Nearly about four months stocks of cloth are floating about in the country. Mind you, it is all unstamped cloth. You cannot possibly recover and stamp them, because they have been distributed through hundreds and thousands of dealers through out the country. With regard to that also, we have decided that although Government will not ordinarily interfere with normal trade agencies, if Government finds that there is any attempt to hoard these stocks or to sell these stocks of cloth at prices which Government considers to be unreasonable, then Government will be entitled to freeze and confiscate these stocks

and compel their sale at fair prices. In fact, such steps have already been taken. When I was in Calcutta a week ago the West Bengal Government had frozen the entire stocks which were with the wholesale dealers. Although at one stage it was stated that only about 8,000 bales of cloth were available it was later discovered that nearly 20 thousand bales were available. The same step has been taken by the U.P. Government and Bombay Government also.

Shri Biswanath Das (Orissa: General): May I know whether Government is giving enough latitude and freedom to the Provincial Governments in the matter of distribution of these commodities?

The Honourable Dr. Syama Prasad Mookerjee: We are giving full liberty to the Provincial Governments to arrange for the distribution in such manner as they consider fit and proper.

Shri Biswanath Das: My information from the Government of Orissa is....

Mr. Chairman: I think no argument can be permitted. Let the Honourable Minister be permitted to pursue his speech.

The Honourable Dr. Syama Prasad Mookerjee: I may assure the honourable member that the policy that we have now formulated gives complete authority to the Provincial Governments to prepare their own scheme for distribution. If it trusts particular traders who prove to be dishonest, the responsibility for that will rest with the Provincial Government. If it feels that it has a machinery efficient enough to distribute the entire cloth within the Province through its own agencies, it is open for it to do so. That viewpoint was communicated to the Premier of Orissa also.

Shri Biswanath Das: I was referring not only to cloth but to other commodities as well, like iron and steel etc.

The Honourable Dr. Syama Prasad Mookerjee: I am talking of textiles in respect of which Government has taken a definite and decisive policy.

Legislation is shortly going to be passed. Necessary orders have been drafted. I can anticipate the decision of the Government and announce that certain forms of punishment are also being provided for. At present offenders can be fined or imprisoned. We are going to change the law to make it incumbent on every court not only to impose fines but also to send the offender to jail for every offence that he commits.

Of course much will depend on the co-operation that we receive from the public. We had some reference to the smuggling that has taken place. It is no use our merely blaming the bureaucratic machinery. How did it take place?—because the ordinary people also came into it. Thousands and thousands of bales of cloth went to Pakistan, because there are lots of people who thought they could just make some money out of the existing difficulty which was facing the country. Now, for that purpose it is essential that public opinion should also be properly regulated and educated. We have made an appeal to the Provincial Governments that they should contact popular leaders in the country and obtain their help for the purpose of explaining the new policy of Government. And if there are any offenders among the officials, there should be no hesitation on the part of the public to bring the case to the notice of the Government for necessary action. A special Enforcement Branch is being attached to my Ministry and I have been fortunate enough in securing the services of a most competent police official, Mr. Jaitly coming from the United Provinces, whom the Premier of the United Provinces has been good enough to place at the disposal of the Central Government. He has taken over charge from today and I have left it to him to organise in consultation

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with the Provincial Governments the machinery for enforcement of the new textile policy of the Government of India. I can give this assurance to the House on behalf of Government that Government is determined to see that the new textile policy is given full effect to. There is no question of our backing out of it. We have taken a decisive step and whatever happens we shall go ahead, of course with the full co-operation of the public.

A question was raised about the undue profits which were made by the industry and the trade during the decontrol period. Now that is a question which is yet under consideration of Government. It is not possible for me to say what the final decision will be. But let not any Member of this House or any member of the public or even an industrialist go away with the impression that Government is going to sit idle even over that aspect of the matter. Some steps will have to be taken for the purpose of recovering some at least of the undue profits, the illegitimate profits, which were made by the industry during a period when it was expected that they and the trade would be able to stand up and face the crisis which had come before the country.

Sir, this is only with regard to one particular item.

With regard to the other matters which come within the purview of my Ministry like iron and steel, paper, and so forth, I need not go into the details but it is a matter of deep regret and anxiety that in 1947 production had gone down with respect to every one of these items. In 1948 there have been some signs of improvement. I admit that the control policy also has certain defects. There is black-marketing. There are allegations made about the work done by the officers. But there again if we get co-operation from the public, if certain cases are brought to our notice, I see no reason why Government will hesitate to take action.

I have appointed special committees with regard to the major industries like coal; for iron and steel I appointed it last week. I have appointed a non-official gentleman as the Chairman of the Committee and all representatives from the different indentors and consumers are on the Committee. The policy of the Government will be placed before that Committee for scrutiny or examination at least twice a month and any criticism which may come through such a channel to the Government will naturally deserve the most serious consideration.

Shri Mahavir Tyagi (U. P.: General): Have you done anything for cement also?

The Honourable Dr. Syama Prasad Mookerjee: With regard to cement also what I have done is this. We are making Provincial allotments. There is no control with regard to cement; prices are fixed by virtue of a "gentlemen's agreement" between the producers and the Government of India and certain quotas are sent to each Province. Whenever a particular quota goes to a Province it is open to that Province to pass an order to fix the price and have complete control over the distribution. That power I have given to the Provinces and in some Provinces they have enacted special legislation and have taken over the responsibility for distribution. What I have felt is this: in a vast country like ours it is impossible for the Central Government, sitting in Delhi, to make itself responsible for actual distribution throughout the country. The only agency which we can trust will be our Provincial Governments and we have delegated many of our powers to the Provincial Governments and authorised them to pass laws for the purpose of fixing prices and also imposing such measures of control as may be deemed necessary for purposes of those particular areas.

Seth Govind Das: Is the Honourable Minister aware that in certain cement factories cement has accumulated and there are no wagons available to export it to other places? This is so especially in my Province of C.P.

The Honourable Dr. Syama Prasad Mookerjee: I was coming to the question of transport. The position has been difficult, no doubt. Dr. Matthai has been doing his best to improve the position, but this is a matter which is perhaps even beyond Dr. Matthai. There are certain matters which have arisen which cannot be just overcome, if we try to overcome them, in a day or two; certain long term measures have to be taken and have been taken. A suggestion was made that with regard to textiles, the difficulty in movement was responsible for the high prices. That is not so; more cloth moved to Provinces during the last six months than it ever did during the last two years, and yet the prices went up because there was a collusion between certain sections of the industry and the trade. But so far as transport is concerned we have tried to regulate and rationalize movement as far as possible. I admit that even today we are not producing all that we can produce because of bottlenecks which have been created on account of transport difficulties. But these are matters which, as I said at the beginning will have to be examined from an overall point of view and not treated individually.

I can give this assurance to the House that so far as the major items coming within my purview are concerned, I shall be prepared to discuss with any Member of the House or any Committee thereof, and if any constructive suggestions are made for the purpose of making an improvement even on a short term basis, I shall be only too glad to confer with them and see what we can possibly do. But it is no use our appointing a Commission. We know what are the facts; we know what the causes of the disease are. We know what the bottlenecks are. We have now to put our heads together and evolve a general plan which may go to improve the situation in the shortest possible time, so as to save the country from a grave economic crisis.

Shri M. Tirumala Rao (Madras: General): Are Government satisfied that the penal powers they have got just now are sufficient to punish these black-marketeers effectively?

The Honourable Dr. Syama Prasad Mookerjee: It is not a question of power alone, it is a question of finding out the culprits and putting them in jail.

Shri M. Tirumala Rao: But once you have found them out, have you got the powers?

The Honourable Dr. Syama Prasad Mookerjee: We have got those powers.

Mr. Chairman: Before I call upon the next speaker, I want to ascertain the wishes of the House regarding the course of the debate on this Resolution. It is certainly a most important Resolution and many speakers are anxious to speak. Therefore there are two suggestions which have been made. One is to increase the duration of this evening session by one hour, and the other is to carry over the debate to the next Non-Official Day.

Several Honourable Members: Carry it over to the next Non-Official Day

Mr. Chairman: So we carry it over.

Shri M. Ananthasayanam Ayyangar: Sir, may I make one request to you and to the Leader of the House, instead of allowing this debate to stand over to a distant date? On previous occasions, as the Honourable Leader and other Ministers will remember, special days were allotted to discuss the food problem, the industrial policy, and so on. The subject of the present Resolution also is one which is agitating the minds of the people all over the country. It will be a consolation to them to hear that the Ministry is applying itself, and

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the Legislature and the Government are applying themselves, whole-heartedly to this matter and taking steps. Tomorrow is an official day. My request to the Leader of the House is this that he may kindly consent to allow this Resolution to go over tomorrow as a special case and let us finish it. Half a day tomorrow might be more than enough. Let us finish it tomorrow instead of allowing it to stand over to a distant date and allowing speculations of all sorts to come in. As you know there are two sets of opinions. Rumours may go about, some people may go panicky. The situation may worsen if a long time is taken to consider it and then it may not be under control. Therefore I would request that the discussion on the Resolution be finished tomorrow.

4 P. M. I would personally not mind sitting till 6 o'clock if the House is willing; otherwise, let it stand over till tomorrow if the Honourable the Leader of the House agrees, and we may have one hour in the morning, or half a day.

An Honourable Member: Only one hour? why not the whole of tomorrow?

Shri M. Ananthasayanam Ayyangar: Yes, why not the whole of tomorrow? Or we can discuss it as long as it takes. In any case, it will be finished by tomorrow. I am only waiting to see what the reaction of the Honourable the Prime Minister is.

Mr. Chairman: I may inform the House that it is not in my power to agree to carry it over to tomorrow. I will have to get the consent of the Speaker. Subject to that, I would like to know the wishes of the House.

The Honourable Pandit Jawaharlal Nehru: I fail to understand entirely my honourable friend's talk about carrying it over to tomorrow or postponing it later creating "panic". What exactly does he mean by "panic"? Does he mean that if it is not carried over till tomorrow there will be panic and if it is, there will be no panic? My mind is completely unable to understand what he has been driving at. Government is prepared to give not one day but every day to the consideration of this subject if it needs, but I just don't see how the continuation of this debate on another day or its non-continuation prevents any panic or accentuates any panic. It has nothing to do with panic. So let us put that aside.

Now, I quite agree this subject has got to be debated more. It can be debated, if you like, tomorrow or a week later or thereabouts just as you may decide. I think personally that it will be far better to debate it some time later rather than tomorrow, and if necessary later on Government will certainly give an official day for the purpose reserving the right as to which particular day should be fixed.

Some Honourable Members: Yes.

Mr. Chairman: I take it that the House is agreeable.

Prof. N. G. Ranga: Mr. Chairman, Sir, I am glad to have had the assurances that my honourable friend Mr. Syama Prasad Mookerjee has given us just now, but I wish to confess that I am not quite satisfied with the stand taken by the Government because if only the Government had not trusted to the so-called "good sense" of the industrialists and their "gentlemen's agreement" with these industrialists, surely, the position would have been much better so far as the textiles front is concerned. It is going the wrong way to tell the people who are themselves interested in cheating the public to behave themselves and putting them on the back and telling them, "Oh, you gentlemen, you are very great people. Even if any one out of twenty of you were to dissent, we are going to yield, so that we will go to the public as a sort of unanimous group." And, Sir, this is exactly

what my honourable friend the Minister and his Ministry have done in the last nine months and that is my reason, Sir, for not being able to agree with my honourable friend and his Ministry.

Apart from that, there was the other positive suggestion also. We made that suggestion even at the time when we asked for the de-control of cloth. We wanted one of two things to be done by the Government: Either de-control the whole thing and let the public take their own chance, or take charge of the whole of the textile production. At that time, if I remember aright, my honourable friend had assured the House that if the worst came to the worst he would certainly take courage in both his hands and take over the whole management and production of the textile industry. What does he do today? He comes back again with the same empty assurances that later on, if these steps do not succeed, he would not mind taking stricter steps. I am rather afraid, Sir, that these steps that he proposes to take today are likely to be again circumvented by these very ingenious gentlemen. There are certain sections of these textile industrialists who come to the Textile Advisory Committee meetings, who would not agree that they are doing anything wrong but at the same time as they look so wonderfully innocent and honest they are allowed to carry on the most nefarious trade going on in this country and till now the Government has not been able to come to grips with these gentlemen. The only way I can possibly think of in which the Government can come to grips with these people is simply by taking charge of their mills and running them themselves.

Sir, my honourable friend Mr. Syama Prasad Mookerjee has himself admitted that production was looking up, therefore it is not the fault of the workers at all. I cannot agree with my honourable friend here, Mr. Lari, who said that the general good will of the people is all going from behind the National Government and if these Kashmir and Hyderabad crises are only solved, there would be anybody behind this Government. It is not so. The industrial worker are behind this National Government, Sir. Only just now, an hour back, I got the information that the so-called Token General Strike that was arranged in Bombay by the Communist and Socialist Parties has broken down and almost all the workers have gone to the mills. What does this show, Sir? It shows that the workers are behind the Government. Who are not behind this Government?—The capitalists are not behind this Government. The industrialists are not behind this Government. For some reason which is not known to me, our Government has till now not shown sufficient strength in coming to grips with these gentlemen, in bringing them to book and making them behave themselves towards the public.

Then, Sir, coming to a practical suggestion in regard to textiles, I wish to suggest that so far as the Provincial Governments are concerned I am glad so much liberty is being given to them in regard to the distribution; at the same time I want the Central Government to give them advice to see that as much of this distribution as possible is entrusted to the cooperative societies and also to the weavers' societies, so that there would be much less opportunity for any sort of blackmarketing in the Provinces than there had been in the past.

Coming to the next point, some friends rather in a grudging fashion had been complaining that the peasants are very prosperous. I wish they would only read day before yesterday's Hindu of Madras where it was stated that the Madras Government officials themselves were complaining very bitterly against the Government of India, because manures, fertilisers, iron, seeds and various other things that the peasants are badly in need of have not been supplied to the Madras Government so that they could supply them in turn to our peasants. Peasants have been obliged to pay through their nose for all these things. Has anybody taken note of these things? They say that all the facts

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are before the Government. Do we know whether the peasants have got their pockets full of money or whether if we go to the villages and search the pockets of the officers we would find their pockets are full of money. If we actually do that, we shall be staggered by the actuality of things.

Then, Sir, I wish support one suggestion which you yourself had made earlier, and that is that there should be a certain amount of compulsory saving. Now, if that is so, so far as professionals are concerned it can be easily enforced. So far as the peasants are concerned, I wish to make this offer. Just as the U.P. Government had done in the case of sugar cane prices some time ago, let instructions be given to all the Provincial Governments that when prices are being paid by any mill owner or anybody else to any peasant, whether it is 5 per cent. or 4 per cent. or whatever it is, a certain percentage of the sale price of the grain ought to be kept back by the Reserve Bank and it may be made available to peasants when the depression which you warned about is likely to come. I am sure the peasants would be only too glad to agree to this, provided you know how to put it before them. But if you go and tell them that they are all hoarders how can you expect them to accept such a law and my honourable friend Malaviyaji had himself corrected that lady's wrong assertion and said that procurement in U.P. is as good as last year, if not better what she said was that there was hoarding and it was wrong. What is happening is, the peasant eats a little more because he has a little more grain. If he does that, are you to grudge him? If the peasant has got the grain, he is prepared to place it at the disposal of the Government provided you are prepared to pay him a reasonable price. What is the price that you are paying him? Let us go to Madras. Last year this time there was terrific fear of widespread starvation. But what happened? Did starvation take place after de-control has been brought in? Why is it that starvation was not there? Why is there no widespread cry either from the Government or from the public that there is going to be any mass starvation?

That is so because the grain is there and the grain is being placed in the market by the peasants themselves.

Shri T. T. Krishnamachari (Madras: General): At what price?

Prof. N. G. Ranga: I am going to tell my honourable friend; he is very keen in getting dearness allowance for the postmen and also for all the professional classes. Sir, we wanted Rs. 13 last year per bag and the Government of Madras did give it. The Madras Government did not find it necessary to use coercive measures. With Rs. 15 all the grain is coming into the market. In fact the complaint is that several of the peasants had already placed in the market their grain at Rs. 12 and it is the merchants like my honourable friend Mr. T. T. Krishnamachari I suppose who have got these hoards, and who evade in income-tax and super-tax.

With regard to banking credit which you yourself have touched, I wish to make one point. We find that last year there was much less of inflation, that is less currency than there is today. Therefore there is greater reason why there should be less of this banking currency. According to Mr. Deshmukh, the Governor of the Reserve Bank, there was as much of banking currency this year as there was last year and a little more according to him—500 crores and more. Why should it have been allowed? I find fault with my honourable friend the Finance Minister.

An Honourable Member: It did not go up.

Prof. N. G. Ranga: Because there is no warrant for it at all. I do not want to congratulate him because he is not going to allow anything more than so

much of inflation, or new note circulation. I have got facts and figures to prove that there has been much greater circulation during the last 10 or 12 months and there is no justification for it. I am inclined to find fault with the Finance Department itself and its head. The Honourable Minister is very jealous about his Department and therefore I find fault with Mr. R. K. Shanmukham Chetty himself.

Then I am in agreement with those two points made in the morning in regard to sugar and textiles, about which we have made a mess last year. We should not have allowed the traders to run away with the booty. At least now, we should take care not to allow them to do so. The Honourable Dr. Mookerjee said just now that they are going to devise some methods by which they are going to catch hold of them. I am not quite so sure of his prospect of success. He tried his best to follow these people according to the advice of the Honourable the Finance Minister to run after them and pour the profits back again into the exchequer. When we came to that kind of ethics, what we felt was we could not do anything at all. I am rather afraid unless he is very careful he would again come to have this cold feet.

I wish to suggest, Sir, that if we are to have a sort of control at all we must put a ceiling on wages and salaries and also we should establish cheap price shops for the sale of not only foodgrains but also fuel, kerosene, clothing and sugar. Unless we take up these things in a comprehensive manner I do not think really we can come to grips with the economic situation.

I cannot really congratulate myself on the proposal that is made by the Finance Minister that there is going to be an Economic Advisor Ministry. What is this Ministry if it is not going to have an administrative power, if it is not going to have any power at all over any of these gentlemen and particularly my honourable friend Mr. Matthai, who is the biggest bottle-neck in the country which everybody can possibly see. Then what is the earthly use this gentleman going about and knocking at every department and at every minister's door as a sort of adviser and afterwards expecting him to say: "I am not able to deliver the goods because of inflation". That is no good, Sir.

I am very much opposed to any idea of deflation. I agree with Mr. Deshmukh when he said that if we are to have any kind of change it is disinflation and not deflation. Deflation is going to be a much greater curse than inflation. We have had experience indeed of deflation for over 6 or 7 years in this country and our Government and our people did not know how to get out of it. If it had not been for the war we would not have got out of that deflation and unfortunately instead of coming into steady economic conditions we have got into this typhoid fever of inflation. Therefore, let us not go back to another fever, not inflation, but the other one whose name I do not quite just now remember. Therefore, Sir, what I suggest is that let us come to grips with this big question which has gained a stronghold over our industries, which has gained a hold through our distributive industries also and then it will be possible for you to make a beginning in bringing about this disinflation.

Shrimati Dakshayani Velayudhan (Madras: General): On a point of information I should like to know whether Prof. Ranga opposing the industrial policy of the Government. I know that he was supporting the policy of the Government in the previous session.

Mr. Chairman: The honourable member's speech is there and it is for the members to find out what it conveys.

Prof. K. T. Shah (Bihar: General): My task has become a little more difficult after the intervention of two of the Honourable Ministers, one declar-

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ing a policy he would pursue after consultation, and the other outlining some of the steps that have been taken and may yet be taken for dealing with this problem. At the same time it has also become a little more clear so far, at any rate as to the line of future action which may be expected. It is more difficult in this sense for individual speakers to address the House at this stage, since perhaps some of the courses that the Government may follow may have been prejudged and may have yet to be tried hereafter.

Knowing this difficulty, however, I venture to place some ideas before this House on the very difficult subject, and complicated at that. There can be, of course, no doubt of sympathy and agreement with the general spirit of the resolution and even the substance of the resolution and the amendments proposed. I also cannot dispute the figures that have been laid out here, except perhaps to point out that these figures relate only to published prices which are not perhaps always actually paid prices; and consequently the prices paid by the consumer are not always the prices received by the producer. The benefit of rising prices, if any, has not gone at all, in my opinion to the producer.

Pandit Govind Malaviya: At all!

Prof. K. T. Shah: I would be a little more conservative in this instance at least and say "not wholly". The point, however that I am making, Sir, is that: given the machinery of distribution, given the machinery of the social system as it is, the primary producer does not really benefit to anything like the extent that the consumer has ground to complain. The debate in this house, as I have watched it so far, seems to have been almost entirely from the standpoint of the consumers' complaint. Being a consumer myself, also, I cannot say that I disagree with it. But I would like the House to realise that rising prices by themselves are not necessarily an evil. Rising prices if they are accompanied by increasing production, flourishing industry and improved standard of life, then they must be welcome. In fact there have been cases when the most powerful of States have deliberately increased prices by artificial inflation to avoid the evils of depression. Rising prices are a curse, rising prices are a ground for complaint because of the mal-distribution of the wealth, because of the inability of the producer, whether of the primary materials or of the secondary, to get the full benefit or at least part of the benefit of these rising prices.

If I raise my voice in support of this motion, it is solely because the root of the mischief is the unwholesome, unjust distribution of wealth in this country. It has been my calculation made several years ago, but I think substantially the situation has remained the same that something like 300 families in the country—and giving each of these families perhaps 100 members—30,000 people or one per cent. of the population of this country—monopolise something like 10 per cent. of the wealth of the country. Ten per cent. perhaps as measured by the Income-tax figures and those who evade Income-tax monopolise another 25 per cent. The so-called middle classes, with perhaps incomes between the taxable limit of exemption and the next higher step take about 35 per cent. The masses of the people do not get even the average or even half of the average of the so-called wealth of the country. Under these circumstances, rising prices must be complained of because the distributive system is so unfair and unjust.

These being the premises, the next point, to which I would address myself is that the resolution deals with the causes and the remedies. Sir, the causes may be temporary, some passing evils, such as had been mentioned from several quarters of the House, such as we all know, for instance, shortage of materials for intensifying production, shortage of capital goods, shortage of supplies in the world markets, difficulties of transport, difficulties in the matter of distribution as you were good enough to say, break-down of the

distributive system, decline in production because of civil disturbances and so on. These are temporary factors which do not touch the root of the evil. My heart went out to the Honourable the Prime Minister when he said that it is at the root that we have to deal with this matter and not with the superficial, ephemeral causes. We deal with those difficulties which are there at the moment and which we hope will answer to the steps one of the Ministers said are being adopted. But, if I may say so, the root mischief is the system of distribution of wealth.

A short time ago, one slogan was repeated almost *ad nauseum* in the press and on the platform "produce or perish". I felt like issuing a re-edited version of it,—produce and perish. That is—to say, the producer will produce for the benefit of the person who takes the surplus value, the producer will produce for the benefit of the capitalist employer, for the benefit of those who loot the public by charging higher prices and who loot the Government by evading taxes, who demand protection for their industries, but who would also shout that no controls should be placed on them to check their nefarious operations. If the workers are to be called upon to produce for them, if the working classes are to be called upon to improve their efficiency, for those people who do not improve their machinery or morals, then I feel that the slogan, produce or perish will have no meaning for the working classes. The working classes—I include both peasants and the workers in factories—will have no incentive to produce so long as you do not strike at the root of the situation wherein lies the entire mischief, so long as you do not assure the minimum standard of living that any citizen in a decently civilized community is entitled to claim. Ours is a case in which the average standard of living is the poorest in the world, is the lowest which is hardly sufficient to keep the body and soul together. I am prepared to show to this House that the actual consumption in terms of calories, the actual consumption in terms of the average square meal is hardly enough to go for one meal for a day for an individual in this country. For that working population to be called upon to produce or perish is a mockery unless and until you change the basic situation and alter the fundamental distribution of the wealth of the country. At the present time, as I said before, one per cent. or less than one per cent. takes something like one-third of the wealth of the country while the rest of the population are left to starve on half of the average.

Similarly, the difficulties in transport, and the difficulties in the distributive system are all, in my opinion, temporary evils or temporary defects which can be and would be easily remedied if only we were determined enough to do so. You were good enough to say that ours is a large country. In that respect, I would also add that ours is a large population. If you want to deal with the situation, there will be no lack of men to do so. What is lacking is the drive, the imagination and a determined policy to deal with the situation. Somebody said, if you want to have control, have it in full and universally. I whole heartedly agree with him. Control or any such remedy would be of no effect if you go about in a half-hearted manner. Today you try it on distribution, tomorrow on production and the day after on regulating the hours, and the other day on putting some control on consumable stores. That would not do. In the civilised society of the type we are living, there is no such thing as freedom of enterprise, or for the matter of that, individual freedom. A civilised human being, by the very nature of the civilisation, must submit

to control and discipline and regulation of all kinds. He has to live in a civilised society in which the lives of others are as sacred as his own. He cannot act according to his own will and the State is there to see that rules are made, discipline is imposed and controls are put in so that everybody gets a square deal. These controls are imposed by us, by our own choice, by our

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free votes; but we must have them if we wish to live in a civilised community. I for one have been holding this view from my cradle to the pyre. The system that needs to be corrected is the system of distribution. Where you should apply the axe in my opinion is not merely in controlling the prices, or inflation, not merely in calling upon a gentlemen's agreement assuming they are gentlemen to agree to certain conditions and then come to the House and say that they have badly let us down. Why should you think they would keep their word? No matter what promises they make or what assurances they give, I have never had in my life any trust or belief in that class and therefore I feel that those who trust that class of people would only invite miserable failure. Even now, I submit, it is not too late, if you see that the circumstances call for drastic remedies. You must deal drastically with those who have been proved to have misbehaved. Then you will find not only will the evils stop, not only will the complaints which we have every cause to make end, what is more, the inherent potential possibilities of this country will develop in a very rapid and very democratic manner, in a manner which will astound those people who have given no thought to them. I claim, I say it in all humility, to have made some study of these matters. Recently I have edited and brought out a series of reports of the National Planning Committee, which have taken the view that the Honourable the Prime Minister was pleased to place before this House, namely, to have an overall picture of every facet in the national economy. Viewing from that point of view, and not confining myself only to one aspect of the question, I am bound to tell you that unless and until radical remedies are taken for these radical evils, the solution will only be a passing one, if it is a solution at all and you will not be saved of the necessity to make confessions of the type that they have miserably let us down. Let me be the Cassandra and tell you that they will always let you down if you put your faith in false gods.

Shri M. Ananthasayanam Ayyangar: Sir, I have listened with interest to the speech of my honourable friend Dr. Mookerjee as also of the Honourable the Prime Minister. Our lady friend Begum Rasul said that the circumstances of the country require a dictator to handle the situation. The Honourable the Prime Minister said that some Minister with a portfolio but without any executive power should be appointed. In between the two I would suggest that the Prime Minister himself may take charge of this portfolio and give up for a year the other portfolios in his charge. My impression is that unless a super-Minister is there with power to drive the other Ministers and the whole Ministry to supply our deficiencies in food and clothing, nothing good will come out. I do not want just one other Minister to stand before the other Ministers with folded hands and ask them for favours as if it is his own business. I know in many departments a Minister had to feel helpless before other Ministers and there is nothing like co-ordination. Before the 15th August, 1947, as soon as the Prime Minister took charge we heard that for a short time in the day the Prime Minister used to call the various Ministers to his office or somewhere in the Secretariat at 4 o'clock, to take note of whatever passed every day, and for some time we heard that all was well. Thereafter this kind of co-ordination seems to have got more and more lax. I do not wish to enter into details, but the test of the pudding is in the eating and we find that there is no co-ordination. Is it for the first time that the Prime Minister has come to realise that a Ministry for Economic Affairs is necessary? He himself has presided over the National Planning Committee. Now in human affairs the first thing to be done is that even if a building has to be constructed it is the original mason who has to think out what kind of building he has to construct before he puts up one brick over another. Planning is essentially necessary and a programme has to be chalked out. Policies have been there. The other day Government through the Honourable Minister of Industry and Supply came out with a policy regarding the industrialisation of the country;

they chalked out certain industries as State industries, others as joint industries to be run by both the State and private enterprise and others run exclusively as private industries. May I know what has been done in that direction? I heard the long speech of Dr. Mookerjee today; he dilated more on the ways of distribution than on increased production. Has he opened any new mills in this country for producing greater quantities of cloth? Nothing has been done, even after the last Industries Conference. Either the State itself should have done so or induced other people to do it. The huge delegation that went to England with such a huge paraphernalia should not have come to any financial agreement but to a commercial or trade agreement. They should have arranged to get goods from foreign countries. To make a transfer from one account to another account in the Bank of England is no good, and all our efforts have been wasted. What is it that our delegation that went to England to liquidate the sterling balances has done in terms of goods? Nothing tangible has been done and no effort seems to have been made in that direction. The British Government instead of saying that they would allow 160 million could easily have allowed the whole of the thousand millions in our account, because it is all done on paper and means nothing. Sir Stafford Cripps was there; if they had only given one look at him and drawn inspiration from him that would have been enough. Where is that enthusiasm and that drive?

An Honourable Member: Exporting moral credit also.

Shri M. Ananthasayanam Ayyangar: Yes, without any imports. What I say is this. Where is the Minister here in charge of any portfolio who says at the week-end on the radio or in the press or on the platform that he congratulates people on their efforts in the way of increased production? That has got to be done if we want to live a decent life in the world. I am not at all over-ambitious and do not want to capture other markets as Sir Stafford Cripps wants to do. He wants to retain the old external trade; our own markets are enough for us. Are we satisfying our own needs? I must appeal to every Minister; whoever takes a responsible position must feel his position. I will refer to the question of food; I am not making any personal aspersion against any Minister but surely it is a matter for consideration. The one country which started the war and had to defend itself has set its house in order in a very short time. It is just like a ball; the harder you hit it the higher it goes. Likewise England has come to its feet. We have not suffered much by the war but we are in the same old abyss; it is like the dog that bites some other man and then itself dies. We were not heart and soul in the war but we have been hit much more than the others. In the matter of food its production has gone down in every province and in every item. There were some questions to be answered today by the Food Minister and the Minister for Industry and Supply; we did not reach them and the answers were laid on the table. In regard to Madras, for instance, there is a statement showing the production of the principal food grains and the increase during 1945 to 1948, the basic period being 1939. The normal average in Madras in 1936-39 is 72 lakh tons; then it came down in 1945-46 to 59 lakh tons, then increased to 70 lakh tons and again came down to 58 lakh tons. Today we are deficient by 20 per cent. Likewise the original all-India total was 43 million tons, then

it came down to 41, then to 40 and 35 and now we are deficient by 3 million tons. Therefore so far as food is concerned, what steps have been taken? The Grow More Food campaign is more a window-dressing than anything else. Where are we growing? In the Governor General's bungalow or in the house-tops? It is a matter for explanation from any Minister. The other day I moved a Resolution for the appointment of a Famine Commission to take charge of the less developed areas to which money should be given by the Centre as well as the provinces, so that they may watch constantly what

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progress has been made. What has been done about that? There are other figures here which show that we are importing all sorts of grains at a cost of 108 crores of rupees per year. What grain used to be thrown into the sea by other countries as useless is now being eaten in this country; only next to death by starvation we will eat anything that is called a cereal. We are importing to the tune of 108 crores; but what has been done—may I know—in the way of subsidising agriculture in order to produce more food in this country? My honourable friend Prof. Ranga always says we must give more to the Kisan; we always give little and we are always too late. We never appease. We never satisfy those persons who are in want. Let us give something more. That is what I would ask the Minister to address himself to.

As regards implements, there are iron and steel. Until agriculture improves, they should be made available only for agricultural purpose. Let all the other activities be suspended, except defence industries, where iron and steel might be necessary.

How is it that people were able to produce cereals and other things in 1939? How is that the production of cereals has gone down? Because they were not fetching the same price as sugar cane. In my own district, a number of paddy fields were converted into sugar cane. They produced so much that when jaggery prices fell down they also collapsed. A kind of crop planning is necessary. For the tea and coffee that is exported to foreign countries, we are anxious to have a plan. It is because the foreigners give us a drive. Have we not a drive for ourselves? Why should we not insist that we should stand on our own feet, having now come to our own? A man having land should be permitted to cultivate it according to a plan. Those are the ways in which we could address ourselves with respect to food.

With regard to cloth, some more mills must be brought into existence.

Then I come to the Honourable the Finance Minister. He has not been able to sponge off the profits which have gone into the pockets of so many persons and we have given him sufficient time to endear himself to the industrialists of this country. It is nearly a year. He kissed them. He gave them various other things. But all these embraces have been one-sided. He has not been able to induce them to produce more. We ignored our convictions and still we supported him. But we have so much of inflation that the common man is going to the wall. I read the speech of the Governor of the Reserve Bank. He says banks are advancing on non-industrial purposes and not producing consumers' goods. Then why are you merely looking on? Rs. 500 odd crores have been thrown into the market. That is his confession. Here is a cutting from the press. This is clear that the Reserve Bank has not taken steps to reduce inflation. On the other hand, it is printing as of old more and more notes and sending them into the banks. Even these savings certificates have not proved effective.

What is the next step? Why not try in the other direction? Let a number of people come and subscribe to these loans. Let us give more interest. But objections may be raised by the industries thus. If Government is paying so much interest to subscribers and draws off money, what are we industrialists to do? The answer is that the Government tried to help the industrialists by starting a cheap money policy, so that not all money may be drawn by Government but that the money may be available for industrialists. They assembled some motor parts from England and called it "The Hindustan Times".

Oh! I am sorry. I mean "The Hindustan Ten". I know of ancient times that when an Indian will purchase a company, for the goodwill of an English name he will forego all his property. So the same game is being continued in "The Hindustan Ten".

The industrialists have failed. Let us not look to them. The time has come when the State must come forward and say that this is the industry that I will take and pursue. If the choice is between the welfare of the industrialist and the community, I will choose the community. All of us, 300 millions and more, are not here to be merely satisfied by a handful of these people? They are definitely dictating policy. All right, let them support us and then try to take a large percentage for its management.

I was surprised—possibly I did not hear my honourable friend the mover, properly,—but if I heard him correctly, I am exceedingly sorry for the suggestion that he gave. Do you know what it is? He says place your industries in charge of the industrialists. Bring all the industries together appoint all industrialists into a council and place all the industries in their charge. I am glad he has not advised us to give away the management of the Government so that once and for all we shall be ruled by them lock, stock and barrel.

Pandit Govind Malaviya: As an alternative to the Government not taking up the whole thing in its own hands.

Shri M. Ananthasayanam Ayyangar: It is an alternative of dropping ourselves into the sea. What is this alternative? To place the entire industry into the hands of a few?

Pandit Govind Malaviya: Without either of the two, we will be as vague and lost as we are at this moment.

Shri M. Ananthasayanam Ayyangar: If it is for such a solution I would not have subscribed to the resolution. Under those circumstances, I am sorry that none of these gentlemen have taken their work seriously except for one or two. I do not want to be invidious. It requires a super-Minister to be in charge of this.

What is the need of my quarrelling with Mr. Lari. Very often persons who oppose us speak the truth. We have to recognise it much sooner than we do. We cannot merely play to emotions and then say we are doing this. We cannot warm ourselves on paper fire. Likewise, if we go on with these speeches, can we fill our stomachs? Therefore I appeal with all earnestness that they should put more energy into themselves and see to it that such a debate need not come up here again and our country will be overflowing with milk and honey; otherwise I would request them to get out.

Pandit Hirday Nath Kunzru: I would like to speak on it at a later occasion.

Shri K. Hanumanthaiya (Mysore State): I would make a similar request as my friend Pandit Kunzru.

Mr. Chairman: If the Honourable Member declines he loses his opportunity.

Shri K. Hanumanthaiya: The consideration shown to Pandit Kunzru should be shown to me also. If the Chair declines, however, I do not worry!

Mr. Chairman: I am afraid you will have to lose it.

Shri K. Hanumanthaiya: I am afraid I do not regret it!

श्री गोकुलभाई दौलतराम भट्ट: सभापति जी, मैं दिन के आखिरी भाग में इस विषय पर बोलने के लिए खड़ा हुआ हूँ। मैं अभी न तो सरमायेदारों के विषय में बात करना चाहता हूँ और न दूसरी जनता के विषय में बात करना चाहता हूँ। अभी यह कहा गया है कि सरकार बहुत कोशिश कर रही है पर परिणाम जैसा होना चाहिए वैसा नहीं हो रहा है। और हम लोग

(श्री गोकुल भाई दोलत राम भट्ट)

तो अनासक्ति योग वाले हैं हमने इसकी चिन्ता नहीं की कि कैसा हो रहा है और कैसा नहीं हो रहा है। लेकिन अब हमें मालूम होने लगा है कि हमने जो नीति अस्तित्व की वह ऐसी रही है कि करना या नहीं करना, थोड़ा सा करना या बहुत करना, इसके बीच में हम यहां वहां भटकते रहे और उस नीति के परिणाम स्वरूप आज यह हालत हो गयी है। अब हमें चिल्लाना पड़ता है। अफसोस जाहिर करना पड़ता है और हमारी हुकूमत के मिनिस्टर्स को भी कुछ सोचना पड़ता है और वह भी कुछ ज्यादा दिमाग लगाकर सोचने लगे हैं और हमें कुछ आश्वासन दे रहे हैं कि हम यह करेंगे, वह करेंगे। एक तरफ हम यह कहते हैं कि जिनके ऊपर हमने आधार रखा था उन सरमायेदारों ने जैसा हमने चाहा था वैसा हमारा साथ नहीं दिया है। कुछ अंशों में वह बात ठीक है। इसमें दो रायें नहीं हो सकतीं कि जैसी हम अपेक्षा करते थे वैसी हमारी उम्मीद पूरी नहीं हुई। इसमें तो कोई शक नहीं है। लेकिन इसके साथ साथ मैं यह भी कहना चाहता हूं कि जो लोग जनता में काम करने वाले हैं और जो यहां बैठे हुए हैं उन्होंने अपने जीवन को कितना ऊंचा उठाया है और जनता के और दूसरों के सामने क्या आदर्श रखा है। मैं मामूली सी मिसाल दू तो ठीक होगा क्योंकि मैं आपके सामने लम्बी लम्बी बातें करने में और तरह तरह के आंकड़े आपके सामने रखने में ज्यादा समय नहीं लेना चाहता यद्यपि मैं ऐसे आंकड़े दे सकता हूं कि उत्पत्ति बढ़ी है या घटी है। उत्पत्ति कुछ बढ़ी है मगर हमारे मिल वालों ने कपड़े की उत्पत्ति छिपा रखी है। कम से कम दस परसेंट उत्पत्ति तो ऐसी है जो कि हमें मालूम नहीं कि हुई या नहीं और जो कि उन्होंने छिपा रखी है। कहने वाले कहते हैं कि ज्यादा लूम (Looms) चलते रहे मगर उन्होंने उनको बिगड़ा हुआ दिखाया और इस तरह उत्पत्ति कम दिखलायी। लेकिन सचमुच उत्पत्ति बढ़ने में कोई शंका नहीं है।

अनाज की उत्पत्ति बढ़ी या नहीं यह कहना मुश्किल हो जाता है। कहीं-कहीं अनाज कम हुआ है इसमें कोई शंका नहीं लेकिन पता लगा है कि कल तार आया है कि बीकानेर में हजारों मन गेहूं, हजारों मन जौ और लाखों मन चना सड़ रहा है, बारिश में भीग रहा है और बदबू मार रहा है। इस तरह की स्थिति है। वहां के व्यापारी और वहां के किसान चाहते हैं कि उसे कोई ले परन्तु कोई लेने वाला नहीं। या तो कोई लेने वाला नहीं निकलता है या हमारी रेखवे की सामर्थ्य नहीं है कि वह उस माल को ला सके। हमारे किसान चिल्लाते हैं कि हम माल देने को तैयार हैं हमको कीमत दीजिये। अगर वह ब्लैक मारकेट करने लगे तो उनको बहुत

ज्यादा कीमत मिल जाय। लेकिन जब वह सही तरीके से माल देना चाहते हैं तो आप नहीं लेते और जब वह चोरी करके बेचते हैं तो उनको ज्यादा कीमत मिल जाती है। तो इस चीज का भी हमें विचार करना चाहिए। जो किसान चीज उत्पन्न करता है अगर उसके पास कुछ ज्यादा पैसे भी चले जायें तो कोई हर्ज नहीं। हम ब्लैक मारकेटियर को बीच में रखकर उसे ज्यादा पैसा दें यह ठीक है या यह ठीक है कि हम किसान से कहें हम तुमको १५ रुपया या १८ रुपया देंगे। पर उस समय तो हम उसे ५ या ६ या ७ रुपया देकर उस चीज का दाम २० रुपया लेना चाहते हैं। तो हमारी नीति इस प्रकार की होनी चाहिए कि जहां जो चीज है उसे हम अपने हाथ में ले लें और उसका वितरण इस प्रकार से करें कि वह जनता में सही तौर से पहुंच सके।

जब कंट्रोल था उस समय भी और जब उसके निकालने की बात हुई उस समय भी मैंने कहा था कि कंट्रोल के रखने से हमारा जीवन नीचे गिर गया है। आज मैं फिर कहता हूं कि हमने कोई तरक्की नहीं की है। हम अपने प्रयत्नों की तरफ नहीं देखते, हम अपने रीति रिवाज की तरफ नहीं देखते कि हमने अपने जीवन को कितना नीचा गिरा दिया है। हम कहते हैं कि हम ब्लैक मारकेट नहीं करते लेकिन ब्लैक मारकेट करने वाले की मोटर में बैठने में हमें कोई हिचकिचाहट नहीं होती यद्यपि वह दस दस रुपया गैलन का दाम देकर पेट्रोल खरीदता है। यह छोटी सी बात नहीं है। मैं यह कहना चाहता हूं कि आज हिन्दुस्तान में हमारा नैतिक जीवन बहुत गिर गया है और हमारा बहुत नैतिक अधःपतन हो गया है। उसकी तरफ हम देखते नहीं। हम बड़े बड़े अर्थशास्त्रियों की तरह विचार करते हैं कि कौनसी तरकीब लगावें जिससे सरमायेदारों को अपने नियंत्रण में रखें। हम अपने ऊपर नियंत्रण नहीं करते हैं। हम यह नहीं सोचते कि जो जनता एक बार भोजन कर रही है उसके मुकाबले में हम कितना उपभोग करते हैं, हम कितना अनाज खराब कर रहे हैं। जिन लोगों के पास पैसे हैं उनके लिए मैं यह सुझाव रखना चाहता हूं कि वह एक मर्तबा अनाज इस्तेमाल करें और दूसरी मर्तबा साग भाजी फलहार पर ही रहें कि जिससे हमारे अनाज का बचाव हो।

कपड़े के लिए आप कहते हैं कि १२ गज मिलेगा या २४ गज मिलेगा। अभी बम्बई में सप्लाइ मिनिस्टर देसाई ने कहा है कि अब २४ गज कपड़ा मिलेगा। हम लोग अधीर तो हैं ही क्योंकि हम समझते हैं कि यह मिलने वाला नहीं है। कल फलों हुक्म निकाल दिया जायगा और परसों तीसरा हुक्म निकाल दिया जायगा। हमें किसी चीज पर विश्वास नहीं है। इसलिए जब

[श्री गोकुलभाई दौलतराम भट्ट]

से २४ गज का हुक्म हुआ है दस रुपये की धोती १५ और १७ रुपये में बिकने लगी और इस तरह काला बाजार ज्यादा होने लगा। तो मैं यह कह रहा था कि अगर हम समझते हैं कि २४ गज कपड़े में काम चल सकता है तो हम लोगों को भी जो कि नेता कहलाने वाले हैं २४ गज में काम चलाना चाहिए। मगर उनके घर में जाकर देखिये अलमारियां भरी पड़ी हैं। अपने रिश्तेदारों के लिए वह ब्या ब्या कर रहे हैं। अगर इन चीजों का हम ख्याल करें तो हमें मालूम हो जायगा कि जब हम इतने गिरे हैं तो हमारी जनता क्यों न गिरे। हम अपने को और अपने रिश्तेदारों को आगे बढ़ाने के लिए किसी न किसी तरह से बढ़ावा दे रहे हैं। हम समझते हैं कि हमारे भाई ही देशद्रोही हैं। हम जानते हैं कि अगर रुपया मिलने की बात हो तो हमारे भाई पाकिस्तान तो ब्या हमारे किसी भी दुश्मन को चीज देने के लिए तैयार हैं। उनको तो रुपया चाहिये।

इस प्रकार हमारा यह नैतिक जीवन गिरा हुआ है। इसको उठाने के लिये हमें सोचना होगा। हम में जो लोग बोलने वाले हैं जो लोग काम करने वाले हैं उन लोगों को अपने जीवन को उठाना है और उन्हें अपने जीवन को उठाने के लिये कोई न कोई तरकीब सोचनी होगी और उसके बाद हमें आशा करनी चाहिये कि सरकार भी उस पर सोचे।

यह बात ठीक है कि सरकार के पास काम बहुत है और सरकार से आशा भी हम बहुत करते हैं कि मजदूरों के लिये यह करो, फ़लों के लिये यह करो, यह योजना बनाओ वह योजना बनाओ, रियासत के मामले को बढ़ाना है, हैदराबाद के लिये भी इन्तजाम करना है। उनके सामने एक चीज तो नहीं है। लेकिन फिर भी मैं यह मानता हूँ कि यह बहुत ही बड़ा और ज़रूरी सवाल है। कपड़े का और खुराक का जो सवाल है वह इतना बड़ा सवाल है कि उस पर दो दिन बहस करें तो भी ब्या होने वाला है। आखिर हम बहस करके चले जावेंगे और काम उन्हीं पर छोड़ जावेंगे जो कि काम करने वाले हैं। उन्हीं मंत्रियों के ऊपर छोड़ जावेंगे जो कि काम करने वाले हैं। लेकिन हम बहस करके छोड़ जाय इतना ही नहीं करना चाहिये। मैं जो बहस में हिस्सा ले रहा हूँ उसका मतलब यह नहीं है कि हम लोग कमेटी में आ जाय, या कोई इकानामी कमिशन (Economy Commission) बने उसमें आ जाय। मैं तो कहता हूँ कि हमें जनता के जीवन को उठाना है, हमें नैतिकता के जीवन को उठाना है। और इस लिये ज़रूरी है कि हम जो कपड़े वगैरह का इस्तेमाल करें वह सही करें। इस तरह जनता समझ सकती है कि यह लोग जिस रीति से चल रहे हैं उसी रीति से हमको भी चलना चाहिये। इस प्रकार हमें चलना है जिससे यह जो ब्लैक मार्केटिंग और हा हा है वह कम हो जाय।

इतना कह कर मैं समाप्त करता हूँ क्योंकि अब समय भी हो गया है। मेरे जो विचार थे वह मैंने आपके सामने रख दिये हैं।

(English translation of the above speech)

Shri Gokulbhai Daulatram Bhatt (Eastern Rajputana States Group): Mr. Chairman, Sir, I rise to speak on this subject this evening. At the moment I do not either want to take up the cause of capitalists or the others. It has just now been stated that Government is doing its utmost but the results are not quite upto the expectations. We have been taking quite a detached view and did not show any anxiety over the trend of events. But now we have come to realise that the policy which we had adopted was that of indecision, and as a result of which such a state of affairs exists today. Now we have to shout and regret and our Ministers have also got to think over this. They have also begun to exert their brains and are giving us some sort of assurance that they would do this or that. On the one hand we say that the capitalists on whom we depended had not co-operated with us to the extent we had anticipated. This is true in many respects. There cannot be two opinions on this that our hopes have not been fulfilled. There is no doubt about it. But along with this, I would like to know how far those of us who are public workers and sitting here have elevated their lives in the estimation of the public and what are the ideals placed by them before others? It would be quite in order if I quote a small example, because I do not want to take more time by giving lengthy discourses or placing various kinds of statistics before you, although I can furnish such statistics which would tend to show the increase or decrease in production. The production has been increased a bit, but our mill-owners have concealed this increased cloth production. At least we are not aware of 10 per cent. of such production if it did actually exist or not and which they have hidden. It has generally been said that more looms are working, but they have shown these as out of order and in this manner they have manipulated to show less production. But infact there is no doubt in the increase in production.

It becomes somewhat difficult to say whether there was actually an increase in the production of foodgrains or not. There is no doubt that at certain places the production of foodgrains had been small, but I am told that a telegram was received yesterday that thousands of maunds of wheat, barley and grams are rotting, putrefying and soaking in rain in Bikaner. Such is the state of affairs. The traders and peasants of that place want that somebody should purchase it, but there is none to buy. Either there is no buyer or our Railway has no capacity to transport it. Our agriculturists are clamouring that they are prepared to sell their goods provided they are paid a fair price. If they resort to black-market, then they are able to secure very high prices. But if they want to sell these in a proper way, then you do not buy, and when they sell in black-market, they manage to get more value. We should also, therefore, look to this aspect. There is no harm if a little more money goes into the hands of an agriculturist who is after all the producer. Which of the two courses is right? Should we pay more money through the agency of a black-marketer or tell him directly that we would pay him at Rs. 15 or Rs. 18. But at that time we want to procure these goods by paying him at Rs. 5, Rs. 6, or Rs. 7 and on our part sell at the rate of Rs. 20. Our policy should, therefore, be to procure from each and every place whatever is available and distribute it in such a manner that it reaches the masses equitably.

During the time when control was in force and later as well when the policy of de-control was under consideration, I had pointed out that the existence of control had demoralized us. Today I again say that we have not made any progress. We do not look to our ideals, customs and traditions that how

[Shri Gokulbhai Daulatram Bhatt] far we have been morally depraved. We assert that we do not indulge in black-market, but we hardly feel any hesitation in sitting in the motor-car of a black-marketer although he purchases petrol at Rs. 10 per gallon. This is not a petty thing. I would like to say that our moral life in India has considerably degenerated and we have succumbed to moral bankruptcy. We do not look to this aspect. Like great economists we think over the ways and means to bring capitalists under our control. We do not exercise any self-control. We do not look to those people who get food only once a day and make a comparison between them and the quantity of food we consume and waste. I would like to put this suggestion for being acted upon by those who are rich and exhort them to take cereals only once in a day and use vegetables and fruits subsequently, and thus economise in cereals.

In regard to cloth you say that either 12 or 24 yards will be given. Only recently, Mr. Desai, Minister for Civil Supplies, Bombay Government, stated that 24 yards of cloth would now be issued. We people are quite impatient, because we apprehend that this would not be available as revised orders would be issued tomorrow and again the day after. We have got no faith in anything. Since the orders for the sale of 24 yards of cloth were issued, a dhoti costing Rs. 10 is being sold at a price of Rs. 15 and Rs. 17, and this gave a fillip to black-marketing. What I meant to say was that in case we think that 24 yards cloth can serve the purpose, then we people—the so-called leaders—should also confine our requirements within this limit. But if you go to their houses, you will undoubtedly find that their almirahs are full. How are they helping their relations? If we take a stock of all these things, then only we can visualize the extent to which we have been degraded and as a sequence to this why should not our masses also be demoralized? In some way or the other we are aggrandizing our own interests and encouraging those of our relations. We know fully well that our brethren are traitors, and they are preparing to sell goods to any of our enemies—what to say of Pakistan—when the question of making money is involved. In this way our moral life has degenerated. We shall have to think over how to raise it. Many of us who are workers shall have to devise some measure to raise the moral calibre of our lives, and after this we should expect the Government also to consider this. This is true that the Government is busy with too many problems, but we expect it to do many a things, viz., to do this for the labourers or that for others, to formulate this or that plan, to look after the affairs of the states and tackle the Hyderabad situation. They have not one thing before them. But even then I feel that it is a colossal and vital issue. The problem of food and cloth is so vast that even if we discuss it for two days, we cannot solve this. After discussion we will go and leave the things to be done by the Ministers who are responsible for the matter. But we should not confine our role to mere discussion. I do not mean that our names should be included in the Committee or be appointed to any Economy Committee which may be set up. I would emphasize that we have got to ameliorate the standard of living of our masses and raise their moral. To achieve this, it is very essential that we should make the right use of cloth etc. In this way the masses can very well realize the course of action and follow in our footsteps. We have to explore avenues to root out the evil of black-market that is prevalent at present.

With these words, I would close, as my time is over here and I have placed my views before you.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Thursday, the 12th August, 1948.

GIPD—L32 LAD—10.1.49—309

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES (PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS.)

Thursday, 12th August, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS (See Part I)

11-45 A.M.

ELECTION TO EMPLOYEES' STATE INSURANCE CORPORATION

The Honourable Shri Jagjivan Ram (Minister for Labour): Sir, I move:

"That in pursuance of clause (i) of section 4 of the Employees' State Insurance Act, 1948, the Members of this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two members from among themselves to be members of the Employees' State Insurance Corporation."

Mr. Speaker: The question is:

"That in pursuance of clause (i) of section 4 of the Employees' State Insurance Act, 1948, the Members of this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two members from among themselves to be members of the Employees' State Insurance Corporation."

The motion was adopted.

ELECTION TO COMMITTEE ON PUBLIC ACCOUNTS

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance): Sir, I move:

"That the Members of the Assembly do proceed to elect, in the manner required by sub-rule (3) of rule 51 of the Constituent Assembly (Legislative) Rules, one Member to be a Member of the Committee on Public Accounts in place of the Honourable Shri Mohan Lal Saksena who has resigned his seat on the Committee."

Mr. Speaker: The question is:

"That the Members of the Assembly do proceed to elect, in the manner required by sub-rule (3) of rule 51 of the Constituent Assembly (Legislative) Rules, one Member to be a Member of the Committee on Public Accounts in place of the Honourable Shri Mohan Lal Saksena who has resigned his seat on the Committee."

The motion was adopted.

ELECTION TO STANDING FINANCE COMMITTEE

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance): Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, a Member to serve on the Standing Finance Committee, until the end of the financial year 1948-49, *vice* Haji Abdus Sattar Haji Ishaq Seth who has ceased to be a member of the Constituent Assembly."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, a Member to serve on the Standing Finance Committee, until the end of the financial year 1948-49, *vice* Haji Abdus Sattar Haji Ishaq Seth who has ceased to be a member of the Constituent Assembly."

The motion was adopted.

Mr. Speaker: I have to inform honourable members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely:

	Date for nomination	Date for election
Employees' State Insurance Corporation.	16-8-48	18-8-48.
Committee on Public Accounts		
Standing Finance Committee.		

The nomination for these Committees will be received in the Notice Office upto 12 Noon on the date mentioned for the purpose. The elections, which will be conducted by means of the single-transferable vote, will be held in the Assistant Secretary's Room (No. 21) in the Council House between the hours 10-30 A.M. and 1 P.M.

ELECTION TO STANDING COMMITTEE FOR EXTERNAL AFFAIRS AND COMMONWEALTH RELATIONS

Mr. Speaker: I have to inform the Assembly that Shri M. Thirumala Rao has been elected to serve on the Standing Committee to advise on subjects concerning the Ministry of External Affairs and Commonwealth Relations until the end of financial year 1948-49, *vs* Diwan Chaman Lal resigned.

HINDU CODE

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Dr. B. R. Ambedkar (Minister of Law): Sir, I beg to present the Report of the Select Committee on the Bill to amend and codify certain Branches of the Hindu Law.

Pandit Hirday Nath Kunzru (U. P.: General): May I enquire when this Report of the Select Committee will come into the consideration of the House?

The Honourable Dr. B. R. Ambedkar: I cannot say. That will depend upon the nature of the Government business.

Pandit Hirday Nath Kunzru: Is there any assurance that it will be discussed during this Session?

GANDHI NATIONAL MEMORIAL FUND DONATIONS COMPANIES BILL 219

The Honourable Dr. B. R. Ambedkar: It should be so in the ordinary course.

Pandit Hirday Nath Kunzru: Will it be or not? Is the course now ordinary or extraordinary?

GANDHI NATIONAL MEMORIAL FUND DONATIONS (COMPANIES)

BILL

The Honourable Shri K. C. Neogy (Minister for Commerce): Sir, I move:

"That the Bill to enable companies to make donations to the Gandhi National Memorial Fund, be taken into consideration."

This Bill is the result of a request made by the Industrial Committee of the Gandhi Memorial Fund as transmitted to us by the President of the Indian National Congress, that certain handicaps that stand in the way of companies making donations to the fund should be removed by legislation. The Committee mentioned the analogy of a legislation that was undertaken in 1940 to facilitate the making of donations to the war funds.

In drafting the Bill, we have closely followed the model of the Act of 1940, and I leave therefore very little to add to what is contained in the statement of objects and reasons. It is entirely an enabling measure. If in any particular instance the vast majority of the shareholders of a company intend that a donation should be made on behalf of the company to this fund, no legal disability should stand in the way of that desire of theirs being carried out. This is the sole object of the Bill.

Mr. Speaker: Motion moved:

"That the Bill to enable companies to make donations to the Gandhi National Memorial Fund, be taken into consideration."

Pandit Thakur Das Bhargava (East Punjab: General): Sir, the Mover of the Bill has just pointed out that he has introduced this measure with a view to offer facilities to certain companies who are not competent to give their donations on account of the absence of any provision to that effect in the Memorandum of Association of those companies. This desire is very laudable and I congratulate the Honourable the Minister in charge of this Bill for introducing such a measure.

All that I wish to submit in this regard is that his desire, however laudable, will not be given effect to if even a small minority of persons who do not desire that a donation be given raise objections in that regard. He has himself stated that it is an enabling measure. In my humble opinion it is a restrictive measure also. The word "special" resolution in clause 2 put such a restriction on the right of the majority of the shareholders that the minority will have practically the right to rule the majority in the matter of giving donations to the Gandhi National Memorial Fund. When the company expresses its will by way of resolution it either passes an ordinary resolution, or an extraordinary resolution or a special resolution. Section 81 of the Companies Act runs thus:

"A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given."

This is about the extraordinary resolution. But this Section further speaks of a special resolution. According to para. 2 of section 81—

"A resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than twenty-one days' notice specifying the intention to propose the resolution as a special resolution has been duly given."

Other provisions follow.

[Pandit Thakur Das Bhargava]

All that I beg to point out is that unless three-fourths of the members vote for this resolution being passed, it cannot be passed as a special or extraordinary resolution. What I maintain is that if one-fourth of the members do not agree to the donation being made, they would by their votes make the wishes of three fourths of the majority infructuous. Thus one fourth of the shareholders will be able to veto the wishes of the rest three fourths. It is illogical that one fourth of the shareholders may overrule the wishes of three fourths and more than half may not be able to overrule the wishes of less than half. It is a democratic principle that the majority should have the right to pass any resolution that it likes and my submission is that in regard to this Bill also we should delete the word "special" and enable the majority of the shareholders to give as much donation as they like. This disabling provision will practically arm those reactionary persons who do not want to give any donations. In a measure of this importance we should stick to the ordinary rule of the majority over-riding the minority and we should not place a restriction of this sort in a measure of this kind. The word "special" should be taken away. Further I beg to propose that the meeting of the Directors should also be allowed to give donations on behalf of the company. If the Board of Directors is not willing to give a donation then the final word must remain with the meeting of the shareholders. The word "special" would take away the right of the majority to pass a resolution of this kind—a right which is theirs in every democratic body in respect of all kinds of resolutions. I do not see why there should be a special restriction of this nature in regard to this measure. I therefore submit that this aspect of the case may be considered and when the final motion is made for the passing of the Bill this amendment may be carried out.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Mr. Speaker, I have sent in an amendment that for the word "special" the word "ordinary" be substituted. That will serve the purpose of my honourable friend.

Mr. Speaker: We are not considering any amendments now. The question before the House is as to whether the Bill should be taken into consideration or not. The honourable member may speak on the general motion.

Shri Prabhu Dayal Himatsingka: Sir, the Bill is necessary, because in the Memorandum and Articles of Association of various companies there is no power to make donations and unless those companies which do not provide in their memoranda to give to charities are enabled by this Bill, they cannot make donations, even if all the shareholders and Directors desire to do so. Therefore we must pass some such legislation like this and in that connection I submit that it ought to be by an ordinary resolution.

The Honourable Shri K. C. Neogy: Sir, I should like to say a few words in reply to my honourable friends. I have already pointed out that this Bill is the result of a request from the Industrial Committee of the Gandhi Memorial Fund. I have got the printed proceedings of a meeting held by that Committee on the 8th July, 1948, and the request made by that Committee was specifically to the effect that a law on the lines of the legislation that was passed in 1940 in connection with the war donations should be passed, to facilitate the making of donations to the Gandhi Memorial Fund. As I have already said we have closely followed the wording of the Act of 1940 in drafting this measure. As regards the points which my honourable friends have raised, I do not think that the fears which they have in view at all weighed with the industrialists who composed that particular committee. I should not like to read all the names. There were 26 of them present, including some very prominent captains of industry, Indian as well as European. I am afraid I am not in a

position to relax the procedure beyond what I propose to do in this Bill. It is true that a special resolution would be needed, which certainly requires a somewhat protracted procedure to be followed. But it has to be remembered that if the memorandum of a company does not contain as one of its objects the making of such donations, it is not open even to the High Court to enable an amendment to be made in that memorandum in order to make payments of donations to such funds legal. Therefore I submit that what I am proposing on the present occasion goes far enough and I am not in a position to agree to further relaxation of the law as proposed by my honourable friends.

Mr. Speaker: The question is:

"That the Bill to enable companies to make donations to the Gandhi National Memorial Fund, be taken into consideration."

The motion was adopted.

Pandit Thakur Das Bhargava: Sir, I want to move my amendments.

The Honourable Shri K. C. Neogy: Sir, I have to take exception to the moving of the honourable member's amendments, at such short notice. I was not aware of them till about half an hour ago.

Pandit Thakur Das Bhargava: Sir, I got the papers of the Assembly only this morning. I did not get the papers for the 9th, 10th and 11th and as soon as the papers came to me this morning I gave notice of my amendments. The rules provide that the members of the Assembly should be provided with the papers in time. I submit, Sir, that as a special case permission should be granted to me to move the amendments.

Mr. Speaker: As regards the supply of the Assembly papers, there seems to have been an unfortunate slip on the part of the honourable member in that he did not keep the office informed of his address in the interim period, with the result that the notices went to some other address while he was moving about. That is what has happened.

Pandit Thakur Das Bhargava: So far as I am concerned I am occupying a Government M.L.A. Bungalow in New Delhi for the last one year and my address is known to the Assembly office. The papers could have been sent to me at least yesterday night, so that in the night I could have read them but I did not get them in time.

Mr. Speaker: Anyway, fortunately or unfortunately, the office was not in possession of the information as to whether the honourable member was present in Delhi or not.

In addition to what the Honourable Minister has said about the desirability of having a special resolution, though it is not the function of the Chair to explain, honourable members will realise that this legislation seeks to give authority to the company to do something beyond its original memorandum. Therefore, practically, it is giving them some power under which they can act, as if they were going to change the memorandum of the constitution of the company for that purpose and hence a special resolution is necessary. To make donations to such funds is not the ordinary business of a company and if the company wants to do something which is not within the scope of the ordinary business of a company, it is but fair that some kind of special majority should agree if that donation is to be made. A mere majority will not protect the rights of every shareholder. A shareholder is entitled to see that the funds of the company are applied to no purpose other than the purposes for which the company was floated. This seems to me a very sound reason. If all depends upon the honourable member whether or not to move his amendments. Personally, I am not inclined to give him permission on the ground

[Mr. Speaker.]

that he has asked for. If at all I grant it, it is only on account of the nervousness, on my part, that holding the view that the amendment is uncalled for I am, perhaps, taking advantage of a technicality and refusing permission. That will be the only ground upon which I am prepared to consider the question of permission for the amendment, if he is still keen, without promising that I will allow it.

I take it that the honourable member does not desire to move his amendment.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, there is a spelling mistake in clause 2. The word "authorise" is spelt with a "z", whereas the usual practice is to spell it with an "s".

Mr. Speaker: One cannot be sure of the printer doing the needful when the Bill is printed again. The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. C. Neogy: I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

ELECTRICITY (SUPPLY) BILL—contd.

Mr. Speaker: We will now proceed with the further consideration of the Bill to provide for the rationalisation of the production and supply of electricity, and generally for taking measures conducive to the electrical development of the Provinces of India, as reported by the Select Committee.

We were debating clause 44. Amendment No. 95 in the Consolidated List had been moved, and has already been put before the House.

The Honourable Shri N. V. Gadgil (Minister for Works, Mines, and Power): I am accepting it as it is.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 44 of the Bill, after the word 'Government', the following be inserted:

'or any Corporation created by legislation enacted by the Central Legislature'."

The motion was adopted.

Mr. Naziruddin Ahmad (West Bengal: Muslim): I beg to move:

"That the Proviso to sub-clause (1) of clause 44 of the Bill be omitted."

I make this amendment not because I am convinced that the Proviso is unnecessary but the proviso is so unintelligible to me. It is difficult to say what the proviso really intends to achieve and what it has succeeded in achieving. In order to find the scope of the Proviso we should for a moment go to the main clause. I should draw the attention of the House to one or two important portions. It begins with "Notwithstanding" something; later

on there is a passage "but subject to" something; still later on there is a negative "it shall not be lawful" and then again "except with the previous consent". There are so many anti-theses already sufficiently confusing. Then the beginning of the Proviso is like this: "Provided that such consent shall not, except in relation to" something, and "unless" something is done. I respectfully defy any lawyer to explain the meaning of this.

Shri B. Das (Orissa: General): Is it a parliamentary expression?

Mr. Speaker: Let him proceed. —

Mr. Naziruddin Ahmad: I mean that I will ask any lawyer to explain the meaning. I do not mean any disrespect to the House. I beg to submit that I could not understand the meaning and the real effect of the proviso. I only want to draw the attention of the House to the anomalous state of affairs. I would ask the Honourable Minister to explain the meaning, and if it is sufficiently clear to him and to others I shall then be only too glad to withdraw my amendment. But the wording should be carefully and clearly drafted. I tried my best to understand it but I failed.

Shri K. Santhanam (Madras: General): Sir, I fully sympathise with the honourable member. But the Bill is a very complicated Bill. It is not the drafting, the subject is certainly a difficult one and it will take some time to understand it. But the draft itself is quite accurate. It brings out the intentions of the framers of the Bill and the Select Committee scrutinized it very carefully. So far as the Proviso is concerned I do not think there is any difficulty in understanding it. The Proviso only makes it certain that the Board shall not refuse consent to a new generating station unless it can itself supply the required electricity. That is the purpose. Of course it is to be under various conditions. All the conditions have to be put in by words like "Unless" or "notwithstanding" or by some such words. Otherwise it will be too wide or too narrow. The whole purpose has to be exactly and precisely defined. I therefore think so long as the Honourable Member does not have any objection on a matter of substance or principle, that he ought to allow it to stand as it is.

Mr. Naziruddin Ahmad: I would ask whether it was not possible to simplify it. Everything is capable of simplification. It is not enough that the draftsman understands it. Certainly it is intelligible to him. The question is whether a man in the street will be able to understand it.

Mr. Speaker: After listening to the Honourable Member, does he wish to press his amendment?

Mr. Naziruddin Ahmad: I do not press it.

Shri K. Santhanam: Sir, I move:

"That in the Proviso to sub-clause (1) of clause 44 of the Bill, for the words 'equivalent to that required by him,' wherever they occur, the words 'sufficient for his requirements' be substituted."

This amendment is only intended to give the Board discretion to discuss with the applicant as to the actual quantity which will be sufficient for his requirements.

The Honourable Shri N. V. Gadgil: I accept it.

Mr. Speaker: The question is:

"That in the Proviso to sub-clause (1) of clause 44 of the Bill, for the words 'equivalent to that required by him,' wherever they occur, the words 'sufficient for his requirements' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: I move.

"That for sub-clause (2) of clause 44 of the Bill, the following be substituted :

"(2) The applicant shall state in his application such particulars of the station, plant or works in respect of which it is made as the Board may reasonably require, and when consent has been given by the Board to the application, the applicant shall not without further consent of the Board make any material variation to the particulars given."

Mr. Speaker: Amendment moved:

"That for sub-clause (2) of clause 44 of the Bill, the following be substituted :

"(2) The applicant shall state in his application such particulars of the station, plant or works in respect of which it is made as the Board may reasonably require, and when consent has been given by the Board to the application, the applicant shall not without further consent of the Board make any material variation to the particulars given."

Shri H. V. Kamath (C. P. and Berar: General): I support the amendment because in my judgment the construction of the clause as it stands is extremely clumsy and that proposed by my friend is more direct and simple. I hope the Honourable Minister will not stand on prestige, and on that ground reject the amendment.

The Honourable Shri N. V. Gadgil: I do not accept it.

Mr. Speaker: Then I will have to put it to the House.

The question is:

"That for sub-clause (2) of clause 44 of the Bill, the following be substituted :

"(2) The applicant shall state in his application such particulars of the station, plant or works in respect of which it is made as the Board may reasonably require, and when consent has been given by the Board to the application, the applicant shall not without further consent of the Board make any material variation to the particulars given."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 44, as amended, stand part of the Bill."

The motion was adopted.

Clause 44, as amended, was added to the Bill.

Clauses 45 to 56 were added to the Bill.

Shri K. Santhanam: Sir, I beg to move:

"That in part (c) of sub-clause (2) of clause 57 of the Bill, for the word, brackets and letter 'clause (c)', the word, brackets and letter 'clause (b)' be substituted."

Sir, this is purely to correct a mistake in printing.

Mr. Speaker: The question is:

"That in part (c) of sub-clause (2) of clause 57 of the Bill, for the word, brackets and letter 'clause (c)' the word, brackets and letter 'clause (b)' be substituted."

The motion was adopted.

Shri K. Santhanam: I beg to move:

"That in sub-clause (1) of clause 57 of the Bill, the words 'After the issue of the notification under sub-section (3) of section 1,' be omitted."

Sir, this also is purely a drafting correction.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 57 of the Bill, the words 'After the issue of the notification under sub-section (3) of section 1,' be omitted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 57 of the Bill, for the words beginning with the words 'shall be deemed' and ending with the words 'year of account,' the following be substituted :

'shall, from the date of commencement of the licensee's next succeeding year of account, be deemed to be incorporated in the licence of every licensee, not being a local authority'."

This is only a drafting correction of a certain portion of the text.

The Honourable Shri N. V. Gadgil: I do not accept it.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 57 of the Bill, for the words beginning with the words 'shall be deemed' and ending with the words 'year of account,' the following be substituted :

'shall, from the date of commencement of the licensee's next succeeding year of account, be deemed to be incorporated in the licence of every licensee, not being a local authority'."

The motion was negatived.

The Honourable Shri N. V. Gadgil: Sir, I am prepared to accept his amendment No. 20 on Supp. List No. 2.

Mr. Naziruddin Ahmad: Yes, Sir. Amendments Nos. 20, 21, 22, 25 and 28 deal with the same subject. They can be attended to by the draftsman. I move amendment No. 23. I beg to move:

"That in part (b) of sub-clause (2) of clause 57 of the Bill, for the words 'earning clear profits', the words 'earning a clear profit' be substituted."

Sir, "profit" is a singular idea. Though it might consist of a large number of incomes minus expenditure, the total result is singular, not plural. In fact, the singular is indicated in the text. There may be cases where there may be profits for different years and different periods, but for a particular accounting period there is only one profit, if there is any. That is why the singular is preferred.

The Honourable Shri N. V. Gadgil: I do not accept it. It is not profitable either!

Mr. Speaker: The question is:

"That in part (b) of sub-clause (2) of clause 57 of the Bill, for the words 'earning clear profits', the words 'earning a clear profit' be substituted."

The motion was negatived.

Shri K. Santhanam: Sir, I beg to move:

"That in part (b) of sub-clause (2) of clause 57 of the Bill, for the words 'if the efficiency of operation and management and the potentialities of the undertaking of the licensee so permit', the following be substituted :

'if the potentialities of the undertaking of the licensee, with efficient operation and management, so permit'."

Obviously, it will clarify the idea behind the sub-clause

The Honourable Shri N. V. Gadgil: Sir, I accept it.

Mr. Speaker: The question is:

"That in part (b) of sub-clause (2) of clause 57 of the Bill, for the words 'if the efficiency of operation and management and the potentialities of the undertaking of the licensee so permit', the following be substituted :

'if the potentialities of the undertaking of the licensee, with efficient operation and management, so permit'."

The motion was adopted.

Mr. Speaker: Mr. Naziruddin Ahmad has, I believe, certain amendments. Does he wish to move them?

Mr. Naziruddin Ahmad: I simply wish to draw the attention of the draftsman to amendment No. 24 in supplementary list No. 2. For reference, I wish to invite attention to Section 3, item 37(a) of the General Clauses Act. That gives the text. The first word should also begin with a capital letter.

Mr. Speaker: So that disposes of that amendment. Now, the question is:

"That clause 57, as amended, stand part of the Bill."

The motion was adopted.

Clause 57, as amended, was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 58 of the Bill, for the words 'being a local authority' where they occur for the first time, the words 'which is a local authority' be substituted."

The participle is indefinite and is always a bad thing. A more specific thing is the present tense. So "which is a local authority" is more specific.

Mr. Speaker: What difference does it make, whether we say "being a local authority" or "which is a local authority"? It makes no difference at all.

Shri T. T. Krishnamachari (Madras: General): Actually if it is an individual, the amendment will not fit in.

Mr. Naziruddin Ahmad: I do not press it. I shall go on to my next amendment.

Sir, I beg to move:

"That in clause 58 of the Bill, for the words 'his licensed undertaking' the words 'its licensed undertakings' be substituted."

The objection is to the word "his". It applies to local authority. It is treated as if it is masculine gender. I think it is neutral gender. Therefore, it should be "its".

Shri K. Santhanam: The word in respect of which "his" is used is the word "licensee".

Mr. Naziruddin Ahmad: Then I do not press.

Mr. Speaker: The question is:

"That clause 58 stand part of the Bill."

The motion was adopted.

Clause 58 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That for clause 59 of the Bill, the following be substituted:

"59. General principles for Board's finance.—The Board shall credit to its account the subventions from the Provincial Government, if any, and shall so carry on its operations under this Act as not to incur any loss in the working:

Provided that if any loss actually results in carrying on its operations in any year, the amounts due for meeting the operating, maintenance and management expenses may, to the extent of the loss, with the sanction of the Provincial Government, be paid out of the capital."

This is a re-arrangement of an otherwise imperfectly expressed clause. A more comparison between the two will show that the amendment is shorter, simpler and more direct.

The Honourable Shri N. V. Gadgil: I do not accept.

Mr. Speaker: The question is:

"That for clause 59 of the Bill, the following be substituted:

"59. General principles for Board's finance.—The Board shall credit to its account the subventions from the Provincial Government, if any, and shall so carry on its operations under this Act as not to incur any loss in the working:

Provided that if any loss actually results in carrying on its operations in any year, the amounts due for meeting the operating, maintenance and management expenses may, to the extent of the loss, with the sanction of the Provincial Government, be paid out of the capital."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 59 stand part of the Bill."

The motion was adopted.

Clause 59 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That for sub-clause (2) of clause 60 of the Bill, the following be substituted:

"(2) The Provincial Government shall, within two months after the first constitution of the Board, declare what expenditure was incurred by it before the issue of the notification under sub-section (4) of section 1 on capital account in connection with the purposes of the Act; and such amount shall be deemed to be a loan advanced by the Provincial Government to the Board under section 64 on the date of the said notification; and all assets acquired by such expenditure and all assets and profits which may have accrued therefrom shall, as from the date of the notification, thereupon vest in the Board."

Sir, I beg to submit that the sub-clause in the Bill is round about and indirect. The amendment is simple and precise.

The Honourable Shri N. V. Gadgil: I do not agree.

Mr. Speaker: The question is:

"That for sub-clause (2) of clause 60 of the Bill, the following be substituted:

"(2) The Provincial Government shall, within two months after the first constitution of the Board, declare what expenditure was incurred by it before the issue of the notification under sub-section (4) of section 1 on capital account in connection with the purposes of the Act; and such amount shall be deemed to be a loan advanced by the Provincial Government to the Board under section 64 on the date of the said notification; and all assets acquired by such expenditure and all assets and profits which may have accrued therefrom shall, as from the date of the notification, thereupon vest in the Board."

The motion was negatived.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (2) of clause 60 of the Bill, for the word 'declaration', the word 'notification' be substituted."

That word appears in last but one line and again three lines earlier, the word "notification" appears. Of course there is a declaration in the notification, but instead of the word "declaration" reference should be specifically to the notification whatever it may contain. That is why I have suggested a change of the word "declaration" to "notification".

Shri K. Santhanam: The declaration has to be made before the notification. If we put the notification, it will create confusion.

The Honourable Shri N. V. Gadgil: I do not agree.

Mr. Naziruddin Ahmad: I do not press.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (2) of clause 60 of the Bill, after the words 'such expenditure', the words 'and all assets and profits which may have accrued therefrom' be inserted."

These words do not appear in the text but perhaps they are called for in the context.

Mr. Speaker: The question is:

"That in sub-clause (2) of clause 60 of the Bill, after the words 'such expenditure', the words 'and all assets and profits which may have accrued therefrom' be inserted."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 60 stand part of the Bill."

The motion was adopted.

Clause 60 was added to the Bill.

Clauses 61 and 62 were added to the Bill.

Prof. Shibban Lal Saksena (U.P.: General): Sir, I beg to move:

"That in clause 63 of the Bill, the following be added at the end:

"where the scheme is of a vital character and essential to complete the all out national plan of development of power and electrical energy, the Provincial Government may approach the Authority to grant to the Board sufficient funds to enable it to complete the scheme."

I have while making a speech on the Bill said that this Bill did not give sufficient power to the authority to carry out the work with drive and initiative. I also point out power has not been taken by the authority to get sufficient funds. I think it is most necessary that provinces which are not rich enough to carry out big schemes should be given sufficient funds, and this is essential for the development of a scheme of an all out national plan. I think the Honourable Minister will accept this and will take power to carry out his all out plan which may soon come to fruition.

The Honourable Shri N. V. Gadgil: I cannot accept it. The technical body is not a financing agency.

Mr. Speaker: The question is:

"That in clause 63 of the Bill, the following be added at the end:

"where the scheme is of a vital character and essential to complete the all out national plan of development of power and electrical energy, the Provincial Government may approach the Authority to grant to the Board sufficient funds to enable it to complete the scheme."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 63 stand part of the Bill."

The motion was adopted.

Clause 63 was added to the Bill.

Clauses 64 to 75 were added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (3) of clause 76 of the Bill, for the word 'Section', the word 'Act' be substituted."

Sir, the sub-clause says, "Subject to the provisions of this section, the provisions of the Arbitration Act, (X of 1940) shall apply to arbitrations under this Act." I have tried to put it subject to the provisions of this Act, which is more comprehensive. If we say, subject to the provisions of this section only, then it ignores the other possible sections which may affect it.

Shri T. T. Krishnamachari: The position may be explained. This is the section for arbitration and only the provisions of this section are excluded. The amendment would exclude the other sections of the Act.

Mr. Naziruddin Ahmad: Then, I do not press this amendment.

Sir, I beg to move:

"That after sub-clause (5) of clause 76 of the Bill, the following new sub-clause be inserted and the subsequent clause be re-numbered accordingly:

"(6) If the arbitrators appointed under clause (b) of sub-section (2) are unable to agree on any matter, the same shall be referred to the Authority, whose decisions thereon shall be final and conclusive."

Sir, I understand that there will be two arbitrators appointed to deal with the subject. It is obvious that the two arbitrators may not agree on a particular matter and an impasse will be reached. The amendment will remove the difficulty.

Mr. Speaker: If I am not mistaken, provision for all these is made in the Arbitration Act. If the Arbitration Act is followed, all these difficulties will not arise.

Mr. Naziruddin Ahmad: I am not quite clear at the moment about what they would follow. Supposing the two arbitrators differ, we should have a clear picture of what should be done in that case. The Arbitration Act may contain something of which I have no clear idea now. We should have a clear picture of what should happen in case the two arbitrators differ. There should be a third man who should be the umpire. There is on the one hand the Board, and on the other hand the licensee and on the other hand the umpire. The Authority which is the Central Authority would be the most impartial authority and this, in my opinion, would obviously be the better one. In these circumstances, I should submit that the matter should be clarified and should not be left to some possible provisions of the Arbitration Act.

Shri K. Santhanam: I merely wanted to point out that the Arbitration Act makes a specific provision for this contingency. In certain cases, the High Court is there. The Electricity Authority is an official body. Here, we are dealing with provincial Boards and licensees. In certain matters they were willing to accept the final arbitration of the Electricity Authority and in other others they wanted to have the normal arbitration procedure.

Mr. Speaker: I can point out to the honourable member that sub-clause (3) says that the provisions of the Arbitration Act, X of 1940 shall apply to the arbitrations under this Act. The Arbitration Act is a Code or body of provisions which makes provisions for all kinds of difficulties and contingencies in arbitration proceedings. One of the provisions is that in case the two arbitrators differ, the matter goes to an umpire, or it goes to the Court. That is what is provided in the Arbitration Act.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, sub-clause (6) speaks of an umpire and the position is clear.

Mr. Speaker: Sub-clause (6) makes the position clear.

Shri Prabhu Dayal Himatsingka (West Bengal: General): That sub-clause shows that there is provision for an umpire. The Arbitration Act is clear and it provides for a reference to an umpire agreed upon by the parties and if they do not agree, they may go to the court, which will appoint an umpire.

Mr. Naziruddin Ahmad: Courts are the things which we are going to avoid.

Mr. Speaker: Appointment of an arbitrator is not going to the court on the merits of the case. Whatever that may be, the point which he has in view will not be served by the amendment. The position seems to be clarified by the clause as it stands.

Mr. Naziruddin Ahmad: I do not press the amendment.

Mr. Speaker: The question is:

"That clause 76 stand part of the Bill."

The motion was adopted.

Clause 76 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 77 of the Bill, for all the words beginning with the words 'If any licensee or other person' and ending with the words and figures 'of section 75', the following be substituted:

"If any licensee or other person upon whom any direction, order or requirement is made under section 55 or under clause (c) of sub-section (2) of section 57 or under section 58 or under sub-section (3) of section 75, fails without reasonable excuse to comply with or give effect to the direction, order or requirement'."

Sir, This is only a re-arrangement of the words.

Honourable Shri N. V. Gadgil: I am not accepting the amendment.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 77 of the Bill, for all the words beginning with the words 'If any licensee or other person' and ending with the words and figures 'of section 75', the following be substituted:

"If any licensee or other person upon whom any direction, order or requirement is made under section 55 or under clause (c) of sub-section (2) of section 57 or under section 58 or under sub-section (3) of section 75, fails without reasonable excuse to comply with or give effect to the direction, order or requirement'."

The motion was negatived.

Mr. Naziruddin Ahmad: Sir, I move:

"That in sub-clause (2) of clause 77 of the Bill, for the words 'this section' the word, figure and brackets 'sub-section (1)' be substituted."

Clause 77 has three sub-clauses of which the first only creates offences. Sub-clause (2) provides exception in case of particular persons; sub-clause (3) deals with the jurisdiction of the court. Therefore as the offence is entirely confined to sub-clause (1), I think it would be more specific to use the words "sub-section (1)" in sub-clause (2) instead of the words "this section".

The Honourable Shri N. V. Gadgil: Sir, I do not accept it.

Mr. Speaker: The question is:

"That in sub-clause (2) of clause 77 of the Bill, for the words 'this section', the word, figure and brackets 'sub-section (1)' be substituted."

The motion was negatived.

Prof. Shibban Lal Saksena: Sir, I move:

"That in sub-clause (1) of clause 77 of the Bill, for the words 'punishable with fine which may extend to five hundred rupees', the following be substituted:

'punishable with imprisonment which may extend to one year and fine.'"

In this clause the penalty provided for infringement of the Act is a fine of Rs. 500 and thereafter Rs. 50 for every day the offence is continued. Clause 77(1) refers to clause (c) of clause 57(2) under which the provincial Government gives an order that the licensee shall fix a particular rate for electricity. If he does not obey and charges a higher price and thus makes a profit of thousands of rupees per day his only punishment is a fine of Rs. 500 and then Rs. 50 per day so long as the offence continues. I think the licensee will find it much better to continue the offence and pay Rs. 50 a day, which will mean nothing to him as he would be making such huge profits. I think this provision should be modified and licensees must not be allowed to transgress the law. Therefore the minimum punishment must be imprisonment for one year and a fine which should extend to the amount of profit that he makes. Although the Honourable Minister seems to be dead set against all amendments I hope he will accept this amendment. Otherwise there will be many infringements and no one will care for the Act.

The Honourable Shri N. V. Gadgil: Sir, I do not accept it. The greatest punishment that can be inflicted is revoking or cancelling the license and an additional punishment of more than what is provided in the clause is not necessary. I oppose it.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 77 of the Bill, for the words 'punishable with fine which may extend to five hundred rupees', the following be substituted:

'punishable with imprisonment which may extend to one year and fine.'"

The motion was negatived.

Mr. Speaker: The question is:

"That clause 77 stand part of the Bill."

The motion was adopted.

Clause 77 was added to the Bill.

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

*The Assembly then adjourned for Lunch till Half Past Two of the Clock.
Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.*

DEMANDS FOR SUPPLEMENTARY GRANTS 1948-49.

DEMAND No. 99A—CAPITAL OUTLAY ON STERLING PENSIONS

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance):
Sir, I move:

"That a supplementary sum not exceeding Rs. 2,16,27,18,000 be granted to the Governor General to defray the charges which will come in course of payment during the year ending 31st March, 1949, in respect of 'Capital Outlay on Sterling Pensions'."

[Shri R. K. Shanmukham Chetty]

May I move the second motion also?

Mr. Speaker: Yes.

DEMAND No. 101—DEFENCE CAPITAL OUTLAY

The Honourable Shri R. K. Shanmukham Chetty: Sir, I move:

"That a supplementary sum not exceeding Rs. 65,33,33,000 be granted to the Governor General to defray the charges which will come in course of payment during the year ending 31st March, 1949, in respect of 'Defence Capital Outlay'."

The two supplementary demands that I am now placing before this House arise out of the result of the recent agreement that was concluded with the British Government regarding the sterling balances. In presenting the White Paper to the House the other day, I mentioned that Government would be prepared for a discussion on the terms of the agreement when I moved the supplementary votes, and I take it that with your permission, Mr. Speaker, I might be permitted, in moving these motions, to give a brief account of these negotiations and the agreement that we arrived at.

The whole question of sterling balances has been before the country for quite a long time and honourable members generally familiar with the outstanding problems arising out of the accumulation of these balances in London. I do not think it is necessary for me to go into great detail about the genesis of these sterling balances. For the convenience of the debate, it would however be helpful to refresh the minds of honourable members if I recapitulate very briefly the genesis of the sterling balances.

These balances were accumulated in England during the war time. Even before the war, the Government of India and the Reserve Bank later on, held some balances in London as a part of the currency reserve of the country. Just before the war these balances stood approximately at £64 millions or Rs. 83 crores. During the war period these balances accumulated to an enormous extent. This accumulation was brought about not merely by the surplus exports that were sent out of the country but as a result of the peculiar manner in which the then Government of India financed the supply of stores and other equipment to the British Government and to the Governments of the Allied Nations. India, as honourable members will remember, was a great base of supply—supply not merely of raw materials but of semi-manufactured and also of manufactured goods. Over and above the expenditure incurred by the Government of India directly on our own account in prosecution of the war, we supplied vast quantities of raw materials and manufactured goods for the British Government and the Allied Nations. Normally, the financing of these projects and supplies would have been made by the British Government and other Governments, finding the rupee finance either by raising rupee loans in India or by some arrangement with the Government of India. This normal procedure was not resorted to. On the other hand, a section of the Reserve Bank of India Act was utilised for this purpose. The Reserve Bank of India under the Act was under an obligation to supply the rupees against a tender of sterling in London. This obligation of the Reserve Bank was invoked for the purpose of financing these operations. The British Government and the Allied Governments placed at the disposal of the Reserve Bank of India sterling in London in payment of these purchases. As against this sterling the Reserve Bank printed notes and this rupee finance thus created was utilised for the payment of those who supplied these materials.

It would therefore be observed that the sterling balance, as I have repeatedly stated, is not a war debt given by the Government of India to the British Government but merely a currency reserve which the Reserve Bank of India holds as deposit in the Bank of England and also in the form of various British Government securities both long-term and short-term.

I have also frankly expressed my opinion that this method of financing the supplies to the British and Allied Governments was really an abuse of the provisions of the Reserve Bank of India Act. Unfortunately, in the subordinate political status of our country during that period, the voice of public opinion was not heard and we had no remedy against this. The result has been that at the end of the war we find a very large accumulation of this balance, which, as I said, represents the property, the assets of the Reserve Bank of India, both in the issue and in the banking departments of that Bank. The Government of India really do not come into the picture. The Government of the United Kingdom does not come into the picture. Normally it would be perfectly open to the Reserve Bank of India to issue cheques on the Bank of England for the payment of sterling as against rupees that might be tendered to the Reserve Bank of India in this country. In view, however, of the difficult economic situation of England, which is a common feature in the economy of the postwar world, by mutual agreement we have imposed a voluntary limitation on our power to withdraw these balances. In other words, we have refrained voluntarily from exercising the power of drawing on these balances in any manner that we liked. The pace and the method of the withdrawal formed the subject of negotiations between the two governments and honourable members might remember that during the last one year we concluded two agreements, under which the rate of withdrawal and the amount of withdrawal were specified for two half-yearly periods. The last agreement terminated on the 30th June and we had to examine the question of entering into further negotiations for the purpose of future withdrawals.

We realised, as a result of the experience of the 12 preceding months, that the practice of having half-yearly settlements was very inconvenient and under that arrangement it was not possible for the Government of India to go ahead confidently with any plan of industrial or agricultural development in this country. At the same time we realised that it would not be wise in our own interest to press for a long term settlement of the sterling balance question with the British Government. Taking all factors into consideration we came to the conclusion that we must come to some arrangement, under which we must know at least for a period of three years what amount would be available to us for our developmental purposes. We therefore had in view a settlement to cover a period of three years, during which period it will be determined what will be the maximum amount of sterling that we might utilise.

On the 25th June, 1948, the total sterling balance standing to the credit of the Reserve Bank of India was £1,152 million or Rs. 1,536 crores. When Government decided to send a delegation to London to settle the arrangement for the next three years, it was also thought that we must avail ourselves of this opportunity to settle some of the other outstanding problems.

When the war terminated it was found that the British Government had in India an enormous quantity of war material. They had also built at their own cost various air fields, training centres and other installations. In April 1947 the then Government of India took over the entire war assets of the British Government left in this country. The actual price to be paid for these was left for future negotiation. The Delegation was therefore instructed to settle

[Shri R. K. Shanmukham Chetty]

with the United Kingdom Government the price to be paid for these installations and stores.

There was one other problem which the Delegation was asked to tackle and, if possible, to settle. The Government of India have to remit every year to England large sums of money to pay the pensions of persons who had served in the civil and military departments of the Government of India and who have now retired. Every year we had to find exchange resources to meet this obligation. It was thought that if suitable terms could be secured we might capitalise the whole liability for pensions. The three problems with which the Delegation was therefore charged were the capitalisation of the pensions, the payment for the stores and installations and the settlement for the release of the sterling balance for the next three years. I shall first take up the question of pensions.

As honourable members would have seen in the White Paper we have paid a lump sum of £147½ million to the British Government as a capitalised payment to enable us to meet these pensionary charges of the then Central Government of India. We have also paid them £20½ million as capitalised value of the pensions which are payable by the provincial governments which are now in the Indian Union. We are not responsible for the pensions payable by the provincial Governments which are now in Pakistan and it was open to the Pakistan Government to settle this matter with the British Government. We thought it necessary to come to some settlement regarding these pensions by the payment of a capitalised amount, because though this was a joint liability between the Indian and the Pakistan Governments under the Partition arrangements, the Government of India had undertaken the full responsibility for the payment and to recover the share of Pakistan from time to time. If we had not made this capitalisation arrangement, what would have resulted is that from year to year we would have had to find from our own exchange resources the wherewithal to pay this joint liability. If, on the other hand, we could succeed in coming to some settlement with the British Government, we could pay the capitalised amount from the common pool of the sterling balance before dividing that balance between the Government of India and the Government of Pakistan. For this practical reason it was agreed both by the Pakistan Government and by ourselves that we should strive to come to a settlement with the British Government on this point. £147½ million which represents the capitalised value approximately of the pensionary liability of the two Governments will be found from the joint pool of the sterling belonging to the two Governments. The balance of £20½ million which we have agreed to pay in lieu of the pensionary liability of the provinces in the Indian Union will come from our share of the sterling balance. Under the Agreement that we have made, in return for this capitalised amount the British Government will make available to us a tapering annuity extending over a period of 60 years. The amounts that the British Government are bound to place at our disposal for this purpose will be found on page 48 of the White Paper. It will be found there that in 1948-49 they are to give us £6,300,000; in 1949-50 6,223,000; and it goes on reducing like that till at last in the year 2007-08—that means, 60 years hence—the amount that they will have to pay will be only £72. This annuity will be placed at our disposal by the British Government every year. If we find that in a particular year the actual disbursements to be made exceed the annuity paid for that year, then we will find the excess. If, on the other hand, it is found that the annuity is in excess of the actual payment during a particular year we will appropriate that excess. Even though we have capitalised the pensionary liability in a sort of limited sense we have not divested ourselves of

our responsibility to our pensioners. I was rather surprised, Sir, when I read in certain newspaper articles that the Delegation must have once and for all got rid of this pensionary liability in return for the payment of a capital amount. This is exactly the thing that Sir Stafford Cripps wanted, which we resisted. Until almost the last moment the Chancellor of the Exchequer pressed upon us the advisability of completely transferring our liabilities to the British Government so far as pensioners were concerned, in return for a lump sum payment. We resisted that demand and we maintained that we must keep the responsibility ourselves. And we had very good reasons for doing so. For one thing, to ask us to pay a capitalised amount and transfer the responsibility to the British Government means want of confidence in our integrity, in our desire to pay our pensioners the pension that they have earned. We were not prepared to accept that position.

Shri Mahavir Tyagi (U. P.: General): It means you acted on sentimental grounds.

The Honourable Shri R. K. Shanmukham Chetty: The honourable member will have a full opportunity of expressing his views. Again it must be remembered that pensions are payable to pensioners only during good conduct. I am sure every member of this House will agree with me when I say that we must retain the power of telling any of the pensioners later on that we will not pay them their pension because they have not proved by their conduct their loyalty to the country which they served. Sir, for these two very good reasons we thought that it would not be in the interests of our country to transfer the entire responsibility to the British Government.

As Minister for Finance I had one other very valid and solid reason which is not sentimental. Today we do not charge income-tax on these pensions. These pensions are paid free of income-tax, because under the Act that prevailed until recently we were precluded from levying income-tax on these pensions. Now we have amended the Act, taking power to levy income-tax if at any time we thought fit to do so. I put it to the House whether this is not a solid reason which should outweigh any sentimental reason to the contrary. I do not know what the position might be hereafter regarding taxation of these pensions in respect of income-tax. But if we decide at any time to charge income-tax against these pension payments, we have agreed with the British Government that we will give notice to the British Government and come to some arrangement with them under which unnecessary and needless inconvenience may not be caused to individual pensioners. This undertaking only means this that under that arrangement the British Government will pay us in lump the tax due to us and make any arrangements they like with the pensioners. But our legal right of levying any income-tax has been preserved under this arrangement.

Prof. N. G. Ranga (Madras: General): What about the international agreement to avoid double taxation?

The Honourable Shri R. K. Shanmukham Chetty: Even after avoiding double taxation we will get a substantial amount as contribution from the British Government.

Shri K. Santhanam (Madras: General): May I ask whether these annuities will be subject to British income-tax?

The Honourable Shri R. K. Shanmukham Chetty: It is almost a staggering question. But in these days one should not be staggered at this. I would not be surprised if Winston Churchill later on forwards that claim. But I am hoping that a hundred Winston Churchills cannot argue that the repayment

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of a debt is also liable to income-tax by the debtor who repays it. I am sure that such a question will not be raised.

I have given three very good reasons why we refused, in spite of the persistence of the Chancellor of the Exchequer, to agree to the proposition that we should transfer the entire pensionary liability to the British Government. Under the arrangement that we have now made the administrative arrangements will be continued as they are at present, which means that our High Commissioner in London will be disbursing the civil pensions and the Commonwealth Relations Office of the British Government in London will be administering the payment of the military pensions. This standstill agreement is to remain in force for three years and before the conclusion of that period it will be open to us to come to some new arrangements. Whatever arrangements might be come to in the future, whoever might be responsible for future negotiations on this subject, I sincerely hope that the right that we have over the pensioners will be retained by us and not transferred.

So much for the capitalisation of the sterling pensions. I will now come to the question of the payment for the stores and installations. These stores and installations cover a vast multitude of articles running into thousands and tens of thousands. The British Government themselves have no account about these stores and installations. Some months before we went to London our officers were asked to estimate the approximate value of all these stores and installations. It will not be possible for me, nor is it necessary, to describe in detail the method that they adopted in making a valuation of all these stores and installations. Our experts and our Accounts officers estimated that the book value of these will be approximately Rs. 500 crores, or about £375 millions. On a previous occasion when there was a British mission here in this country, headed by Sir Wilfred Edie, some negotiations took place between the officials of the two Governments. At that time the British delegation wanted a round and lump sum payment of £200 millions for these stores. We were not prepared to pay so much. After a great deal of hard bargaining between ourselves and Pakistan representatives on the one hand and the British representatives on the other we finally agreed to pay £100 million as a lump sum for all these stores and installations. I consider that the payment of £100 million for installations and stores worth approximately £375 millions is certainly a very good bargain. In fact, one feature that I might mention to the House is that the British representatives were very much impressed by the very thorough manner in which our officials had prepared statistics relating to the book value of all these stores and installations. They were so much impressed with the facts, the figures and the formulae that we suggested that finally they agreed to the figure of £100 million.

Shri Ajit Prasad Jain (U. P.: General): How do you arrive at this figure?

The Honourable Shri R. K. Shanmukham Chetty: As a matter of fact we made very detailed calculations as to how much percentage of the original value of the various categories of stores and installations we can pay, and the actual value that we have paid will vary from 6 per cent. of the book value to 50 per cent. of the book value. On an average it works out to about 3 P. M. 27 per cent. of the book value. I am satisfied, Sir, that it is a very fair bargain, in fact quite a good bargain, so far as ourselves and Pakistan are concerned.

Mr. R. K. Sidhva (C.P. and Berar: General): May I know whether these stores include serviceable goods imported during the war, and also aerodromes constructed during war?

The Honourable Shri R. K. Shanmukham Chetty: I said that these stores and installations include everything that was the property of the British Government that was left here. But in deciding what we should give, we have taken into consideration these factors: for example, for certain types of stores and certain types of installations we have refused to pay anything because they are not of any value to us at all; therefore, that fact was kept in mind very much. Unfortunately, it is not possible, Sir, in the course of a debate on the floor of the House to give full details of how the book value was arrived at or how we arrived at what we considered to be a fair valuation that we might offer to them on the various categories of stores.

Now, this payment of £100 million again comes from the common pool of sterling between us and Pakistan. The total value of the assets physically in Pakistan would be approximately worth about Rs. 8 crores. But under the partition arrangements we are bound to supply them various categories of stores. It is not possible now to estimate very accurately how much Pakistan would be bound to pay to us on this account. But our rough estimate of what Pakistan would owe us on this account is approximately Rs. 25 crores, and this amount Pakistan will pay us in the form of sterling. So, out of the amount of £100 million, or Rs. 133 and odd crores, that we have paid to the British Government, Rs. 25 crores approximately will be recovered from the Government of Pakistan.

Shri M. Ananthasayanam Ayyangar (Madras: General): How?

The Honourable Shri R. K. Shanmukham Chetty: They are bound to pay us in sterling and in the agreement that I concluded with the Pakistan Government at Karachi before we left for England, we have detailed the manner and the time at which all these payments have to be made to us by Pakistan. The arrangement that was made at Karachi on these points will be found in the arrangement that was made at Karachi on these points will be found in the text of that agreement which is included in the White Paper.

That concluded the payment for pensions and the payment for stores.

What remained was an arrangement for the release of sterling for the next three years. This proved to be a very difficult matter. The British Government took the view that the release of sterling must necessarily depend on the capacity of England to export to us unrequited exports, which means exports which are not paid for by current imports. We found that at the time that we were conducting these negotiations, we had already to our credit in No. 1 Account about £80 million, and it was agreed after further prolonged negotiation that the British Government will release to us a further sum of £80 million during the next three years, making available to us altogether £160 million. This £160 million no doubt includes a working balance of £30 million but it has been clearly understood during the negotiations that the working balance is not supposed to be a deadweight stone but is intended to be used if it is wanted and that we are at liberty to use the working balance. It has also been arranged that the transfer to No. 1 Account will not be rigid but will be somewhat flexible and that it will be open to us to ask for a larger transfer than £40 million during any particular year if we found that there was really need for it.

Prof. N. G. Ranga: And it depends on their capacity also.

The Honourable Shri R. K. Shanmukham Chetty: I will come to that.

While the problem of the amount of sterling to be released for the next three years proved difficult enough, the problem of the multilateral convertibility of a part of this sterling proved to be even more difficult. Some portion of the sterling we should be at liberty to use in any country that we like, and for that purpose there must be multilateral convertibility attached to it. The Chancellor of the Exchequer presented to us his side of the case and showed us how the gold and dollar reserves of the sterling area was at a dangerously low minimum, how they have to depend upon the Marshall Aid for them to carry on for the next twelve months, and that under these circumstances they would not be in a position to give any portion of this sterling as multilaterally convertible. We however appreciated that it would not be reasonable to ask for a three-year settlement regarding the multilateral convertibility. In the changing economic conditions of the world it would not have been wise on our part to press for such an understanding, nor would it have been possible for the United Kingdom Government to agree to any figure for three years. We therefore agreed at the very outset that any provision for multilateral convertibility will be only for the first twelve months, multilateral convertibility for the succeeding two years to be settled by future negotiations. It was officially agreed that out of the sterling released £15 million or approximately sixty million dollars would be available to us in hard currencies if we chose during the twelve months.

In addition to this straightforward release of £15 million, it has also been agreed that in our trade with Japan we would be entitled to convert £3½ million of our exportable surplus into dollars or any other hard currency. The provision for multilateral convertibility should therefore be assumed to be £18½ million.

In addition to these two arrangements we have also made certain other arrangements under which the scope of multilateral convertibility for us is very much wider than what may be represented by the figure of £18½ million. The British Government have agreed to make available to us within the sterling area, or in return for sterling payment, certain essential goods like cotton, non-ferrous metals, petrol, oil and lubricants.

Mr. R. K. Sidhva: You have stated that they have not agreed.

The Honourable Shri R. K. Shanmukham Chetty: You don't believe what I say but believe.....

Mr. R. K. Sidhva: The document is here.

The Honourable Shri R. K. Shanmukham Chetty: I supplement that document and I make the statement on the floor of the House and I take the fullest responsibility for it. We have made an arrangement, I repeat, under which the British Government will help us to meet our requirements of these commodities either in the sterling area or in return for sterling payment. Until now we have been paying for our petrol and oil supplies in the form of sterling and recently we have been asked by the oil companies to pay for a certain portion of these supplies in dollars and this was specifically brought to the notice of the Chancellor of the Exchequer and he has definitely undertaken that we will not be called upon to make payments in dollars for the supplies of oils and petrol made to us.

It has also been arranged that with a view to enable us to get the best out of all these Agreements we will set up a machinery which will be in constant consultation with a corresponding machinery to be set up by the British Government, so that in the matter of making available to us capital goods

during the next three years we might not meet with any insurmountable difficulties.

My honourable friend Mr. Ranga very rightly drew the attention of the House to the fact whether any assurance has been obtained regarding the supply of goods in return for sterling. Well, it is not possible to secure a very definite and unequivocal understanding on such a point. After all, the release of this sterling has no meaning unless it is translated in terms of goods. Whether the sterling that has been released to us will be thus utilised depends not merely on the capacity of the British manufacturer to supply to us capital goods but our readiness and our capacity to absorb these goods. It has been pointed out that in the previous twelve months, out of £83 million that have been released we were able to use only £3 million. Now, what does that indicate? It indicates that we have not utilised to the fullest possible extent or anywhere near even a reasonable extent the amount of sterling that has been made available.

Prof. N. G. Ranga: But whose fault was it?

The Honourable Shri R. K. Shanmukham Chetty: "Whose fault is it?" is a question to be asked, and the echo says "Whose fault is it?"

Prof. N. G. Ranga: Government's.

The Honourable Shri R. K. Shanmukham Chetty: No doubt, it is difficult to obtain capital goods, but let us be frank with ourselves. Let us not hide our own defects and our own shortcomings. In my discussions with certain business interests in London it was pointed out to me that there are a number of cases in which inquiries were made for the supply of capital goods and machinery by Indian businessmen, that the British manufacturers were ready to supply, and yet the orders did not materialise. And whose fault is it? It is our fault. It is a fault not merely of our private individual industrialists, but partly of the Government as well. There is no use of shirking this fact.

But in condemning the Government, I would ask the House to remember certain extenuating circumstances. We were beginning during these twelve months this experiment of having a limited quantity of sterling released to us. We were told that unless we utilised our foreign exchange resources very carefully we would be landed in serious difficulty regarding foreign exchange. The logical corollary of this position is that we have to put more stringent limits on our imports. Our import licences were strengthened. They were made very rigid and even where import licences were granted during this period, naturally it takes time for orders to materialise. During this period of twelve months, orders for machinery, for instance, capital goods or consumer goods even to the extent of £10 million may have been placed but all those goods might not have been delivered during that period of twelve months. But in any case the fact remains that the Government did not have a clear cut plan of industrial development to utilise all these releases of sterling. (*Prof. N. G. Ranga:* "Hear, hear"). We are very much alive to this shortcoming and we are hoping that we would learn a lesson from this. Private enterprise has been very shy.

Seth Govind Das (C.P. and Berar: General): It is shy even now.

The Honourable Shri R. K. Shanmukham Chetty: Companies that were floated have not attracted sufficient share capital.

Seth Govind Das: None at all.

The Honourable Shri R. K. Shanmukham Chetty: In fact, certain companies which were floated with the participation of the Central Government

[Shri R. K. Shanmukham Chetty.]

and certain provincial Governments have not met with better success. Under these circumstances, it is for this House and for the Government to make their mind once and for all whether they would create those circumstances which will foster private enterprise or whether Government, notwithstanding what private enterprise may or may not do, will go ahead with their own programme of capital development in India.

Seth Govind Das: That is what Government ought to do without caring for private industrialists.

Mr. R. K. Sidhva: Have you not done so by passing the Industrial Resolution the other day?

Prof. N. G. Ranga: A Resolution passed four months ago!

The Honourable Shri R. K. Shanmukham Chetty: If my honourable friend reads that Industrial Resolution by which I stand, he will find that we have thrown up a very large sector of industry for private enterprise. There is no getting away from that fact, but the fact remains that in spite of our throwing that large sector of industry to private enterprise, private capital has not been forthcoming.

Seth Govind Das: It is the blame of the industrialists. We must not care for it.

The Honourable Shri R. K. Shanmukham Chetty: You may not care for it but here is the phenomenon, for which you have to find a remedy and I am hoping that in our examination of the present economic crisis we will devise some effective means to put an end to this state of affairs.

Prof. N. G. Ranga: May I ask one bit of information, whether my honourable friend had been consulted or had agreed to the speech made by the Commerce Minister the other day at the Exporters' Conference and whether he agreed with the Resolutions passed by that Conference where it was stated that export should be encouraged and import should be discouraged?

The Honourable Shri K. C. Neogy (Minister of Commerce): Import should be discouraged—I never said anything of the kind. We were concerned in the Export Advisory Committee with only the export trade of the country. I said nothing about imports on that occasion.

The Honourable Shri R. K. Shanmukham Chetty: I am prepared to give a *carte blanche* to my colleague Mr. Neogy and abide by whatever policy he follows. I have read that statement of his about export policy and I certainly agree with what he has said. He has stated that we must increase our exports to the extent we increase our exports we extend our capacity for purchasing capital goods from abroad and it is up to us to create those conditions under which we would actually purchase those goods from abroad.

Seth Govind Das: I would like to ask the Honourable the Finance Minister one question. The private industry is not forthcoming and we have seen it for so many months. Under those circumstances, are we still going to care for them, or without caring for them we shall go on with our industrial planning and our development?

The Honourable Shri R. K. Shanmukham Chetty: Exactly. I do not think, Sir, that this is the appropriate occasion to have a debate on that particular point, but that will be one of the most vital points that we will have to consider when we discuss the whole question of the economic condition of the country at present. (Interruption).

I was talking, Sir, about the multilateral convertibility and I mentioned the amount of £15 million straightforward release and £3½ million available in our surplus with Japan, the benefit that we get in payments for sterling for certain commodities and I must also mention the fact that we have now got the benefit of paying in sterling for our purchases from certain other countries in Europe and America. For example, we can pay in sterling hereafter to Switzerland; we can pay in sterling to Czechoslovakia; in fact, except Belgium and Portugal, practically the whole of the European continent becomes for us a soft currency area. Some countries of the Western hemisphere also have come soft currency areas, which only goes to show that the area in which we can purchase has been widened and if we do not make use of it to the fullest extent we have nobody to blame but ourselves.

Seth Govind Das: That depends upon our own Government.

The Honourable Shri R. K. Shanmukham Chetty: Before I gave my assent to the final authority regarding the release of the further £80 million I had serious doubts in my mind whether this would be sufficient to meet our needs for the next three years.

Finally I agreed because I came to the conclusion that this was the best that we could do under the circumstances. In fact whether we would be in a position to use the whole of this 160 million pounds or whether we would find a need for more will ultimately depend upon our capacity to absorb capital goods. In fact with a view to a better realization or to more effective utilization of our foreign exchange resources, we have also recently relaxed our import very considerably. I have always taken the view that we should not fritter away our foreign exchange resources on merely consumer goods, but faced with the problem of inflation and the scarcity of consumer goods, I think, Sir, it is on the whole to our advantage to allow some consumer goods to come into this country, so that we might not merely utilise the balances released, but that we might decrease the inflationary pressure on our economy.

This in substance is the agreement that we have concluded. I have been asked whether I have taken any undertaking from the British Government that the question of scaling down will not be re-opened. I stated at the Press Conference that the ghost of sterling balances has now been laid. The very next day some interesting statement was made in the House of Commons. The redoubtable Winston Churchill made a statement.

Dr. B. Pattabhi Sitaramayya (Madras: General): Sir Stafford Cripps was the cause for it. The culprit is Cripps.

The Honourable Shri R. K. Shanmukham Chetty: The answer given by Sir Stafford Cripps is for a question put by Mr. Winston Churchill, which is in this form.

"I suppose the Right Honourable and Learned Gentleman would I suppose agree that at the close of war we would still owe India approximately 1,200 million sterling as a result of our defending her from invasion and conquest by Japan. It had always been kept open as I think he will agree that we should have the right to put in a counter-claim for the immense services which we rendered in saving those 400 million people from being ravaged, pillaged and slaughtered as they would otherwise to a large extent have been."

And the answer of Sir Stafford Cripps was:

"I have already said that any arrangement that we have made does not in any way prejudice the eventual settlement. Everything is open on both sides."

Sir, I want the House to judge whether my statement in the Press Conference is warranted or not and I am prepared to produce documentary evidence in support of what I said.

[Shri R. K. Shanmukham Chetty.]

The answer of Sir Stafford Cripps is it a question relating to Defence expenditure. The British Government under the leadership of the redoubtable Mr. Winston Churchill was supposed to have saved us from great disaster and therefore he says he had always kept that question open. The allocation of Defence expenditure between the British Government and the Government of India was decided by a financial settlement made some years back and in the midst of the war, the British Government made a formal proposal to the then Government of India that there should be a revision of that arrangement, and Sir Jeremy Raisman said on the floor of the Legislative Assembly in those days that the Government of India has completely turned down any such proposal and that the financial arrangement then made holds good. That is one point that I want you to remember and therefore the statement of Mr. Winston Churchill that it has always been kept open is not correct. Mr. Churchill tried to open it and twice the door was banged against him, and yet he does not seem to realize it. But I have got more substantial facts than that. The answer relates, as I said, to the question of any future claim that the British Government might make with regard to our bearing an additional burden in Defence. I would refer honourable members to a letter on page 62 of the white paper, a letter written by Sir Henry Wilson Smith to Mr. A. K. Chanda. Now this letter contains the terms of the final settlement of the amount between the British Government and ourselves. Far from giving up any of the balance that we hold while we had 1.152 million pounds there standing, we in London presented another bill for 55 million pounds as Defence expenditure owed to us by the British Government. It was certified by our Auditor General and under the terms of the financial settlement the British Government was to pay us 55 million pounds. I ask the honourable House to remember this if in a debt settlement there is any question of the creditor being called upon to give up a part of the debt would the debtor during such a settlement pay some more money to the creditor? Yet they paid them on that occasion 55 million pounds and not merely that. In paying that 55 million pounds this is what has been put on record.

"The demand mentioned above will be in full and final settlement between the Government of the United Kingdom on the one hand and the Government of India and Pakistan on the other of all matters arising out of the operation of the defence expenditure except in respect of the adjustment of the terminal benefits."

This is a small detail under which they still owe us a little more money.

I would ask the House to read this paragraph and tell me whether they agree with my conclusion that this paragraph if it has got any meaning at all has got only this meaning that so far as the expenditure relating to the Defence of India is concerned, the matter has been completely settled and the payment of that 55 million pounds is the last and final settlement on this side.

An Honourable Member: Did you have the confirmation asked for?

The Honourable Shri R. K. Shanmukham Chetty: This is a letter written by Sir Henry Wilson Smith which has been confirmed by Mr. Chanda in the following letter.

An Honourable Member: May I ask if the Honourable the Finance Minister asked Sir Stafford Cripps to give an explanation on that?

The Honourable Shri R. K. Shanmukham Chetty: Why should I ask him to explain when my case is so strong.

Dr. B. Pattabhi Sitaramayya: Let us be conscious of our strength.

The Honourable Shri R. K. Shanmukham Chetty: I wish we were more conscious of our strength.

Dr. B. Pattabhi Sitaramayya: It is better to be conscious of our enemies' strength.

The Honourable Shri R. K. Shanmukham Chetty: If in a future occasion this question is re-opened, it will then be for the Indian negotiator to throw this at the face of Cripps or Winston Churchill or whoever it may be. We are all familiar with the language used by Mr. Winston Churchill, especially with reference to India. He talks about his having saved us from pillage and slaughter by the Japanese. Well, if Mr. Churchill put such a query, I have an answer for him and I would tell him but for the help that India rendered in the prosecution of this war, not only would England be a dependency of Germany but that Mr. Winston Churchill would be kept a captive in Berlin today. I think Hitler would have had enough sense of humour not to hang Mr. Winston Churchill. Why should you be worried about that? Let us be conscious of our strength and I have no doubt in my mind—not an iota of doubt—that so far as the settlement of the War burden is concerned, the last word has been said and in fact some small amount is still due by the British Government under the terminal charges referred to in that paragraph.

Sir, I am afraid I have taken a fairly long time and I expect that the honourable members will have their own points of view. With these words, Sir, I commend my two motions to the House.

Shri Ajit Prasad Jain: May I ask a question, Sir?

Mr. Speaker: After I put the motions formally to the House.

Motions moved:

"That a supplementary sum not exceeding Rs. 2,16,27,18,000 be granted to the Governor General to defray the charges which will come in course of payment during the year ending 31st March, 1949, in respect of 'Capital Outlay on Sterling Pensions'."

"That a supplementary sum not exceeding Rs. 65,33,33,000 be granted to the Governor General to defray the charges which will come in course of payment during the year ending 31st March, 1949, in respect of 'Defence Capital Outlay'."

The subject is very important. I should like to settle the procedure in which we shall take up the amendments to these motions and the discussion. I think there should be a general discussion on both, including the amendments. Will that suit the convenience of the House?

The Honourable Shri R. K. Shanmukham Chetty: If I may suggest, the amendments raise some of these main points that I have raised. In a general discussion those points are bound to be covered. If at the end of the discussion any honourable member wants to press his amendment to vote, it may be done. That may be a more convenient procedure.

Mr. Speaker: In any case, the amendments will have to be formally moved. My idea is, the amendments may be formally moved. If at the end of the debate, they think that they need not be put to the vote of the House and they would like to withdraw, they may be withdrawn. It all comes to the same thing as the Finance Minister has suggested. I would suggest that the honourable members may just move their amendments, reserving their speeches.

Shri B. Das (Orissa: General): I feel that after a general discussion if the honourable members who have tabled the amendments want to move them, they may move.

Mr. Speaker: That would be giving practically a double chance to speak. Instead of that, if the point are minor, they will not press the amendments to the vote. The amendments may be moved and the speeches may be deferred.

[Mr. Speaker]

Along with the main proposition, the amendments should also be discussed. The discussion will be common. I do not think we can have any closure for such a motion as that.

Mr. R. K. Sidhva: Sir, I would like to know, after the amendment is moved, what will be the procedure. The Finance Minister has already taken one hour and there is only one hour left. This is a very important matter. To give one hour for discussion of this is not sufficient. I want to know whether we would be given the privilege of discussing this matter at a later stage also.

Mr. Speaker: Personally, I think, looking to the importance of the matter and the interest which all of us have in this matter, there should be a full and free discussion without any restriction. I am entirely in the hands of the House in this respect.

Some Honourable Members: We want more time.

The Honourable Shri R. K. Shanmukham Chetty: We are bound to make this payment on the 14th. If this can be disposed of before tomorrow evening I have no objection.

Mr. Speaker: That means, we go beyond five o'clock today. We adjourn and then take up the matter tomorrow. Let us fix up some time for closure by agreement. The subject is so vast that we can go on discussing it for days together.

Shri M. Ananthasayanam Ayyangar: We may finish by five O'clock tomorrow.

Shri K. Santhanam: Tomorrow afternoon may be reserved for this debate. We have got a heavy agenda.

Shri M. Ananthasayanam Ayyangar: This is the largest asset outside India that we possess. Therefore, the other small Bills can stand over.

Mr. Speaker: I think the best course would be this. When we are discussing 216 crores and 65 crores, the House is entitled to have its own views expressed. We do not mind one day's extension of the sittings. We will carry on till five O'clock. At 5 P.M. tomorrow the discussions will come to an end. The guillotine will be applied at 4-30 P.M. and the Finance Minister will be given half an hour to reply. I will make one request to the members. The subject is capable of being discussed by individual members from various points of view. They will remember that as they are anxious to put forward their views, others are also equally anxious. They will impose a self-denying ordinance and speak only as much as is necessary and not repeat arguments or try to reply to individual remarks or arguments either of the Finance Minister or any other member.

Shri K. Santhanam: Is there a time limit for these speeches?

Mr. Speaker: It is left to the Chair. I do not propose to put a time limit. A time limit is imposed in a general discussion when cut motions are being moved, just for facilitating voting.

Shri K. Santhanam: In a general discussion, there is a time limit usually.

Mr. Speaker: I do not propose to put any. Even in a general discussion, the Chair can extend the time limit, except in the case of an adjournment motion. Therefore, I would suggest that there should be a self-denying ordinance and each member will not take more than about 20 or 30 minutes so that time may be left for other members.

Shri Ajit Prasad Jain: Sir, I wanted to put a question.

Mr. Speaker: Let the amendments be moved first. At any rate, what is the question?

Shri Ajit Prasad Jain: The question is this: At this rate, how long will it take for the Government to repatriate all the sterling balances?

Mr. Speaker: That is a question of calculation. He can raise it during the course of the debate. In his reply, the Finance Minister will answer, if he has an answer and if he thinks it fit to answer.

Mr. Z. H. Lari (U.P.: Muslim): Sir, I believe I will be given an opportunity to make my submissions afterwards.

Mr. Speaker: Yes.

Failure of Government to Secure Protection against Scaling down of Sterling Balances.

Mr. Z. H. Lari: Sir, I move:

"That the demand for a supplementary grant of a sum not exceeding Rs. 2,16,27,18,000 in respect of 'Capital Outlay on Sterling Pensions' be reduced by Rs. 100."

Mr. Speaker: Cut motion moved:

"That the demand for a supplementary grant of a sum not exceeding Rs. 2,16,27,18,000 in respect of 'Capital Outlay on Sterling Pensions' be reduced by Rs. 100."

Propriety of Payment and Defence Stores Policy of Government.

Prof. Shibban Lal Saksena (U.P.: General): Sir, I move:

"That the demand for a supplementary grant of a sum not exceeding Rs. 65,33,33,000 in respect of 'Defence Capital Outlay' be reduced by Rs. 100."

Mr. Speaker: Cut motion moved:

"That the demand for a supplementary grant of a sum not exceeding Rs. 65,33,33,000 in respect of 'Defence Capital Outlay' be reduced by Rs. 100."

Mr. Z. H. Lari: Sir, the House is aware that in the beginning of 1947 there was no sort of restriction on the powers of the Government of India to utilise the sterling balances. It was as a result of financial agreement between America and the Government of England that the necessity arose for restricting this use of sterling. One of the conditions of that financial agreement between the United States of America and the Government of England was that the balances should be scaled down to a extent. The terms, in so far as they are relevant for the purposes of discussion in this House are mentioned at page 2 of this white paper relating to sterling balances. It reads thus:

"That agreement also provided that the United Kingdom Government would negotiate with the holders of accumulating balances with the object of arriving at arrangements whereby a portion of these balances would be immediately released, a portion released in instalments over a period of years beginning from 1951."

—(and what is important is this)—

"and a further portion adjusted as a contribution to the settlement of war and post-war indebtedness and recognition of the benefits which the countries concerned might be expected to gain from such a settlement."

The Honourable the Finance Minister when giving the press statement himself realised and said that in pursuance of that Agreement there has been a

[Mr. Z. H. Lari]

clamour in England for scaling down even the sterling balances of India, and I will quote his words at page 68 of this book:

"It is necessary to restate this obvious proposition for removing the misunderstanding that still seems to persist in certain quarters which have periodically agitated over the scaling down of the sterling balances on the ground of their being a war debt."

That was the position when these negotiations were taking place. In the same statement he said that as Sir Stafford Cripps did not raise the question of scaling down therefore it must be presumed that the ghost of these sterling balances being scaled down had been finally laid. Now going back to the Agreement that was first entered into—because that is the principal Agreement that was entered into last year—what was the nature of that Agreement? It was a temporary arrangement for release of sterling. At page 11 of this book you find this:

"Being desirous of making a temporary arrangement for dealing with the sterling balances of India."

Therefore the main and principal Agreement which was entered into between the Government of India and the British Government on 14th August 1947 was not a final settlement of sterling balances but only a temporary arrangement for dealing with the sterling balances of India. To make the matter sure Sir Stafford Cripps wrote a letter which is to be found at page 19 where he says:

"It is understood on the part of His Majesty's Government that the Agreement is of an interim nature to cover the period up to the end of the present calendar year, and that it is without prejudice to any subsequent discussion regarding India's sterling balances."

Therefore that principal Agreement was subject to this letter dated the 14th August 1947. When the matter came up for consideration again in February what is the Agreement that is arrived at? You will find it on page 27.

[At this stage Mr. Speaker vacated the Chair which was then occupied by Shri K. Santhanam (one of the Panel of Chairmen).]

Really the effect of the subsequent Agreement was simply to extend the period of that principal Agreement and nothing more. It was not a fresh Agreement but a mere extension of that principal Agreement which was arrived at on 14th August. The words are these:

"As a result of consultations provided for in Article XI of the Agreement between the Government of the United Kingdom and the Government of India, the following arrangements have been agreed upon between our two Governments for the extension of the principal Agreement."

The result is that this extension is again really subject to the letter written by Sir Stafford Cripps and agreed to by the representatives of the Government of India.

Now we come to the last Agreement which is at present under discussion. If you look at the phraseology of that Agreement which is on page 40, it says this:

"The following arrangements have been agreed upon between our two Governments for the extension of the principal Agreement."

So the result is that what holds ground is the Agreement which was arrived at between the two Governments in August 1947 and that Agreement is to be read in the light of the letter written by Sir Stafford Cripps on behalf of the British Government on August 14. Now what is the effect? What the total amount of sterling will be which the British Government is going to release in favour of India has not yet been determined except to the extent that the debt is there, the amount due is there. As the Finance Minister said, it is not really a debt, it is really a fund with the Bank of England.

Apart from that, what has happened in the meantime to show that that agitation which was continuing in England, that obligation which England took upon itself under the financial arrangement between the United States of America and herself to scale down the balances have come to an end? That is the question. I will read some questions by Mr. Churchill in the House of Commons and the replies:

"Question (by Mr. Churchill): Have we, in what has now been concluded, kept open until 1951 the full freedom of reviewing this question—the main question—of what is called the sterling balances which is an euphemism for British debts? Is that position open and can it be raised and examined *de novo* in the year 1951?"

Answer (by Sir Stafford Cripps): I have already said that any arrangement we have been able to make does not in any way prejudice the eventual settlement.

Question: Even the fundamental issue of paying off the services rendered to India against the aid which was given in the war?

Answer: Any claim which the British Government wishes to put forward is open."

Therefore, so far as the reply of Sir Stafford Cripps is concerned, it is very clear and definite. We may condemn Mr. Churchill but we are concerned with the statement of Sir Stafford Cripps; we are concerned with the policy of the British Government. Has the Finance Minister thereafter taken any steps to see that the interpretation that he has put is really the correct interpretation? Moreover what stood in the way of our Delegation not getting a clause inserted that this question of release is not subject to any obligation on the part of the British Government to scale it down? Why could they not make it beyond controversy?

We had bargaining points in the nature of three things: firstly, the payment for assets; secondly the payment of pensions; thirdly, and this still exists, the assets of British Citizens in India. So far as the first two are concerned, we have already come to a final conclusion. The position now is that that matter of eventual payment has not been settled and meanwhile we have lost our bargaining power to a great extent. That is the reason why, I submit, that so far as this Agreement is concerned, there has been a failure on the part of the Delegation to have a clear assurance that in future there will be no question of scaling down these sterling.

Coming to the other point: Every one is aware that economic conditions in Europe, if not in chaos, are at least uncertain. Nobody can foresee what course the economic position is going to take. But any reasonable man, any prudent man, can contemplate the possibility of depreciation of currencies in Western and Central Europe. If that happens, is not it possible, Sir, that England may devalue sterling in order to set off the transaction between herself and the other Governments? Now the British Government has come forward to get time. She pleaded that we should not utilise our sterling for the time being and that we should wait for years and years but had our delegation prudence enough and foresight enough to say: Well, we are prepared to wait but what guarantee is there that this entire sterling holding may not be devaluated in terms of gold?

My friend has mentioned that during the first twelve months India utilised only £3 millions. How is it? And why? The Honourable the Finance Minister said that private enterprise is shy and in spite of definite enquiries and readiness of producers in England they did not place orders. Now what is the extent of that? The question now is: Was it not the duty of the Government in the face of the failure of private enterprise to formulate a policy of nationalization and proceed on with her own plan of industrialization and economic reconstruction? Because if we do not utilise the sterling and if we

[Mr. Z. H. Lari] cannot get capital goods, then as the Honourable the Finance Minister admitted, release of sterling is meaningless. Now unless there be a willingness on the part of the British Government to provide capital goods, this release even to the extent of £ 80 millions, which would come to us during the next two years, becomes useless. I do not find any definite undertaking on the part of the British Government to supply the needed capital goods. The Honourable the Finance Minister said it is very difficult to get a definite undertaking on such a point. But could not the delegation demand that we are meeting your wishes to a great extent. We are not going to utilise sterling for years and years: but that small sterling which you are going to release has got no significance to our country unless it is translated into capital goods. I have gone through this book and I do not find there was any definite mention of this problem, nor was there any definite promise by the British Government to supply capital goods.

Now we come to the actual arrangements themselves. The first is payment for assets in India. It is very difficult to say whether the payment is excessive or not. We do not know the method of calculation. But there is one thing of principle. Did not the British leave such assets like aerodrome and installations in so many other countries? Did they get any compensation for them? Did Egypt pay? Did Eritrea pay? Did Palestine pay? Did other countries pay? Was it necessary for the Government at this stage, without settling its own problems, namely that of the full payment and whether there should be no scaling down, or not to pay the amount? In the first place the principle of payment is itself open to doubt. But supposing that the Government could and should pay. My submission would be that such assets, which in the nature of things could not possibly be removed and which in the eyes of the British could have no monetary value, at least they should not have been paid for. But as the Honourable the Finance Minister has said in this debate it is not possible to give details, we are in the dark and we cannot say if proper payments have been made.

Prof. N. G. Ranga: Why should they have to pay you if you are going to pay for their assets here? They can also repeat your claims! You cannot confiscate their claims.

Mr. Z. H. Lari: I am not pleading for confiscation. If we confiscate the assets of British citizens in India then the British Government can say that you have confiscated and we are going to pay in the same coin. But here they had assets and they used India for the sake of protecting England and not merely to protect India! It was in the interest of England to make India into a battleground not in the sense of an actual battle but in the sense of a forward base. Therefore, you are not morally bound to account for such expenditure which were made and incurred by the British Government in order to protect her own liberty and her own independence. As such this principle is itself open to doubt. Assuming again, that we had to pay for it. This should have been used as a bargaining counter with them. We should have settled this only when they had agreed to release by such and such a time the entire sterling. But without having any agreement on that point, we conceded their demand.

Take the question of pensions. No doubt, I concede that in view of the obligation that had been undertaken by the Government payment had to be made. The only question that arises is that you have capitalised. You have ensured full and complete payment of pensions to the pensioners in England. Now there is no possibility of going back over it whatever the British Government may say and do and your attitude in future will be immaterial. No doubt the position is this: that they are now in a stronger position so far as payment of pensions is concerned. Merely saying that they are responsible to us and we can withhold pensions if they do not behave properly is futile. That is the

stand taken by the Honourable the Finance Minister. My objection is not that you keep the responsibility for payment of pensions to yourselves, because when we have to pay the pensions, the responsibility is ours. But you have made a final payment of all the pensions that will accrue for payment during the next 60 years and by conceding to them these demands, you have thereby given up your bargaining power and what is now left with us is simply the assets of British citizens in India, which possibly cannot be ex-appropriated, and which will be open to the objection lodged by my friend, Prof. Ranga when he said: How can you do that? Therefore this agreement has failed on two grounds: firstly, it has failed to protect the country against possible scaling down of sterling: secondly, by coming to a final agreement with regard to payment for pensions and assets, it has lost the bargaining power that it had.

Prof. Shibban Lal Saksena: Sir, I have very carefully heard the oration of our Finance Minister. I wish I could be restrained but am constrained to say that our Delegation has bartered away our future. In fact they have proceeded in a manner which seemed to give the impression that they were beggars who had gone there to beg.

The Honourable the Finance Minister said at the very outset that this money was not a war debt or payment of war expenditure: it was the cost of goods supplied. Even though thirty-five lakhs of our men died of famine in Bengal, yet we fed the American troops and everybody else. This is the money which represents the total amount of all our export surplus and the payment received for other conveniences which we gave to the British and Americans here. If the British had not been so unscrupulous and had not taken advantage most unfairly of the Reserve Bank of India Act, the whole money would have been here in our coffers. The full gold equivalent of our present sterling balances would have been here in our treasury in Delhi. But by virtue of the political domination that they had over us they took the gold there. Our delegation should have gone there and said that this gold should come back to Delhi. But we go there and say "Give us so much which is convertible and so much which is inconvertible". I think we proceeded in an entirely wrong manner. If we say that this is our money there is no question of scaling down. The British have even now got enough assets here which we can confiscate. There are at least 1,200 crore rupees worth of their shares in India and they dare not say that they will not pay, when we have got the power to expropriate their assets. So the argument that they can scale down our sterling debts has no meaning. I am afraid we are ourselves scaling down our balances. Out of our total sterling balances they have deducted 500 crore rupees as their debts. How in 1931 Mahatma Gandhi got a sub-committee the congress to investigate the debts. It was found that instead of India indebted to Britain, really Britain owed 2,000 crores to India. We have presented that account to the British Government and so we have scaled down our debts. Nobody else can dare to scale them down, take course within the next three years the British sell away their share at we away their money. I therefore think that it is one of the great errors that we have committed in not providing in the Agreement that all the money against British earn here shall not go to England, but that it will be used to reduce our sterling balance account number 2. That is an omission which has gone there as beggars. The Finance Minister and the Delegation have said that this is our money and we want it back urgently. We have said that money shall bear the nominal interest which the other side gives. If we had our money we could have invested it in our own industry. The last 150 years. As somebody has said our Finance Minister

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British case than the Indian case. He felt more for the difficulties of the British people than for our own needs. Is India so rich that it can be starved at the altar of the Dollar needs of England? I think these things should never have come into consideration.

Shri B. Das: I should like to know the name of the party who said that?

Prof. Shibban Lal Saksena: If you read this paper you will find it. The Finance Minister has himself said that the British had only 500 crores in the Dollar pool and therefore they could not give us more than £15 million for convertibility. I think it was the Finance Minister himself who said it. We should have cared for our own interest. Before we became free there was the Bombay and the Birla Plan. All these plans had counted upon these sterling balances. The Birla Plan and the People's Plan had both estimated a total amount of sterling balances worth 1,000 crores, which they thought could be utilised for purchasing capital goods. But nothing has been in this direction and all the plans will probably have to wait for a number of years. This proposal for the funding of the pensions and the payment for the stores out of our sterling balances should be rejected. You say we are paying about 200 crores for pensions. What I want to know is whether the payment of British pensions was the first charge on this our hard-earned money. If we had 200 crores of rupees what would be the interest upon it? It would probably be much more than the amount due for payment of pensions annually. We should have maintained our accounts with England and said that we shall pay the pensioners annually according to their behaviour. Then we could have 200 crores for our own investments. If we want today 200 crores as debt from England, will she give us the debt for financing our development plans? We have really given away this 200 crores because we thought that probably we will not get our full money which is tied up in sterling balances. Similarly with regard to the stores we have been very generous. We are paying 27 per cent. of the book value. I do not think that the Americans sold their surplus stores here and got even half that amount. I think that the problem has been so badly handled and the agreement arrived at has been so much in the interest of England and against us that I think our whole future has been bartered away so far as these sterling balances are concerned.

The Finance Minister said that out of 83 million sterling at our credit in account No. 1, we drew only 3 millions. We have been crying hoarse since the beginning of this Parliament that we must have a plan and try to fulfil that plan. You have not done it and now you come and tell us that we have not utilised this money. Who is responsible? I say the Government is responsible. Unless you make a plan and go ahead with it all the money will be lying waste. If you leave it to the capitalists they will always try to bargain. They will not get more and more concessions and better terms. The sterling balances are our money. If we do not get our money we shall confiscate all the assets of the British we have got here. I have seen from the very beginning we are making more and more concessions to the British. If we had the money we can do it into any currency. Only twenty crores we can now convert into rupees. If I do not know how our Delegation agreed to this. It was a betrayal of the country and I think we cannot accept this agreement.

Suppose the motion, and support the cut I have moved.

Renuka Ray (West Bengal: General): Mr. Chairman, Sir, before I offer my remarks that I want to, I should first like to say that I do not think the realization of the very practical difficulties—genuine and real difficulties—must have faced the Sterling Balances Delegation to the United Kingdom. Unlike my honourable friend Professor Shibban Lal Saksena, I believe often it is the creditor nation that stands at a disadvantage when the debtor nation is such a strong and powerful nation as

the U.K. At the same time, Sir, I should say that although there are certain points on which the Sterling Balances Committee have been fairly successful, there are other issues which I feel could have been tackled more successfully.

In the first place the amount of multilaterally convertible currency that they have been able to obtain is totally inadequate. I wish that the Honourable the Finance Minister had had the grace to acknowledge this instead of making an excuse. I think it would have been better for him to have said straight out "we have failed to do it in spite of our best efforts" than to make all other excuses, because it is indeed an excuse to say "we went to negotiate about sterling balances, but because of the other considerations such as that we may not be able to spend the multilaterally convertible currency we think

that we have obtained enough". That sort of complacency, that kind of attitude, I think, is not warrantable on the part of a national government.

Shri M. Ananthasayanam Ayyangar: Have you not borrowed from the Monetary Bank?

Shrimati Renuka Ray: First of all I should like to point out that it is an admitted fact that U. K. cannot supply the machinery and the equipment that we need for our national development schemes, nor can they be supplied by those other sterling areas or areas which have now become sterling areas. We have to go to U.S.A. and to dollar countries for our requirements. To say that we cannot spend the money made available to us is therefore merely an excuse. It is the Government that controls and husbands our resources and it is up to the Government to see that we do utilize our dollar reserves to the best of our ability. The fact that we need machinery and equipment on a wide spread scale cannot be gainsaid. Whether through private enterprise or through national industries in whatever way possible, production and more production, today, is our watchword. If that is so, how can we at the same time say that we cannot utilize our dollar reserves? Therefore I would humbly submit to the Honourable the Finance Minister that I can well understand if he said that it was not possible for us under all the different circumstances to have obtained any more dollars, any more multilaterally convertible currency. But to put forward such an indefensible excuse is not the right thing to do.

There is another point which I would like to make. I think that we should have utilized some of the sterling balances against the Productive British assets in the country. I should like to make my position very clear. I do not mean that every British asset in the country should immediately be taken over by us. But such assets as coal mines, plantations and others which even according to the acknowledged policy of this Government should be nationalised—and the reason put forward for not nationalising all these at once is our meagre resources today—at least could have been taken. Such assets of the British Government at least could have been set aside against our sterling balances. I would like the Honourable the Finance Minister to enlighten us whether he at all explored this possibility because from the White Paper we find that it has not been done. I do feel that this was a method that could have yielded good results and it would have brought about the nationalisation of coal mines and other assets of that type which ought to be nationalised. The reason that we have not the resources to nationalise would not then come in the way.

I do think that the Honourable the Finance Minister and the Sterling Balances Committee showed a great deal of foresight in coming to an agreement with Pakistan whereby both Pakistan and India were in a better position to negotiate in London.

[Shrimati Renuka Ray]

I think that the tapering annuity scheme which has been criticized by the honourable Mr. Lari is a good scheme on the whole. I would like the Honourable the Finance Minister to realize once again that it is not in the spirit of carping criticism that I have spoken. It is painful for us to do so; we do not wish to criticize our national government. We are forced to do so because we feel that these are things of momentous importance, on which the country will be let down if they are not done the right way. It is for this reason that I have placed these points before him. I do hope that the Finance Minister will heed them in the future if he has not done so in the past.

Prof. K. T. Shah (Bihar: General): Mr. Chairman, Sir, I approach this question with great hesitation, not only because of the complexity and numerousness of the issues involved, but also because of the general atmosphere under which this point has to be discussed and disposed of by us. I hope the Honourable the Finance Minister himself realizes, and I trust the House realizes it still more, that an amount like Rs. 300 crores is to be disposed of in perhaps three or four hours discussion, and that, too, by the gracious indulgence of the Chair. Lest I may be misunderstood on this point, I would like it to be explicit that here is a question which has been waiting for all these six or seven or ten years; and I for one am unable to see the propriety, the necessity, the justice of bringing it up and of asking the House to deal with it, so to say, in a supplementary demand motion on which, under the Rules of the House, only certain courses can be adopted, and the scrutiny on which cannot possibly be very thorough. That however is a misfortune which I trust will attract the attention of the House, not only in connection with this particular matter, but also in connection with the entire procedure under which large issues of this character are to be disposed of by this House, which has now got the fullest powers, a very much larger number of members more anxious to take part in these discussions, and therefore to do justice not only to themselves but also to the issues and the interests of the country involved.

Leaving that matter aside I should like also to offer some general remarks before I proceed in particulars. The entire agreement or arrangement, viewed as one single, concrete, composite whole, needs searching scrutiny. As I see this Agreement, it reveals an approach which, I feel, is not quite in the interests of this country. I was told on a very good authority that the Delegation went there more as negotiators than as advocates. I am afraid that it was a viewpoint which I could not wholeheartedly endorse; I hold that the negotiator too, if he proceeds to negotiate on behalf of somebody, has some duty towards the principal on whose behalf he negotiates. But I see no justification for the negotiator to assume, as it were, the rôle, either of the arbitrator, or of the advocate of the other side. I hope the Members of the Delegation will forgive me if I say that throughout, the spirit of the correspondence and the Agreement reveals a desire much more to see the difficulties of Britain than the interests of India. The difficulties of Britain:—that they have no exportable surplus, that their ability is limited, that we have not utilized the amount released to us and therefore they would not release more, that they had their own complications and the Marshall Aid difficulties, this, that and the other—are far more prominently put forward than the needs and requirements, the demands and necessities of this country and its progressive economy.

I feel, Sir, that that was a fundamentally wrong approach with which to start this business. That is why I am not content merely by saying that we must cut this demand by Rs. 100 or Rs. 1,000 or Rs. 1 lakh. I personally would suggest that we must reject the demand *in toto* so that it might come before us once again in a more chastened, more reasonable, and, may I say, more patriotic frame of mind. Sir, the approach being fundamentally vicious, naturally everything that is stated in this agreement, in the document presented

to us, wears an air as though we were on the defensive, as though we were trying to get advantage. Having surrendered our precious goods and services over the seven years when the war was going on and England's very existence was at stake, we are now told, after the war is over, that this was incurred—I am not saying that it was told by our Delegation, please don't misunderstand me—but we are told that it was incurred to save India from invasion, to save her from slaughter, to save her from anarchy. But, Sir, it is a patent fact that the war was not of our seeking, it was not of our making, and if I may remind the House, it was not for our benefit. It was one in which the people of India never agreed to participate or to encourage. That being so, I do not see any reason why we should be told that this is part and parcel of a general defence against invasion or the violation of our liberties, for which we must be very considerate.

I am perfectly aware that the Honourable the Finance Minister has told us more than once, and it is patent in the documents placed before us, that this is not part of the war debt, this is not part of any inter-governmental debt; that it is a debt between the Bank of England and us, owed by the Bank of England so to say to the Reserve Bank of India. I will take him at his word, but I would like to ask also, if it is so, what prevents the Reserve Bank from writing a cheque and asking that the money be repaid? Why all the trouble of these negotiations? Why all the interference of the Chancellor of the Exchequer and the Minister of Finance? Why all the trouble that our Delegation takes and goes there after every six months, or year after year, to open up the question, go into details, plead before them, beg before them, and find it our own fault that we are not ready to utilize what they were graciously pleased to place at our disposal? The point there for me is very important that in this connection those who negotiate on our behalf, those who go to settle this matter if the House rejects this grant, those who hereafter take up the matter, will see to it that the principal—I would say the only party that is to be considered in the matter is the interests of this country now and hereafter. There is no other consideration which at least will weigh with me, and therefore I will be thoroughly disqualified for taking charge of any such negotiation.

Coming to details, as regards this very great fuss made about the ghost of scaling down having been laid, I for one cannot agree. Not only is the ghost of scaling down not dead, but the spirit of Ottawa walks right through and through the whole arrangement and the whole body of this demon still remains open; in fact it is alive and kicking. I might tell you why; because actually scaling down has happened. The total amount presented by the Finance Minister and his honourable colleagues—I don't mean to say that the Finance Minister also is not honourable, the Honourable the Finance Minister and his honourable colleagues—and placed before us is Rs. 1,547 crores. The value of it, in terms of the goods and services we gave, is hardly half or less. Even if you count from 1941 or 1942 since the entry of Japan in war, the present price level, the present value of money, is half the value that it was then. Today, I think, in terms of the 1939 price level, the pound sterling is hardly worth five shillings, and the rupee being tied to it perhaps the rupee is proportionately less valuable. So, the goods and services which we actually parted with, which we have given, and in connection with which or on account of which this balance has accumulated, were at least twice as valuable as the amount which we are now told is an outstanding account. Sir, I ask you, if this is not scaling down? If it is not, what can be scaling down I fail to understand.

A second argument. Sir, before 1st September, 1939, there was outstanding, as the document before us says, on our account in England, something

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like £48 million representing about Rs. 64 crores. Rs. 64 crores of 1939, according to the price level figures read out yesterday in this House, would be Rs. 250 crores today, if not more. Why was not this kept separate? Why was this left out? This was a matter purely, simply, entirely, exclusively connected with currency matters. It had nothing to do with the accumulations arising out of the transactions during the war which His Majesty's Government was obliged to make in India. His Majesty's Government asked India to supply goods which they were too poor to pay for. They asked us to accept their I.O.U.s. and now they ask the "I.O.U." is not written down in any document, so to say. This is a transaction between the Reserve Bank and the Bank of England and therefore you can deal with it as you like.

Perhaps I am exaggerating, Sir, but I feel that in this matter to anybody who comes and tells us that the ghost of scaling down has been finally laid to rest or unrest, apart altogether from the belief in the day of reckoning, I would say that here and now there are items which can be pointed out, which even this House in all its generosity will be willing to consider very liberally, to show that the total amount due to this country has been substantially reduced. And even so, Sir, I fail to see whether anywhere the total is accepted as the amount due to this country from Great Britain without any further talk of scaling down. As I see, it is an agreement for only three years as far as the sterling is concerned, and for one year only so far as multilateral convertibility is concerned. How can we say that hereafter also not only that the question may not be raised of the total, but that further depreciation may not take place in the value of the pound sterling so that still further scaling down may take place without we being technically entitled to say that it will be a scaling down? For my part, Sir, speaking in all sincerity and earnestness, I feel that this is an attempt to draw wool upon the eyes of the House or of the Indian people. There is a factual, definite, irrevocable scaling down which, if you agree to this arrangement, if you accept this demand, you will be parties to. And the generations of India yet unborn will curse you for having agreed to an arrangement like this. You are bartering away the interest, and goodness knows for how many years or how many generations, the accumulated resources of this country, accumulated during very hard times, with very great difficulty. For what? I cannot see anything as the Honourable the Finance Minister says. I ask: For what? And the echo answers, "For what"? There is no answer.

The third point in connection with the scaling down that I would say is that there is no question of any definite acceptance of this thing as the actual amount now due or that it will be paid without any question of reduction or a suggestion for curtailment. There is also no clear understanding, as far as I can see, that the obligation will now be secure and permanently assured to us by tangible assets, if not by the mere documentary agreement of this kind. We have in this country very good assets of the Britishers and we have not taken any care to see that if the British Government or for the matter of that, if the Bank of England fail to discharge these obligations in the full value in which they have been incurred, then we at least have something to fall back upon and so we shall see to it that we are not completely robbed as we had been in the past. Now at least that we have our own Government, now at least that we claim to be a sovereign nation by ourselves, I do not see why the Ministers of that sovereign nation should not demand all possible guarantees, should not demand all possible assets and should not even think of those which are before them, under their own jurisdiction, so that if the worst comes to the worst, we shall at least save, we shall at least salvage, a fraction if not the whole of the damage done to this country by our connection in the past

with the British nation. I have in my heart, Sir, let me assure you, not a particle of animosity against the British people. I wish them well although I quite know that they do not stand in need of good wishes from me, but lest I should be misunderstood I declare that I realise fully their difficulties and I entirely agree that, if those difficulties could, in the interests of world peace, be solved by mutual co-operation I shall certainly not stand in the way, but I do not hesitate also to say at the same time, in the same breath and in the same place that while considering the difficulties of the world and its dislocation, while considering the particular hardship of Britain, I am also entitled to consider that of my own people, of my own country and therefore of the unborn generations of this country. So I am not guilty of any sin or any lapse of ethical rectitude.

Sir, the next point—coming still further to details—is the valuation of British assets in this country. We were told, and I was very glad, that the skill and the dexterity and the hard working capacity of our officials who valued these things received encomiums, compliments or congratulations and were accepted without demur by the British opposite number of those officers. I have nothing but praise for them, but I for one would question at the same time: The valuation was made on what? The valuation was made either according to the then recorded book values such as they had or according to the replacement costs such as they might or it may be perhaps according to their utility to India. Was the last factor, however, considered? I was told, when I raised this question that this is not a correct attitude: was it because England could not utilise any part of these materials or was it because by taking away all this surplus stores or materials she would have had to pay more freight than derive any utility therefrom that she sold this surplus to us—when I raised this question no answer came. Is this not a point of view for us when we are negotiating a settlement, when we are making a bargain, to enquire also what will be the benefit to us or the cost to the other side in depriving us of it? There are many items—I am told that there are as many as 150,000 items—which are probably utterly useless. Most of these are perhaps getting out of date. Certainly, as regards armaments and vehicles or instruments of war, they are getting out of date. They are every day getting obsolete and therefore it is a very good bargain for England that those items could be unloaded on us and she can go on making new, more up-to-date, sturdier or more efficient instruments for her international complications. We, Sir, have accepted a policy by which we are not going to be entangled in the international complications of Europe or Britain or her allies outside this country. We, Sir, have accepted a policy of peaceful living for ourselves and letting others also live in peace. For us, it might be suggested that there is no need for such things. Or, if we needed them, why not we also get them more up-to-date, more efficient and more suited to conditions in this country than have those for instance we are not acquiring or will have acquired under this Agreement. We are told that we have paid only 27 per cent for this. I ask you: Even 27 per cent is it worth to us 10 per cent? If 27 per cent is not equal in value to 10 per cent then I say it is a very bad bargain whatever the book value might say and if this 27 per cent would not be realised by England even to the extent of 5 per cent, then she would have had to blow up the landing craft, the tank or the cruiser or the gun boat, whatever constitutes this wretched surplus stores of the British in India. She would have had to expend some more powder and some more labour on this. Thus to us at any rate it is a very costly bargain and that is all that I can say with regard to compliments, if any, expected on this.

Next, I would not say anything with regard to the matter of pensions as that may be regarded as political and I do not wish to introduce that matter

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in this connection. I accept the right to pay the pensions ourselves and the opportunity to charge these pensions with the income-tax which was long withheld from the Government of India, which you all can understand. That is a credit if I may say so for the authors of this Agreement. But making every allowance, and perhaps an exaggerated allowance for this rosy side of the picture, I am afraid when you come to the next item you see nothing of kind repeated and that is in connection with, for instance, the releases. There the Finance Minister was good enough to use arguments and suggest analogies and induce considerations with not one of which I am able to agree. It is my misfortune perhaps that he is much more practical and I am after all an idealistic or theoretical Professor or ex-Professor, but be that as it may, I feel that I owe it to this House to place before it my considered opinion upon the value of these releases and the arguments that were used for us to swallow as our delegation seems to have swallowed. We are told, Sir, that we were not able to utilise the releases which were made in the past. The Finance Minister is generous enough to take the blame unto ourselves and perhaps his Government is responsible for not having made proper plans for utilising whatever little thing we were able to obtain from our accumulated balances. Granted. But I want to ask the House this question, Sir. Is it any business of the debtor to say whether we can or cannot utilise what is due to us? His is the right to pay and ours is the right to demand. As to how we utilise it, is our look-out. Sir, in my opinion, it is none of his look-out whether we can or whether we cannot utilise these things. There are a number of difficulties why we cannot utilise them just now. It is now only that we may in a moment of self-abnegation be willing to say that it is our fault that we have not made our schemes earlier or that private enterprise is shy and we are therefore at their mercy and cannot secure our dues properly. But even granted all that, why are we not free to get what we can and build up reserves elsewhere where we shall not be threatened with the inability of our debtor to make this payment as and when and how and where we want. This is a point which apparently the Honourable the Finance Minister and his honourable colleagues do not seem to have given full weight to as far as I can see. It is a fact that unfortunately for reasons which were outside our control perhaps, not all that we can demand could be obtained in time, because it is well known that the world shortage prevails everywhere and particularly so in capital goods. The one great country producing the utmost abundance of capital goods is said to have on its book two years' orders for its own consumption and may not be able to supply us even if we have plenty of good money to give to them and demand what you want. As far as Britain is concerned, as far as I can read the figures, I do not at all see the likelihood, the very possibility of England being able in the next ten years, I am tempted to say next thirty years, to have a definite surplus of exports over imports. She has a continuing deficit of her trade, the exports being half or less than her imports. Her Anglo-American loan was utilised much quicker than her best economists and statesmen had estimated, showing therefore the deep gulf that prevails which is not bridgeable by these methods, and I see no reason to believe that hereafter England would be able in a short time to create or produce a surplus which she can then export and pay for these obligations due on her. The British Government have done quite well to see that the average man or the average worker in England gets a square meal and is also duly protected in what is called the social security measures. England is also not reducing very much her armaments, because there are complications from which she cannot escape and England has her industry crippled by the prevailing deficit not only of raw materials and of food supply but also from labour troubles. Given the fact that the so-called old pre-war invisible exports of England are all destroyed,

given the fact that those fleets of the countries of the world which used to be contributing to the making of those invisible exports in the past are developing their own services of shipping, England will not have the chance ever to regain the lost position, even if it had not got formidable rivals in the shape of the United States or Russia. Given all these things I for one cannot share the optimism with which the Honourable the Finance Minister and his honourable colleagues were approaching this matter and believing and hoping that after three years they may be getting a better treatment from England. It is absolutely necessary, Sir, if not out of consideration for England, at least out of consideration for our own people that we should get this matter settled once for all; otherwise we would stand nowhere. My honourable friend Prof. Saksena mentioned those various plans that had been made which would come to fruition only on the strength of these balances. I certainly have been very guilty in this matter in as much as in several works in the past two years I have taken for granted that we shall have to rely, if not wholly, at least the wherewithal with which to make the plans successful. Sir, there is apparently no indication for the plan being made successful if we are to depend upon the resources that are locked up in our Sterling balances. We have our own needs, that is to say the most imperative need of food resources and we have also to make provision for imports of essential requirements of life, which we cannot produce for reasons that are known to us, in sufficient and adequate quantities for ourselves. Are we going to forego our own immediate and essential needs, because Britain is unable to provide us or provide herself with a surplus? A suggestion was made that Britain might export consumer goods to this country. I ask you to consider the gravity of a suggestion like that. If Britain is going to export to this country and we are going to receive what are called consumer goods, are you prepared to say that the industries which you have built up at so much sacrifice at such high tariff duties should go to the wall? I shall not even in my dreams support a capitalist industry if I can help it, but I cannot but admit that this country has built up some industries after terrible sacrifices, paid through the nose by the consumer and are you going to say: "Let them export to this country freely, so that we may receive some part of our debts"? What then are those industries which employ so much labour, which have been built up at so much cost and which have such a future? Are we going to negative them completely? I ask those who make this suggestion to think over this matter in all its bearings and then consider whether it is worth while even to advance it as a mere academic argument. I trust that those who made it did not make it seriously and in the ultimate analysis the future of our plans for industrialization should not be jeopardized and should not be ship-wrecked. Sir, I said a moment ago that we have in this country plenty of resources we could very well do all this and not lose much of the balances accumulated by our sacrifices in the past. I refer, Sir, to the British assets in this country belonging to British subjects—I mean British European subjects—and these amount to a very large sum, exactly how much I cannot say. The latest figures that I had are, for no fault of mine, available only up to 1940 or so and then at least the situation was that the total share capital of companies working in India and registered outside India having capital in pounds sterling was something like 750 million pounds paid up and 150 million pounds on debentures. There are 900 millions without counting depreciation that has taken place in the interval. Is it not sufficient assets for us to provide for our own stock for the balances, now accumulated there and which England, we are told, is not in a position to meet at once?

Another thing which is not a new suggestion but which has been made from the housetops by every economist in the past five years is that if England needs so much and she has so many friends and well-wishers and champions in this country, why should she not float a loan in this country and why make a hotch-pot of our resources and thus add to the inflation in this country in this un-

[Prof. K. T. Shah]

limited manner? Why should she not have floated a loan in this country? If her admirers and champions come forward and supported her the loan would have been a success. The point, however, is that after the first World war and up to 1941 the American Congress insisted upon cash payment. "Cash and carry" was the way she transacted. We, of course, are more generous than the Americans. We have received so much money through the backing of the British Government in the past and we are so much obliged to them that we are not expected to have these mercenary considerations of "cash and carry". We are prepared to wait; we are prepared to give them credit; we are bound by solemn negotiations and we do not mind even if this amount is scaled down. That being the situation, Britain naturally did not float any loan in this country.

Next even if she would not float a loan in this country would she not guarantee a loan that we can float in the United States or elsewhere? I am sure that with our own productive capacity, I for one believe that we have ample credit of our own for any commercial country to loan us money without all the bogies that are being trotted out for frightening private enterprise. I am not a believer in bogies. We have got real assets, namely in so far as it is real, the credit of the United Kingdom in the 7 or 800 million pounds which still remain to us, by which we can secure any loan in the event of our not being able to discharge. Here is the haven which we have built in the Bank of England which can very well have recourse to paying our loan to whosoever lends. Have they ever tried to think of this alternative? It is no use getting tied up to the Sterling area and there is small chance of its being beneficial to us. Sterling is no longer Sterling, at least in the honest sense of the term. Sterling is not worth 4 annas in the rupee and if you compare it with gold, it is not worth 2 annas in the rupee. How long, I ask, will you continue to have this blind faith in the honesty and credibility of people who have betrayed you time and again? How long are you going to trust the honesty and fair dealing of those people who have bled this country and who have now taken away from you the accumulated surplus of this country as they have done perhaps to the extent of 1,000 crores? I ask you how long are you going to wait and see? I was one of the members of the Select Committee appointed by the Indian National Congress 18 years ago which was to investigate into the foreign obligations of this country at that time. I can tell you, by a study extending over 150 years, that England has ruined this country, has taken away our wealth, taken away our very industries by the ruthless policy she has followed in the days of the East India Company and even in the days of the benign Queen Victoria and her descendants, so that today this country is unable to produce the very elements of the new industries and the new articles of consumption which have come before us. We are not able even today to build our railways; we are not in a position to make our own telephones, telegraph machinery and our own essentials in many other directions, with which I do not wish to encumber this speech. All this we owe to the policy of the English, who have kept us like the milch cow, though unable to yield, but still could be squeezed as much as they can. An English economist who was a Professor in this country, enunciated in so many words the doctrine that the taxable capacity of the people is the limit of their squeezability. That is the word which has been used by the Professor in his treatise on public finance. The point is, with all these experience before us, with all the resources which we can still command, with all the assets which we can still claim, why should we not have taken this precaution, I fail to understand, and I am unable to see anything in this matter which would meet with an approval from me.

One last word, and I have finished: that is with regard to the bogey that private enterprise is being frightened. I am glad it is being frightened. I am glad that the Government and the patrons of private enterprise in Government

realise that private enterprise is no relation of this country. Therefore, I say that if this statement is true that private enterprise is frightened, it is not a cause for getting frightened; it is a cause for rejoicing. The sooner they quit the field, the better for us. That is my attitude. In any case, I am not prepared to go to the moneyed mammons of this country in sack cloth and ashes and say the Lord's prayer: give us our daily bread, forget our criticisms in this House and outside, may your will be done in the continuing house and in Banks as it is and I was going to say in Government, but I do not.

[The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday, the 13th August, 1948.]

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
(PART II.— PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Friday, 13th August, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

11—45 A.M.

(See Part I)

PAPERS LAID ON THE TABLE.

DECLARATIONS OF EXEMPTIONS UNDER REGISTRATION OF FOREIGNERS ACT

The Honourable Sardar Vallabhbhai Patel (Minister for Information and Broadcasting and the States): Sir, I lay on the table a copy of each of the following Declarations of Exemption issued under the Registration of Foreigners Act, 1939, namely:—

- (1) No. 1/36/47-Poll (E), dated the 4th February, 1948.
- (2) No. 1/7/48/48-F.1, dated the 19th February, 1948.
- (3) No. 1/8/48-F.1, dated the 17th March, 1948.
- (4) No. 1/10/48-F.1, dated the 1st April, 1948.
- (5) No. 1/11/48-F.1, dated the 6th April, 1948 (2 Declarations)
- (6) No. 10/21/47-F.1, dated the 13th April, 1948 (2 Declarations).
- (7) No. 1/12/48-F.1, dated the 16th April, 1948.
- (8) No. 1/14/48-F.1, dated the 7th May, 1948.
- (9) No. 1/13/48-F.1, dated the 19th May, 1948.
- (10) No. 1/18/48-F.1, dated the 2nd June, 1948.
- (11) No. 1/21/48-F.1, dated the 14th June, 1948.
- (12) No. 1/16/48-F.1, dated the 22nd June, 1948.
- (13) No. 1/22/48-F.1, dated the 24th June, 1948.
- (14) No. 1/23/48-F.1, dated the 1st July, 1948.
- (15) No. 1/24/48-F.1, dated the 30th July, 1948.

G/1(a)

No. 1/36/47-POLL.(E.)

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 4th February, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to Mrs. Maria Montessori, an Italian national.

F. SINGH,

Under Secretary to the Government of India.

G/1(b)
No. 1/7/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 19th February, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to Mr. J. L. Savage, a United States national, for so long as he is working for the Ministry of Works, Mines and Power, Government of India, in connection with multi-purpose projects.

F. SINGH,
Under Secretary to the Government of India.

G/1(c)
No. 1/8/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 17th March, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to, Mr. James Donald O'Brien, for so long as he is employed with the American Consulate General, Calcutta.

F. SINGH,
Under Secretary to the Government of India.

G/1(d)
No. 1/10/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 1st April, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to Miss Harriett M. Smith, an American national, for so long as she is employed with the American Consulate General, Calcutta.

F. SINGH,
Under Secretary to the Government of India.

G/1(e)
No. 1/11/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 6th April, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to Miss Knoxie Thornton, American national, for so long as she is employed with the American Embassy, New Delhi.

F. SINGH,
Under Secretary to the Government of India.

G/1(f)
No. 1/11/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 6th April, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to Miss Susan F. Collins, an American national, for so long as she is employed with the American Embassy, New Delhi.

F. SINGH,
Under Secretary to the Government of India.

G/1(g)
No. 10/21/47-I-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 13th April, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to, Mrs. Hsueh Te Chang, a Chinese national, for so long as her husband is employed with the Chinese Consulate General, Calcutta.

F. SINGH,
Under Secretary to the Government of India.

G/1(h)
No. 10/21/47-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 13th April, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to, Mrs. Hsueh Te Chang, a Chinese national, for so long as Mr. Hsueh is employed with the Chinese Consulate General, Calcutta.

F. SINGH,
Under Secretary to the Government of India.

G/1(i)
No. 1/12/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 16th April, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to, Miss Anna Mary Moll, an American national, for so long as she is employed as Public Health Nursing Consultant of the Rockefeller Foundation Branch at Delhi.

F. SINGH,
Under Secretary to the Government of India.

G/1(j)

No. 1/14/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 7th May, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to Mr. Leslie E. Driscoll, for so long as he is employed with the American Embassy, New Delhi.

F. SINGH,

Under Secretary to the Government of India.

G/1(k)

No. 1/13/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 19th May, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to Dr. Otto M. Wenger, a Swiss national, for so long as he remains in India as the Delegate of the International Committee of the Red Cross.

F. SINGH,

Under Secretary to the Government of India.

G/1(l)

No. 1/18/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 2nd June, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to Miss Vera Matilda Anderson, an American national, for so long as she is employed with the American Consulate General, Calcutta.

F. SINGH,

Under Secretary to the Government of India.

G/1(m)

No. 1/21/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 14th June 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to Mr. Ide Pebbles Trotter, an official of the United States Department of Agriculture for so long as he is required to stay in India on official business.

F. SINGH,

Under Secretary to the Government of India.

G/1(n)

No. 1/16/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 22nd June, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to, Dr. Soedarsono, for so long as he remains in India as the Representative of the Government of the Republic of Indonesia.

F. SINGH,

Under Secretary to the Government of India.

G/1(o)

No. 1/22/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 24th June, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to, Miss Helen Theresertan, an American national, for so long as she is employed with the American Consulate General, Calcutta.

F. SINGH,

Under Secretary to the Government of India.

G/1(p)

No. 1/23/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 1st July, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to, Miss Dorothy I. Walker, an American national, for so long as she is employed with the American Embassy, New Delhi.

F. SINGH,

Under Secretary to the Government of India.

G/1(q)

No. 1/24/48-F.I.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

New Delhi-3, the 30th July, 1948

DECLARATION OF EXEMPTION

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors, who are not foreigners, shall not apply to, or in relation to, Mr. O. Kappeler, for so long as he is employed as Consular Agent for Switzerland in Cochin.

F. SINGH,

Under Secretary to the Government of India.

ELECTIONS TO CENTRAL ADVISORY COMMITTEE OF NATIONAL CADET CORPS AND CENTRAL COMMITTEE OF TUBERCULOSIS ASSOCIATION OF INDIA.

Mr. Speaker: I have to inform the Assembly that up to the time fixed for receiving nominations for the Central Advisory Committee of the National Cadet Corps and Central Committee of the Tuberculosis Association of India, two nominations in the case of each of these Committees were received. As the number of candidates is equal to the number of vacancies in each of the two Committees, I declare the following members to be duly elected:—

Central Advisory Committee of the National Cadet Corps.—(1) Shri K. Hanumanthaiya and (2) Shri Mahavir Tyagi.

Central Committee of the Tuberculosis Association of India.—(1) Shri T. Siddalingaiya and (2) Mr. E. John Philipposse.

MINES AND MINERALS (REGULATION AND DEVELOPMENT) BILL

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power): Sir, I beg to move for leave to introduce a Bill to provide for the regulation of mines and oilfields and for the development of minerals.

Prof. N. G. Ranga (Madras: General): Some time ago the Government of India had announced their policy and stated that mines are on the list of those industries which should be nationalised immediately, and I am rather surprised that just as they had done in the case of the Electricity Bill, they have come forward with some sort of a thing and ask for the regulation of mines and oilfields, thus preventing anyhow for some years to come any chance of nationalising the mines. I think the House deserves an explanation.

Mr. Speaker: The honourable member will note that the present motion is merely one for leave for introduction, a formal sort of thing on which ordinarily there is no objection or no discussion, though, of course, both are permissible but in practice we do not do so. I put the motion to the House.

The question is:

"That leave be granted to introduce a Bill to provide for the regulation of mines and oilfields and for the development of minerals."

The motion was adopted.

The Honourable Shri N. V. Gadgil: Sir, I introduce the Bill.

INCOME-TAX AND THE BUSINESS PROFITS TAX (AMENDMENT) BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947.

DEMANDS FOR SUPPLEMENTARY GRANTS—1948-49—concl'd.

DEMAND No. 99A—CAPITAL OUTLAY ON STERLING PENSIONS—concl'd.

Failure of Government to secure Protection against scaling down of Sterling Balances—concl'd.

DEMAND No. 101—DEFENCE CAPITAL OUTLAY—concl'd.

Propriety of Payment and Defence Stores Policy of Government—concl'd.

Mr. Speaker: We now proceed with the discussion on the Demands for Supplementary Grants for 1948-49. The discussion had not ended yesterday.

Dr. P. S. Deshmukh (C.P. and Berar: General): Mr. Speaker, Sir we are all very much thankful to you, Sir, for having allotted sufficient time for the discussion of this very important subject. We have already had yesterday as many as 4 speeches. The first was by my honourable friend Mr. Lari, who criticised the whole arrangement, and he was also followed by equally critical honourable members like Prof. Shibban Lal Saksena and Prof. K. T. Shah. Prof. Saksena, Sir, almost told us that we were overtaken by a deluge, that everything was lost, that for generations to come we were undone, and there was, according to him no hope of resurrection. Prof. K. T. Shah, Sir, as we know has always been feeling very strongly on the subject, and if the House will recollect the speech that he made on the same subject some months back, it was quite clear that he was very much apprehensive of scaling down of our Sterling Balances. His previous speech was followed yesterday by a declaration that what had happened was highly disappointing and that India's interests had been irrevocably injured. All these speakers, Sir, took a view which was bordering on the alarmist and there are many members of the House also who share this feeling. I for one, Sir, think that the position is not as bad as has been reflected in the speeches made by these members and that it is possible to take a somewhat more constructive view of the whole matter. One thing I agree with what came from Prof. K. T. Shah and that is, that in my opinion, there is adequate ground to feel that the approach of our Delegation towards the subject was not altogether satisfactory. Prof. K. T. Shah was quite correct in stating that while we were very sympathetic, very considerate towards the difficulties of the British Government, we should not have forgotten the bad times through which we ourselves were passing. We ourselves are faced with food shortage, with our industries producing less and less, with increased poverty of our people, with inflation and so many other factors which are contributing to greater and greater unhappiness of the people. In fact, a lot of people quite correctly ask whether the Independence that we have got has really contributed to the intrinsic happiness of the people. We are suffering in so many different ways and all this suffering of the people should have weighed with the Delegation so as to press the British Government and to say: "Of course your difficulties are great, but our difficulties are greater; we are a nation who have emerged into Independence newly; we are in a somewhat precarious condition", and our difficulties should have been made to weigh with the British Government far more than has been the case. That is a line of thought, Sir, with which I am in the fullest agreement, and while we should and we might show any sympathies and consideration for the difficulties of Sir Stafford Cripps and his Government, we ought not to forget that our condition was far more precarious and from that point of view it should have been possible for our Delegation to get at least some better terms than we have secured. The Honourable Minister had to admit, Sir, our failure in not being able to utilize the Sterling Balances that were available last year. It will convince nobody in the House to say that some other part of the Government has erred and it is no consolation to anybody; the mistake is there that we have not been able to utilize the Sterling Balances that were available and if we continue in the same manner, we will be throwing opportunities that were available to us. We could ask the Finance Minister as to what persuaded him to tie down the interests of India for such a length of time as 60 years. If we look to the schedule given in the white paper, we will see, Sir, that the payments are going to be made for as long a period as 60 years.

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance): That is purely an actuarial calculation. There is no tying down of the Government of India. It is a calculation of the probable year when the last pensioner will die.

Dr. P. S. Deshmukh: I am prepared to correct myself, Sir, that we have

not been tied for so long, but I would like to know for what length of time we are going to be dependent upon the British Government to recover all the Sterling Balances that they owe us. As every one of us knows for the present we are asked to be content only with 18½ million pounds. May I ask Sir, at this rate, how many years it is going to take us to realize all that Britain owes us? Is there any estimate that has been framed? Has it been placed before the House as to how many years it is going to take so as to receive back all the payments that Britain is expected to make?

There is also another point which I would like to place before the House. Since the accumulated balances come to such a high figure as 1536 crores, when we know that we are deficient in so many things, we have yet to have even a semblance of a navy, we have not got an air force at our command, I should like to ask whether it was not possible to put this to the British Government in a direct way. We all know, that in spite of the war losses the British Navy continues to be the largest in the world even today. The British people and the British Government are not also deficient in the manufacture or possession of aeroplanes. There are many other articles, many other capital goods which could have been made available to us for our utilisation within a shorter period than appears to have been contemplated by the delegation. Sir, in my view, it is quite correct to complain that we have not pressed our point of view as earnestly as we should and if we have really pressed it all that we wanted to press, we have not at any rate succeeded to the extent this House would have liked. After all, the world situation, as everybody knows, is grave. We do not know what may happen within a period of six months hence. So, when an agreement or arrangement that is placed before us is so strikingly indefinite as not to be able to disclose when we would be really getting all that we have sacrificed for—because, what is owed to us by the British Government was not what we could have easily spared—the accumulation of sterling balances was at the cost of the happiness of the people of India and is money which India could ill-afford to let lie with the British Government, as has been now disclosed at a rate of interest which is abnormally low—the House is certainly entitled to complain against the delegation and to say that India has not been well treated by Britain, nor have you secured, although there may be difficulties of which we may be conscious, terms with which we could feel absolutely satisfied. I think, Sir, that line of criticism is entirely justifiable. I would like to ask the Finance Minister whether the same situation that arose last year, namely our inability to take advantage of even the sterling balances that are made available to us, to be repeated and whether he has not planned and placed before the British Government other adequate means of securing within the shortest possible period the sterling balances due from Great Britain. I would also ask him whether it was not possible to ask them to part with some of their ships, aeroplanes and machinery which they may be probably utilising at the present moment but of which India stands in greater need of. I would also like him to state whether it was not possible for the delegation to obtain some goods at once so that we could be satisfied that a substantial amount out of this huge sum of sterling balances was immediately made available to us.

So far as the pensions affair is concerned, I think the delegation does deserve our compliments that they did not allow themselves to be persuaded to pay the whole capitalised value in a lump sum. There is the question of our having to wait for a number of years and therefore it is probably wise that we should not pay up anything that is owed by us to Great Britain in the shape of pensions, all at once. That may be a very sound argument to consider; but at the same time, since the interest that we are getting is so low, and since the total capitalised amount would come to 224 crores and the yearly

annuities to 9 crores and 67 lakhs, the interest would probably work out to something like about 4 per cent. I would like to suggest whether, 12 Noon in these circumstances, we may not take steps to pay the whole sum not in one lump, but as early as possible. I do not know if my mathematics is correct. According to the figures before me, it appears that the capitalised amount of the pensions is 224 crores and the annuities in the beginning years are between 9 and 10 crores and later 8 and 9 crores and less. Under these circumstances, since the interest that we get varies between 75 to 8 per cent., only this may be a point for consideration. All the same, the fact that the delegation did not agree to reduce the sterling balances by a big sum of 224 crores is probably a matter of credit to them.

I think, Sir, the delegation, although it has not satisfied us, has tried its best. But, I must say I would have personally preferred India obtaining immediately by way of capital goods and certain articles which would have gone to contribute to the greater progress of India; for instance, agricultural implements, and as I have already stated, ships for strengthening our navy and planes for our air force. We also badly need machinery for the manufacture of automobiles and locomotives. I would like to ask the Finance Minister whether it was not possible for Great Britain to give us a portion of these articles and whether they have agreed to give us any definite number of these articles within the next few years. Because, there is also another fear in our minds, namely, even in spite of the agreement, even in spite of the fact that certain sterling balances are made available to us, whether we may not probably be faced with the same situation with which we were faced last year, namely our incapacity to utilise the sterling balances. We are of course conscious that we cannot purchase everything that is available. At the same time, I think that with the Government that we have got, it should be possible to make a definite plan of the articles and other things we want which will contribute to the greater happiness of the people and which would enable India to produce more and more manufactured goods.

Shri K. Hanumanthaiya (Mysore State): Sir, when I read the able Press Statement of the Finance Minister, of the 15th inst. regarding laying down the ghost of scaling down, most of us believed it to be a fact. I fail to see why we in this House should help Mr. Churchill by admitting that there is no scaling down. It is not wise that we should try to prop up the ghost which has been laid. There is what is called waiver and estoppel. There have been negotiations three times so far as sterling balances are concerned and the British Government has not chosen to raise this question of scaling down on any of these occasions. Why they should raise this question on the fourth occasion, it passes my comprehension. If they did so, we could easily say, you have not raised this question of scaling down on the last three occasions, you have waived or you are stopped from raising it again.

There is also this thing. Whatever may be said of British character; here is a point that we have to compliment. Whatever Government there is, whether Conservative or Labour, they do not make changes in the agreements or treaties that they arrive at with other countries; they maintain what is called the sanctity of agreement and treaty so far as other countries are concerned. And I do not suppose the Conservative party headed by Mr. Churchill, if it comes to power in 1951, will be able to raise the point again of scaling down these balances. (*An Honourable Member*: 'Question'. *Another Honourable Member*: 'Churchill is up to anything'.) Even if he does that we have a far better case for scaling up our sterling balances. These sterling balances were arrived at not at market rates but at controlled prices. I know personally that the Government of India purchased from Mysore large quantities of silk for making parachutes and purchased them at a price which was far lower than the market price; and the excess quantity of silk was auctioned by the Mysore Government and fetched two or three times the price at which the Government of

[Shri K. Hanumanthaiya]

India bought it. So there are facts and figures to show that the sterling balances can easily be scaled up from the point of view of justice and fair play. This is an argument which is always open to us. And what the British Chancellor of the Exchequer said by way of reply to Mr. Churchill is not such a demand as that. He merely says, "If you want to argue you can argue at any time." That is an evasive reply and not one which encourages Mr. Churchill or asks him to raise this question of scaling down again and again.

Then, Sir, various suggestions have been made that this delegation should have secured this concession and that concession. No one disagrees with these suggestions; but I cannot conceive, knowing the personnel of the delegation as we do, that these points were not present in their mind and they did not press them before the British Chancellor of the Exchequer. The leader of the delegation—I may again remind the House—was the first man in India who brought this question of sterling balances before the public; that he would not be conversant with the various problems connected with it and would be forgetful of our interests is a point that none of us can entertain even by way of doubt. Besides, there were other members—businessmen and politicians—who know very well about the problems connected with the sterling balances. If they have not been able to secure better concessions it is not because they did not advance them but because the situation is such. It is a question of a debtor pleading inability to pay and we had to make the best of a bad situation, and I am sure they did make the best of a bad situation. The only point the Finance Minister did not touch upon in his press statement and in his speech yesterday was as to why he did not press for purchasing at least some of the British assets in India. In my speech during the last budget session I made a suggestion that with the sterling balances we could at least purchase the Kolar goldfields. There is need for multilateral convertibility of currency and if we have a gold stock that is the best remedy in this direction. I understand the annual production of gold in the Mysore gold mines is about 4 or 5 crores of rupees. If we had gold every year of this value our position in regard to capital goods and various other requirements would be very much advantageous. The delegation—in my view—could have pressed for purchasing, if not the whole, at least part of the British assets in India. I hope the leader of the delegation will be able to give an explanation about this because it is a point which needs their attention and answer.

Then at the end of the White Paper there is a sentence:

"Out of this about 200 million or Rs. 267 crores may be considered as normal currency reserve."

At the beginning of the White Paper there is another pregnant sentence:

"A section of the Reserve Bank Act which imposes on the Bank the obligation to buy sterling offered to an unlimited extent was utilised for financing this surplus."

That is, the sterling balance accumulated as a result of that. I think we need not leave in London by way of currency security such a large sum as £200 million. May be there was a time when sterling was really sterling and therefore whatever sum we had deposited in England carried its worth and it was to that extent a good backing for our currency. But now the times have changed and sterling does not now occupy the position which it did many years ago and the dollar has taken its place. Such being the case, why should we deposit such a huge amount as 267 crores with the Bank of England as currency reserve passes my comprehension. It may be that the leader of the delegation has a very good explanation for it, and if it is a good explanation we are going to accept it.

There is again this. It might be argued that so far as our currency is concerned we must tack it on either to the sterling or to the dollar and therefore this question of currency reserve arises. After the establishment of the United Nations Organisation we know that what is called the International Monetary Fund Organisation has come into existence. The purpose served by the United States dollar or the Bank of England sterling is now being served by the International Monetary Fund. Whatever amount we have got we can still deposit in this Fund, or even without deposits the International Monetary Fund Organisation has undertaken to maintain to the best possible extent the equilibrium between countries in currency matters. In view of these two factors it is absolutely unnecessary for us to have such a large reserve in the Bank of England.

Thirdly, Prof. Shah yesterday very ably made out that it is not wise or profitable on our part to tack on our rupee to the sterling now. I am in agreement with that view.

The Honourable Shri R. K. Shanmukham Chetty: After the International Monetary Fund was established and we have become members of that Fund we have pegged the rupee to gold and not to sterling. Today the rupee is pegged to gold.

Shri K. Hanumanthaiya: I stand corrected. But still the fact remains that we need not maintain such a large reserve in the Bank of England, specially as it was disclosed some time ago that the rate of interest is very low.

Shri B. Das (Orissa: General): I am not very happy at the tone of criticism that my four Socialist friends in this House have levelled at the work of the Delegation in the affairs of the sterling balances.

Some Honourable Members: Which are the Socialist speeches?

Shri B. Das: I refer to the speeches delivered by those socialist minded members. At any rate, I do not want to know them!

An Honourable Member: Now comes a capitalist speech!

Shri B. Das: The question before the House is not to belittle the work of the delegation but to appraise the situation in which they were placed and to see whether they have done their best under the circumstances. My verdict is that they have done the very best possible.

They were handicapped as we are handicapped. It is a pity that my delegation went as representatives of a semi-baked Dominion and not as a full independent country. It is a pity that although the objective resolution declared independence some ten months ago, the real independence is not yet in sight and we find that more and more the Government of India is getting enmeshed in Dominion Status. Why should the Ministry, sitting there as our chosen representatives, always think in terms of a Dominion and in terms of subordination to England. That is the cause of their failure in not bringing back what we wanted, somewhat in terms as my Socialist friends are thinking.

An Honourable Member: Hear, hear! for the Socialists!

Shri B. Das: The Cabinet here and outside the House have not thought of the Indo-British Trade Agreement in the light of whether it will be between a Dominion and U.K. or whether it will be between an Indian sovereign State and U.K. Until that point is settled, the charges that are levelled by my esteemed friend, Prof. K. T. Shah, is of no value and account.

Sitting here I have levelled serious charges against the British Raj. I have opposed it tooth and nail and I still detest it. I abhor it for the position into which we are reduced today and I bring it as a warning to my Cabinet friends there. But I cannot level the same charges, the same criticism to my delegation who went there and did their best under the circumstances!

[Shri B. Das]

When we discussed this very question of sterling balances in the last session, my honourable friend, Mr. Ananthasayanam Ayyangar and I raised the issue whether the sterling balance was 1,600 million or was it to be 4,000 million. Well the Finance Minister having inherited the legacies of the previous Finance Ministers and the Commitments of the Government of India, has to carry on the Government as he found it. It is not for him to question whether 1,600 million sterling was the sterling balance or whether it should have been 4,000 millions. But today we are suffering from inflation, from loss of credit and we cannot build up our industries nor can we develop them. This is due to the perfidious policy of the Albion and to its policy of loot.

Today I am in that mood that I must be thankful for small mercies until such time we empower the Cabinet to pass the Constitution in the other Place so that we can enter into negotiations over the Indo-British Trade Agreement as equals and not as subordinates, a position in which my honourable friend, Mr. Chetty finds himself today. He has tried to talk as equals. But what is the use of talking as equal when England has the upper hand!

The two subjects that we are discussing today are pensions capitalization fund and purchase of War Surplus Stores. I appreciate the adroitness with which my friend, Mr. Chetty described the situation. But, Sir, sitting here my mind goes back to 1931-32 and 1935 when every Britisher who sat there to serve India and grew fat on our salaries but under the 1935 Act they declined to trust India until all the pensionary charges were funded and India paid them in lump sum to England. But today the situation has changed. We have a credit balance. We could afford to throw away and capitalise Rs. 275 crores and we did it. For that I do not feel proud. But I am humiliated, as everyone of us is humiliated here and outside in the country that England in keeping in line with the old "steel frame" Government she established in 1932, has in 1948 got her pound of flesh from India.

Well, I do not want to question counting on the issue whether India will get back a few hundred thousand pounds in return from the British Government, but for the next sixty years my grandson will be regretting that we came to this arrangement and that England with a loaded pistol extracted this from us. My honourable friend the Finance Minister expressed gratification that we had money and we gave it to England. The financial practice in this country has been to pay every year the pensionary charges from the revenue of the year. Now the present generations had deposited so many hundreds of millions. And for what? To give this kind of relief?

The Honourable Shri R. K. Shanmukham Chetty: No, Sir. That will not happen. What has been arranged is only an advanced provision for exchange. That will not relieve the subsequent budgets of the Government of India from the obligation of paying the rupees every year for the payment of pensions.

Shri B. Das: I would very much like him to elucidate that point a little more. We are not going to pay any more and debit our revenue. The taxpayer is not going to pay any more than 5 to 6 million pensionary charges.

The Honourable Shri R. K. Shanmukham Chetty: The taxpayer will have to pay every year the rupee equivalent of the pensions as he has been doing all these years. Suppose next year the pensionary charges come to Rs. 8 crores. You will still find in the next budget a debit of Rs. 8 crores in the expenditure side as a charge for pensions. What will happen is instead of our having to find the exchange for that out of our current earnings by exports, we have secured from the British Government an advance payment of exchange for the next six millions.

Shri B. Das: Are we not to get back a credit of £ 6 million?

The Honourable Shri R. K. Shanmukham Chetty: Suppose, for instance, next year Rs. 10 lakhs is the pension charge, then we will have to pay to the Reserve Bank Rs. 10 lakhs. The Reserve Bank in its turn will get automatically from the Bank of England without any further payment in sterling that 6 or 7 million mentioned there. Therefore the British Government is bound to pay us every year the amount mentioned in that.

Shri B. Das: I will leave that to another occasion. However, I am not satisfied. I thought my generation has paid through sweat and blood.

My honourable friend is transferring the question from the political plane to a purely financial level. Ireland did not pay any pensionary charges after the Black and Tan methods adopted by Britain. Ireland repudiated all pensionary charges to the British rulers. Here my honourable friend wants us to believe that it is a purely financial transaction but the stigma remains that England has got the money. I can believe that my honourable friend the Finance Minister after 60 years is not going to get that deposit. Why should every year the taxpayer pay the 8 crores I do not understand.

As regards the purchase of the British stores I do not level any charge against the Delegation that the prices paid are high. I join in the complements paid to the Finance Department and their Accounts Officers. I am not bothered as to how much they have paid, more or less. But I want the Finance Minister to explain to us whether we have got the right type of British stores that were available to us at the end of the war. There were rumours of the treachery of the British military officials and some of them were based on truth, that they handed over the best of tanks and aeroplanes to Hyderabad and Pakistan. During the transition stage while the Partition Committee was sitting and separation was taking place the best of British surplus stores went to Pakistan. All this treachery has been there and in view of this can we say that we have got a good bargain, that we have got the right type of machinery, aeroplanes and tanks and other war implements? The Honourable the Finance Minister knows that one hundred and twenty tanks were declared as scrap by the British military officials in June 1947 and the head of the British Government in India Lord Mountbatten allowed it to be declared as scrap and sold to Hyderabad. Those one hundred and twenty tanks were absolutely new tanks and they went into the hands of Hyderabad. If Hyderabad is today restless it is perhaps due to the treachery of those British Military officials that were in India before August the 15th, 1947.

I would like to urge on the Government, while I accept this motion, that they should not go with begging bowls every year and ask a delegation at the Finance Minister's level to negotiate a settlement. My honourable friend Mr. Shanmukham Chetty was the first minister of the Cabinet that went to England to negotiate at a certain level with the British Government. I do hope that the Finance Minister will enlighten us as to what are their ideas about the Indo-British agreement, whether it will be on the level of equality of sovereignty or not. This we do not find anywhere. Various speeches are made by the Ministers but they always keep silent over this. I hope before the Honourable the Finance Minister addresses again on the issue of the sterling balances that question will be settled. The whole point will have to be clarified in the Indo-British trade agreement. Our Finance Minister and his Delegation might have been entertained well in Britain and on that my friend Mr. T. T. Krishnamachari will be able to tell us. But I would ask my honourable friend the Finance Minister to tell us whether with the nationalisation of the Reserve Bank we will have to continue the policy of keeping our currency reserve with the U.K. or the Bank of England. That arrangement was between a master and a servant. The Reserve Bank was the servant of the Bank of England. It is high time that our Finance Minister should examine that

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 aspect and that will have to be discussed when the Reserve Bank Nationalisation Bill comes before the House. The moment that problem is solved whether our currency reserve should be in India or in the U.K., all other questions will also be resolved. Sir, with these remarks I support the motion.

Dr. B. Pattabhi Sitaramayya (Madras: General): Sir, when this White Paper was circulated to us I opened the first page and read the first sentence. I take it that this contained all the arguments that should support the deal that has been entered into. The first sentence reads:

"India has always held sterling in the United Kingdom as part of its currency."

That sentence might have been omitted. The next sentence reads:

"Under the Reserve Bank of India Act, not less than twofifths of the total assets of the Bank etc."

That is quite right but the first sentence was not right. I do not know why that sentence was added or incorporated. Apparently it was meant to create an atmosphere for the perpetuation of India's balances in securities of a British character. They try to show that India has always had its currency balances in British securities. The Paper Currency Act was enacted in 1861. From then on until 1905 all the paper currency reserves were in Indian securities and only in 1905 for the first time it was allowed to have British securities to the tune of about four crores and thereafter in 1911 it rose to eleven crores or thereabouts. From that time the war years began and during that period all canons of currency and coinage went by the board and gradually the reserves became completely transferred and transformed into British securities. Therefore it is wrong to say that India has always held her currency reserves in British sterling. If that is meant to prop up an argument for leaving some of these things still in the possession of the British Government, that will fail. However that be, that is only an academic point; it does not really touch the problem on hand.

The problem on hand is, to begin with, the temporary settlement on two previous occasions and the last settlement two months back by a deputation from India going to England. Who is England? The debtor. And who is India? The creditor. Have you heard of a creditor going to the doors of the debtor in order to settle his dues? I have not heard. No Chettiars should do it; no *baniya* would do it. It is a wrong end to begin with. After all the debtor must come to the creditor. At best they may sit round a table and settle affairs. Therefore we had no *sihana bala*, the local strength; the strength of being on one's own ground, we lost when we went there. What was the reason that took us there?—the lingering longing for perfidious Albion, the desire to go and settle our accounts with our 'masters'. I am afraid there is some vestige of the old world conditions under which we felt the inferiority complex. I should have certainly refused to go to England in order to settle the constitutional problem. That was why we welcomed Cripps here when he came in 1942, and the Cabinet Mission in 1946. It would have been quite all right if the final settlement had taken place here. No doubt the preliminary investigation party came here and talked over matters. But we lost a good deal when we went to London.

Having gone there we had to settle the matter. And how do you settle the debt?

सौ में साठ आधा गया नट, दम् देता हूँ, दस दिलाता हूँ, दस की क्या बात छोड़ो मियाँ ।

A man owes another Rs. 100. The debtor starts by saying "Well, of course I owe you Rs. 100. But I am going to pay only Rs. 60. From out of Rs. 60

that is legitimately due to you, half has gone as rebate. Therefore Rs. 30 is gone and only Rs. 30 remains there. I will give you ten. I will ask some other fellow to pay you Rs. 10. As for the rest, only Rs. 10 remains. Why don't you leave it? That is nothing". That is the basis on which this Agreement has been made, so far as I can see.

Of course there is the old Sanskrit saying:

“ पुस्तकं वनिता वित्तं परहस्तं गतं गतं अथैव पुनरायात् जीर्णं च भ्रष्टाच खण्डसः । ”

That is also true. It means that a book, a girl and money gone into others' hands are gone for ever; and even if you should get them back, the book comes torn, the girl comes fallen and the money comes in bits. It went in bulk—as 1158 millions against which we get 133 crores of residual or rejected war material here, 224 crores of pensions of capitalised payment—not capital but capitalised payment and 213 crores to be made available till 1951 June. What about the rest, we shall see. That is the position that we are now reduced to.

Now let us examine each of these things. What about the defence material? The war material is subject to sales through the Department of Disposals and all over India you will find every day every weekly paper, every daily, every monthly full of Disposals advertisements. I now understand, having come here—previously I did not understand it—that it is a source of tremendous profits to business adventurers. Things costing Rs. 1-4 a tin have been parted with for one anna six pies each tin. Some lakhs of rupees worth of such tinned food, tinned milk, canned fruit all these I have seen, and heard of and I know that lakh of rupees have been made as profits on them. Will the Honourable the Finance Minister tell me what is the ratio between the price secured in the Disposals and the cost price in the books? I do not think it will be more than 1 to 10. But here you have made a certain payment. It is a very handsome payment, made in a lump sum, without any bargain, and without any difficulty for the salesman because he simply has to say "The goods are yours; pay me Rs. 133 crores". I think a more handsome bargain for the Englishman for all the refuse that remained over could not have been made. Perhaps it would have been better to take half a dozen cruisers. I do not know whether the latest cruiser that has come to India, "Delhi", newly designated, has been paid for from out of this sterling balance. I should think that it has been. I do not know exactly what price has been paid for it. So far no statement has been made about it, nor have I seen any reference to that in this. A few tanks, some war materials, a few cruisers would perhaps have been useful.

Fortunately for the English they have left this country not in a state of peace but in a state of war. They have created all the necessary conditions for an internal commotion and an external invasion. We have been subjected to both, the moment they pretend to have left this country. They have left the country by the front door but entered it by the back door. They have created all kinds of difficulties. Their "Machiavelian dissimulation, their profound hypocrisy and perfidy" are historical facts. Therefore there is no question about it and this is not the occasion for me to descant upon the way in which we have been cheated during the past one year—there have been documents concealed from our knowledge and other documents with partial representation. We know how we were committed to decisions and how they have behaved.

When I deal with my creditor I take his character into consideration. When I was dealing with the *khaddar* business on behalf of the All India Spinners' Association, whenever I settled a bargain the late Seth Jammalal

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Bajaj used to ask me "where is the cash?" It is not a question of my agreeing to certain terms or a settlement in the court or a reference to arbitration. "If you say Rs. 5,000 is to be paid to us, put Rs. 2,500 in my hand and I shall be satisfied"—because 5,000, agreed to in arbitration and a court is absolutely worthless. The decree is not worth scraping your tongue with. That is the position.

What is the actual money that we are getting? It would have been far better to have done with this business once and for all by a final settlement than to keep it hanging on. However that be, the English people are adepts in the art of making you lick the elbow for the honey that is on the palm, and then having allowed you to lick it they won't allow you to digest it, and if they find that you digest it they won't allow you to assimilate it. Their whole history has been like that. If they stage a quarrel between Churchill and Cripps it is the usual way in which merchants quarrel when we go to them for a donation. I have always seen that when I go to a gentleman for donation because Rajen Babu or Mahatma Gandhi was coming, the moment he saw me he would know what I am about and the father and the son would begin a quarrel. The father abuses the son. The son refused to cremate the father's corpse when he dies. For half an hour the quarrel lasts and we are paralysed. In the night the son comes to you and gives you Rs. 25. This is the drama that is staged in order to whittle down the payment. Whatever the Englishman does—and he does it of a set purpose and with a motive—there is no doubt about it he does it deliberately. Is this quarrel between Churchill and Cripps a sincere quarrel? Absolutely nothing of the kind. They must keep on staging the drama so as to make it appear that they are enemies so that innocent simpletons that we are we may be overpowered by this play of acrimoniousness on one man's part and the conciliatoriness on the other man's part. Never believe it. No. After all, what is the previous character of the English people that we should allow them to continue to be debtors? In 1930, on 21st and 22nd September, when Mahatma Gandhi was in the steamer, on his way to the 2nd R.T.C., the Bank of England closed its doors. When the Bank of England closed its doors they called it a holiday. When we close our doors we become insolvent: They took a three-day holiday, went off the Gold Standard at once and then changed the Government into a National Government! And they had just £90 million worth of gold in the coffers of the Bank of England, that is Rs. 135 crores. They owed 90 crores to America and 45 crores to France—and not a grain of gold to spare on that day! That was the insolvent condition. And while France immediately said "I stop payments" to America, England made one or two payments and then England also stopped.

1,600 million dollars was the money that was owing to America from England after World War I. That was why America was so cautious this time: "My friend, this time Cash and Carry"—*paisa lao, cheez le jao*. Then they said, when 'Cash and Carry' was exhausted, when all the securities of Britain in America were pawned, then they said, 'Lend and Lease'.

Had we not got the British securities here? We have got £750 million worth of them—about Rs. 1,200 crores. We have received a total of Rs. 133 crores for war materials, 224 crores for pensions, and 213 crores promised before 1951; that makes it Rs. 570 crores. There is still a balance due to us of about 900 or 1,000 crores. That can easily be adjusted with the British securities here. Let us tell them, "You want us to be a Dominion, you want to have friendly relations with us, you want to send goods to us, you can't live without increasing your exports by 50 per cent". You say you have to maintain a higher standard of life. My dear fellow, you have been carrying this on at the expense of India where we have no standard at all. Well, you can have some standard of life provided you adjust the things correctly".

It might have been up to our Delegation to break off the negotiations and come back and take instructions for a second occasion. There is no hurry. After all, this matter is not going to be settled in a day. And what is the position? Our accredited representative has gone there; a delegation has helped the Finance Member. He has entered into a deal. Either we have to repudiate the bargain he has entered into and thus bring a virtual vote of censure upon the Government of the day, or we have to accept it as an accomplished fact, a *fait accompli* and quietly abide by it. Besides these two alternatives is there a third alternative? And is that the position in which a democratic Legislature should be placed on this matter? Therefore, I say this debate is infructuous, it is academic, it is a schoolboys' debate, it is a debate of orators, of demagogues to display their oratory, and nothing is going to happen out of it, because we are perforce obliged to support what you have done. The question is whether we are doing it out of the compulsion of circumstances or whether we are doing it out of the abundance of our conviction of the facts. The latter we are not doing—the former we cannot help doing.

That is the position in which the Government of the day have placed the Legislature, and that is not a very enviable position. Any way, so far as the pensions are concerned I think it has been a fair adjustment. It would have been a much better thing if we could have negotiated one per cent interest upon our securities there, and they may have allowed the interest as a set off to the pensions. £1,100 million could easily bear £11 million annually at one per cent, and this £11 million is roughly the amount that we have to pay, that is to say 9.6 million. If that be the case it would have been a nice adjustment, but of course I know the difficulties of adjustment. We have entered into many bargains, we have failed on many occasions; but we cannot always guarantee success in all these matters.

A casual observation was made as if to say, "Well, why are you not satisfied with the 230 crores that I have got for you, you have not ordered capital goods for the money?" But I say, why not buy capital goods? Why do you blame the capitalists why not purchase the machinery which you need for your plans, yourself from England in order to recover the monies due from that country? Has the Government no responsibility in the matter? You have published your industrial policy. You have had your election manifestoes. Have you not said somewhat pompously that all the key industries will be nationalized? Have you not clarified it and then divided all the industries into different categories some of which can continue where they are and others will not be allowed to continue as private concerns? What have the Government been doing for the last one year if they have not hatched any plans for securing machinery for manufacturing turbines, boilers and for making electric and other goods, dynamos, batteries and transformers and a thousand and one things which you ought to have made? What power have I got? I have got a mind, a desire, an ambition, a plan, an expert, but nothing else; I have to approach the capital goods and machinery through Government."

I am glad the Finance Minister casually let fall a remark which I suppose is not a confidential one, that he has instructed the Controller of Capital Issues not to put a spoke in the way of any company being formed which requires machinery. It is a very happy augury. I hope people will avail themselves of it. But you see you cannot compel the people, the very people who are fighting shy of capital on account of our declaration of policy, and then taunt them saying, "You have not imported machinery". How can they? After all they are selfish people; a well-to-do man is a selfish man—a capitalist after all is not quite an unselfish man, and the Finance Minister more leans towards that side than this side considering his financial position, therefore, naturally the capitalist would not do anything which does not pay;

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and members of his ilk also do the same. Therefore, I say it behoves the Government to work out a scheme by means of which it will be possible at least to avail themselves of this Rs. 213 crores worth of machinery.

I have already stated that our position is the most unenviable one, that our vote is bound to go in support of the Government of the day, that it is not voluntarily given, that it is not cheerfully given, but that it is wrung out on account of the compulsion of the circumstances.

Shri T. T. Krishnamachari (Madras: General): Mr. Speaker, Sir, I feel obliged to speak having been a member of the delegation that went along with the Finance Minister. At the outset I would like to say that I am not asking the House or its Members for congratulations for what we have done. It has not been a very pleasant job and I do not feel that we have scored any outstanding success. So, we are not asking for any congratulations. If my friends in this House would like to condemn me for having been a member of the delegation and for not having done what in their view I ought to have done, well, I am quite prepared to accept the condemnation so long as that condemnation is reasonably based on facts, and the circumstances under which we were working. But if we are going to be condemned merely because somebody has got a bee in his bonnet, somebody is not prepared to take into account the existing circumstances and insists on living in a world which is fifteen years old, somebody really thinks that this is a forum in which he ought to say what he ought to have said against the British Government five or six years back, well, Sir, I say that he is not right and I am entitled to give a proper explanation of my conduct as a member of the delegation.

I feel that my honourable friend the Finance Minister will categorically say at the end of this debate that he was not very pleased himself with the results obtained.

I would like to refer to the remark of my honourable friend Dr. Pattabhi Sitaramayya. He said that it was unseemly that the creditor should go to the debtor. But I heard, even as a boy, that when somebody comes and sits outside one's house, people say, "Why are you sitting there like a creditor"? It seems to be the practice that always the creditor goes to the house of the debtor. I am not saying anything in praise of the acumen of my leader the Finance Member when I say that he said openly in London, "I wish the position were otherwise; I wish my country were a debtor country and that Sir Stafford Cripps came to us in Delhi to ask me to settle the debts". We were not proud of the fact that we had to go to London—if my honourable friend Mr. Shibbanlal Saksena's statement was made in all seriousness—to beg for releases. We did not beg. I would like to tell him that we went to London as proud citizens of an independent country, prepared to demand what is fair and reasonable, having in view all the circumstances of the case and if it happened that what was offered entirely unfair we were quite prepared to come back.

Sir, there is one point which the Honourable Doctor Pattabhi brought out, namely, that this is a matter of Hobson's choice for the members of the Congress Party in this House, that either they have to vote for this demand or express a lack of confidence in the Government. I do not think, Sir, I am betraying any secret when I say that the Delegation had at various stages intimated to the Cabinet in India all the circumstances of the case as it stood before them and we had the privilege of obtaining its views thereon. It is not as if the Finance Minister will unilaterally take responsibility for disposing of hundreds of crores of money of the people of this country; nor could I, at any rate, as a member of this House and being responsible to my fellow-members of this House, permit without a note of dissent any such bartering

away of our rights without some kind of sanction, without some kind of approval, of the real rulers of this country. Sir, if that position is recognised, the other things more or less fall into their proper perspective.

Criticisms have been made—quite a number of them. The first criticism had been made by a gentleman who I see is not in the House. Mr. Lari is a member of the Opposition. We in this House and the Press and the galleries have often mentioned that legislative work suffers because there is no opposition. After Mr. Lari's speech yesterday, nobody in this country can say that the Congress Government is functioning without an opposition (Mr. *Naziruddin Ahmed*: "There is no real opposition".) because that speech of Mr. Lari was an opposition speech. His speech was such as to lay emphasis on what Mr. Churchill claimed. His speech was such as to decry the efforts of the Government of India. His speech was such as not to represent correctly what was the real position. If that did not reveal the existence of an opposition determined to oppose, I do not know what it is.

Sir, Mr. Lari attempted to show that the whole arrangement was temporary and he based his arguments on a letter which he misquoted. It is really a letter from Sir Wilfrid Eady to our Finance Secretary and not a letter from Sir Stafford Cripps, in which the words "interim releases" have been used. True. Certain arrangement was come to some time in August 1947 and all subsequent arrangements have been built thereon. Nobody claims that this is a permanent arrangement for releases that we have got. We have only got an arrangement for three years and nothing more. To that extent, this is an interim arrangement; it is not a permanent arrangement. But from that interim arrangement, he sought to build up a case that the whole question was an interim settlement notwithstanding the fact that the Honourable the Finance Minister had categorically said that so far as the Government of India is concerned the accounts are closed.

Sir, I can quite understand Mr. Lari saying that Mr. Churchill is right: that the accounts could be re-opened and it could be scaled down later on. It is Mr. Lari's duty to put the worst construction on anything we do. But the fact remains that it cannot be scaled down as the position is today. I admit that any debtor is in the position of saying at some time or other that he could not pay. Any amount of assurances that we get from Sir Stafford Cripps or the entire Labour Party will not safeguard us against the possibility of England saying some time that "we are not able to pay the debt". Then, the question really is: Are we covered against such a contingency? That is all we have to look to. Friends here have asked: Did we, did the Finance Minister, ask for a categorical assurance that there would not be any scaling down? Why should we? I think if the proposal had been put up by any member of the Delegation or it had been supported by the Finance Minister, I would have opposed it with all the strength that I could command. Why should we, placed as we are in this country with about Rs. 700, 800, 900 or a 1,000 crores may be, of British assets—why should we say that we want an assurance from U.K. that she would not make any attempt to scale down the debt due by her? If she attempts it, we will take over the British assets in this country in settlement of what is due to us. That is our security for the proper behaviour of our debtor in regard to the payment of the entire debt that is due to us, payment which by agreement will perhaps be spread over a period of years. So, I think, Sir, that if the Finance Minister refuses to recognise a unilateral statement on the part of Sir Stafford Cripps that the question is open—and such a statement could not be made by him with any authority unless the matter has been put up to us and he had obtained our concurrence—if the Finance Minister now says "I refuse to take notice", I think it is perfectly correct and every Indian who has got the interests of this country at heart should say the Finance Minister is correct. We are not going to permit

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any scaling down. If any attempt is made, we have enough resources in our hands to more or less off-set an attempt on the part of Britain to scale down her dues to this country. That is why, Sir, in an opportunity that I had of speaking through the medium of the A.I.R. after we returned, I said the time has come when we in India, at any rate, should no longer talk about insecurity of our assets in Britain; the time has come when we should no longer recognise even any talk of scaling down. Mr. Churchill may say what he likes. Anybody may say that he likes. We have enough securities in our possession or at any rate, very nearly enough, to cover us against any contingency and we are not going to take notice of any such suggestion made by an opposition leader in the House of Commons or even of a faint approval in the shape of an answer which would beat the Delphic oracle by Sir Stafford Cripps.

Mr. Speaker: If he is going to take more time, I suggest the honourable member may continue after Lunch.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Shri T. T. Krishnamachari: Mr. Speaker, Sir, when the House adjourned for Lunch I was dealing with the question put by members of this House whether it is right to say that the ghost of scaling down has been finally laid. I was saying, Sir, that so far as we are concerned, it is so; so far the documents in our possession help to confirm that belief and we have enough documents, and lastly so far as security is concerned, we have adequate security in our hands to see that any possible threat by any future British Government of trying to interfere with our Sterling Balances can be effectively met. Sir, I think that ought to allay any fears that our politicians, economists and businessmen have in this country. But about the future Sterling assets—this takes me, Sir, to the other subject, namely the position of British assets in this country. It has been suggested, Sir, that we should have made some agreement with the British Government so that the assets of British citizens in this country could be liquidated and adjusted against our Sterling dues. Sir, in the past, as a member of the Opposition in this House I have often times pressed for liquidation of certain of the British assets in this country, so that the amount of our Sterling assets be appreciably diminished. The position today happens to be that by development of the various transactions that we have concluded there has been a certain amount of diminution and also because of the fact that we have to part with a certain amount of sterling to Pakistan, there will be a further diminution in our Sterling assets. So much so, the estimate made by the Finance Minister in his Press Conference talk that we shall have about 800 million pounds in England is very nearly correct. And things being what they are, the question one has to ask is “Do you want a diminution of this amount by forcible acquisition of British assets in this country”? The honourable Mrs. Ray suggested yesterday that we might take over the coal mines belonging to British interests in this country and nationalize them; we might take over tea plantations belonging to British interests and nationalize them. Sir, there is nothing to prevent the Indian Government nationalizing the coal mines and in that process the coal mines belonging to British subjects will also come into our hands. What will then happen is that the payment that we will have to make to the British subjects in England will go from the blocked sterling. My honourable friend Mr. Shibban Lal Saksena has some doubts about this matter and I could, in order to allay any doubts that exist in the minds of honourable members of this House, quote from any document, not a letter written by our Government to the British Government but quote from a document produced by the Bank of England. The Bank of England’s

report for the year ended 29th February 1948 has a paragraph in regard to India; this report also makes mention of the financial agreement made in August 1947 and of the further agreement made on 15th February 1948. It says, finally: “It is agreed that the net movement on Capital account between India and the rest of the Sterling area should be compensated through the Number 2 account.” If the House wants a categorical proof that any sale of British assets in this country will be compensated through Number 2 account, here it is. The document produced is not by any of us, but by the Bank of England. I think that is sufficient satisfaction for us to feel that if British assets are sold in this country either to the Government or to somebody else, the sale proceeds will go to diminish the amount of money standing to our credit in the Number 2 account namely, the blocked account. I have to tell Mrs. Ray that if it happens that the Indian Government decides to nationalize the coal mines, the value of the coal mines belonging to British interests will go to diminish the sterling assets that we possess. I would like to say this. One might ask: “Why, not take all the British assets all at once and reduce our sterling balances?” It would in my view be an extremely unwise step. Of course, if one holds the same view as my honourable friend Prof. K. T. Shah, it might be the proper thing to do; but some of us happen to feel that now we are an independent country with complete charge of our own destinies and foreign trade happens to be an integral part of our activities and we, therefore want to keep on foreign exchange resources without liquidating the foreign exchange that we possess and buying assets of doubtful value, unless it becomes absolutely necessary. I will again put it to Prof. Shah to whom shall we hand over the working of these assets; are we going to nationalize these and take over the administration. Departmentally, will you hand it over to these bureaucrats who will probably not manage it efficiently or shall we hand it over to capitalists in whom Prof. Shah has no confidence and in whom I possess a confidence which is only a degree less than Prof. Shah’s confidence. I would rather if the British interests are operating these assets and operating it decently and under Government control and obeying Governmental regulations. Let them operate these till such time as we decide to take over of all coal mines and all tea plantations whether they be British-owned or Indian-owned. (*Shrimati Renuka Ray:* ‘In the meantime sterling may depreciate’.) I am coming to that point. So I feel that it is worthwhile keeping our foreign exchange resources and also keeping the initiative that we have.

Secondly, I do not know if we are going to get enough help from our own capitalists in this country by starting the various industries that we have in view. I would rather that our capitalists or the Government start all the industries necessary. But it is a fact that we do not have enough capital in our hands for all the projects we have on hand as for all the industries that are necessary to be started in our country. Certain portion of capital will still have to come from abroad either in the shape of capital goods or in the form of investments. At the present moment bringing in of any capital from the sterling area is difficult because of the physical problem of transfer of money as that will only go up to swell up our blocked balance. A time will come when probably we might be able to get over this difficulty when the required foreign capital is readily available.

Sir, I would like, even though it is a digression, to mention that some businessmen in England, to whom I had to explain our Industrial policy, felt that India is a fairly safe country for investment. It may be that you want them, or you may want America or some other country to help us, but there is no point in frightening all of them by saying that we are freezing all the foreign assets of a country without any provocation. Actually nobody would have any grouse against us for nationalizing all our coal mines and in the process of taking over the coal mines belonging to the British people.

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As it is, it may not be quite wise for us to frighten them by declaring, we are going to liquidate British assets in this country. I do not agree with those people who say that India can have a completely self-sufficient economy. I do view with a considerable amount of pride that we have in our hands an export trade of the value of 500 crores which is a very valuable lever in any international arrangements between this country and foreign countries. I do not think it is really worthwhile to labour on this idea of liquidating foreign assets in this country any more, now that we know that we can take them over whenever we wanted to do so, and the Government has got enough power and this legislature or its successor can enact adequate legislation to take them over, except for the fact that if we unduly discriminate against any foreign nation, we may not get foreign help when we want.

My honourable friend Mrs. Ray reminded me of the doubts about the safety of our sterling. Incidentally, my honourable friend Professor Shah said that our sterling assets have been devalued already several times over. I would like to draw the attention of my honourable friend to this though I would not like this to be quoted against India by England at a later day. (Prof. N. G. Ranga: 'It will be'.) The position is this. So far as England is concerned, the rise in prices of industrial raw materials during the years 1938 to 1948 has been roughly a little less than 100 per cent. I am quoting the figures from the U. K. Board of Trade Journal. They start the figures at 100 in 1930. It was somewhere about plus 30 in 1938 and in 1948 it was plus 238, just about 100 per cent more. So far as we are concerned, the position in the matter of industrial raw materials and manufactured articles was somewhere about 100 in 1939 and it has gone up to somewhere about 366. These figures have no validity. You may have a different set of figures for different products. The general index in regard to wholesale prices is about 366 in May 1948, 442 for industrial raw materials, 317 for some manufactured articles and 350 for some manufactured articles. It may be that if we had supplied them raw materials or manufactured articles as against which they owe us sterling, we might not have made a bad bargain out of that.

Prof. N. G. Ranga (Madras: General): It is not a fact that our raw materials were priced much lower? They themselves admitted that.

Shri T. T. Krishnamachari: I am not entirely unaware that a certain portion of the raw materials that we supplied were at controlled prices. I have often along with my honourable friend Prof. Ranga protested against the supply at these controlled prices. By and large, that only probably represents about 300 crores of Rupees as against which we have repatriated 400 crores in liquidating the debt we paid U. K. I do not want to provide U. K. people with arguments against us. I am only saying that there is the other side of the question also to be considered.

The other factor is, what will happen if the sterling is devalued. Probably, if we are still linked to sterling, we will also have to devalue the Rupee. There is perhaps greater justification for devaluing the Rupee than their devaluing the sterling. The contingency is not likely to arise now for this reason. England happens to be one of the few countries in the world where prices have not risen materially in comparison with other countries. The prices in England are very much lower than what they are in countries like U.S.A. in comparison with the prices that ruled in 1939. So much so, a leading authority on currency like Prof. Hawtrey had written to the press during the time when we were staying there, urging that the British Government should over-value the pound, or at any rate, go back to the rate of exchange between the dollar and the pound that existed prior to 1940. The tendency

now seems to be the other way about. The prices in England so long as they are maintained seem to provide no justification for devaluation. Because, they are a deficit country and they have to go to America for purchases and devaluation will only affect them adversely. As things are today, devaluation does not seem to be a major fear so far as we are concerned. If you leave your foreign assets with any foreign country England or the United States of America, that kind of fear is always there. I think, for the time being, that need not unduly perturb us.

The next question with which I would like to deal, is the question of payment for military stores. Some friends asked for break up of this figure of 100 crores Rupees: My honourable friend Dr. Pattabhi Sitaramayya suggested that merely because it is a round sum of 100 crores, in settlement of the whole thing, quite a large portion of that has been in the shape of free gift. I am afraid it is not so. I felt at the time of the settlement that there will be the danger either way: of people in England saying that their Government had accepted an *ad hoc* amount and the people in India saying that we have paid an *ad hoc* amount. The one guarantee that we have not done a thing of this nature is this: the final adjustment of accounts between Pakistan and India will entail a meticulous break up of this 100 crores without which we cannot get from Pakistan an acknowledgement of their debt due to us in this regard. The break up happens to be this: 15.48 millions or 20.64 crores for installations; unit equipment, that is equipment left with the Units of the Indian Army which was supplied by England in the past 4.73 crores; stores retained 61.2 crores, surplus stores 37.71 crores; odds and ends like things left over by the SEAC 5.13 crores, which makes up a total of 123.33 crores. Actual figures have been gone into with a great amount of detailed scrutiny and if there has been any adding up, let me tell you that the adding up has been more in the item relating to SEAC stores than in any thing else.

Shri K. Santhanam (Madras: General): It is the settlement value and not the estimated value?

Shri T. T. Krishnamachari: This is the settlement value. My honourable friends ask, what are these installations worth. It is a long history, which I think probably the Finance Minister will explain if the House wants. But some of us here like Prof. Ranga and Shri Ananthasayanam Ayyangar who have been in this House before, knew all about the question of the military assets of U. K. in India. There are various assets which are joint assets of the two Governments; there are certain assets in which by arrangement with the British Government, India paid for one half of the value and Britain provided one half and ultimately when the war was over, it became India's property. These are certain assets which are equipment for the purpose of improving the industrial capacity on account of Britain. The Government have gone into the whole thing carefully. Of course, any estimate is an *ad hoc* estimate. I can tell you so far as the book value of the installations is concerned, it is 123 crores and odd and what has been paid actually is only 17 crores. You may ask whether these have just no value. In fact, it does not happen to be so. There is quite a lot of pucca structure for which payment has been in the region of 25 to 30 per cent. of the original book value. These structures are still occupied by us and made use of. These aerodromes which are now being used by the civil aviation companies all come into that category. The buildings are categorised pucca buildings; they will probably last for 15 or 20 years. They are being made use of and we have only paid a value of about 30 per cent and for these and for the kutchha structures about 6 per cent.

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In regard to stores I think the best case that has been made for this settlement was made by Dr. Pattabhi Sitaramayya. He said that the disposal of stores by our Government in the market was made for just a song. Actually the stores are sold at a price fixed by the department. The prices fixed by us in regard to the payment in England has been on that basis. A tin of preserved eatables was sold for just about $1\frac{1}{2}$ or 2 annas; and if our black-marketeers made money on that, somebody benefited in India, no one in England did. Actually it happens that so far as disposal stores are concerned the value was an extremely conservative one and they accepted it. We did not try to pull wool over their eyes, we tried to be very fair and we had to tell them that we had to guard the interests of the Indian exchequer and take no risks. My own feeling is, as a person who has gone closely into it along with the officers of our delegation, that it is not a bad job. I will not say it is a bargain; we did not try to cheat them of what was due to them but we did guard ourselves against possible loss and we have amply guarded ourselves; though it happened that some of our friends on the Pakistan side who were with us did probably tell the people there that India was trying to drive a hard bargain. We were very fair and, incidentally, you can take it that we have been honourable.

Mr. R. K. Sidhva (C. P. and Berar: General): May I know how much out of the 100 crores is likely to be realised by us?

Shri T. T. Krishnamachari: The stores that will be sold will be about 37 crores, the rest will be more or less what we will use. In any case I am sure that if Mr. Sidhva wants it the Finance Minister will ask the department to give him all the details. I think I have rather been treading on dangerous ground in talking about military stores and I will not go deeper. But I can assure this House that while we have not tried to cheat Britain into any transaction which is unfavourable to her we have amply guarded ourselves against any possible contingency of a loss. And I think therefore, the criticism made against the settlement in this regard is extremely unfair. There has been a large volume of criticism in the press particularly by my friend Mr. Mannu Subedar; but that is a type of criticism which is now just beside the mark, and the criticism of people like my honourable friend Mr. Mannu Subedar has always been more or less the same thing. He said that all the money realised from the sale of British capital assets in this country has gone to extinguish our current account. It has not been so. I have demonstrated very clearly that the net capital transfer has always gone to the blocked account. Similarly, so far as stores are concerned, the criticism is really off the mark.

One word about the settlement in regard to pensions. In this House it would have been observed that there has been a wide divergence of opinion in regard to the settlement of pensions. Some people felt that what was done was the best method of settling, some people felt that we should have made an outright settlement straightaway and given U.K. a fixed amount and got rid of the whole business of paying pensions thereby finishing it off lock, stock and barrel. In fact I will not be revealing any secret when I say that there was difference of opinion even in the delegation on this matter. Personally I felt that we had better get rid of this responsibility once for all and be done with it, so that we will not have to maintain a staff to pay these pensions and we will not have any annuities and any annual adjustments to make in our budget which perplex my honourable friend Mr. Das. But the majority of the delegates thought otherwise and the Government of India supported their view. There is much to be said on both sides. The point in favour of this type of pension settlement has been urged by the Finance Minister. One or two additional points I should like to mention. If we were to settle the whole thing lock, stock and barrel at one time there would

have to be a very meticulous examination on an actuarial basis of the probabilities of life, and it would probably have provided a basis for disagreement between us and the U.K. The other factor which my honourable friend the Finance Minister did not mention yesterday was this that the bulk of our pensioners in the U.K. happen to be military men. It is possible that they may seek service against India some time later. So long as they are our pensioners we have them in our hand and we can always control them and tell them that if they fight against India their pensions will not be paid. That was urged as a consideration in favour of this arrangement. But the present arrangement absolves us completely from all speculation. Of course it runs to 45 years—a major portion of it—and for 15 years thereafter. I agree it is a long time but it is not a long time in the expectation of human life as things are because people are living up to 80 or 85 years. There is no obligation cast upon me to explain it but I can say, as the Finance Minister explained, the sterling in England stood to the credit of the Reserve Bank and this amount paid towards these tapering will in future stand to the credit of the India Government. It is for the purpose of effecting that transfer and paying the Reserve Bank that this particular supplementary demand has been brought before the House. So that the Government of India will pay the Reserve Bank the rupee equivalent either in cash out of its balance or in *ad hoc* securities as the case may be. And the adjustment will have to be made on this basis. This money once it has been paid goes to swell our debt or reduce our cash balances or both. For the future either the Government of India could create a fund into which the amount expended on pensions annually could be paid and the total debt amortised; or alternatively the amount of pensions paid annually will be shown against our assets in the U.K. namely these sterling annuities and the consequent reduction in our rupee expenditure in the budget will not be given any special mention. Our assets however will be shown in the budget. Two hundred and seventeen crores of rupees in sterling will have to be shown to the credit of the Government of India; it might be shown against any debt that the Government of India incurs on this account in which case as I said before there will be a transfer annually which will show a diminution of these assets by making a corresponding debit in the budget. It is not a very complicated thing once we realise that hitherto sterling has been in the possession of the Reserve Bank of India and this particular amount as sterling goes on as credit to the Government of India and the Government of India has to pay something in return to the Reserve Bank; when the actual annual payment is adjusted it will bring down to sterling assets standing in the name of the Government of India by the same amount as the amount of pensions charged to the Government of India's account. It is pretty simple if put down on a piece of paper and shown as debits and credits.

The next most important point is the question of releases of sterling from the blocked account and the multilateral convertibility that we have retained. As I have prefaced my remarks at the outset, I am not satisfied with the quantum of the releases, but at the same time it is undoubtedly true that if we had spent whatever stood to our credit before the negotiations began and had only a working balance of 30 million pounds which was envisaged in August 1947 agreement, we might have got a little more from the U.K. U.K.'s position was merely this that U.K. can only afford a specified amount over and about the exports that we make to England every year to be sent out to that country. That figure was estimated by Sir Stafford Cripps, it may be right or wrong. They said, "We can only afford to pay so much over and above what you export to us every year", and naturally the amount that is standing to our credit would diminish the amount that we have got. But while it is not my duty to explain an obvious default on the part of the Government of India,

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I should like to mention this in extenuation of what happened, namely, that in the first half-year, that is the half-year ending the 31st December 1947, India did consume 27 million pounds out of the amount released; and if that pace had been maintained in the first half of 1948, we would have had a much less amount to our credit in the No. 1 account. But what happened in the second half-year? I suppose there were various considerations like the change of Commerce Ministers, the department being rather afraid that we might overdraw from out of our net account and then there is always this fear of our food demands which makes it impossible for any Government department to estimate with any accuracy what we will have to import and lastly the fact that we were not having proper data in regard to our own experts.....

Mr. R. K. Sidhva: There is no co-ordination.

Shri T. T. Krishnamachari: That is true; we have no co-ordination. And if any Minister of Government wants justification there is ample justification, because after the 15th August there were fewer officers, we had no proper Secretariat, our files were in disorder, and we had all the trouble in Delhi which paralysed the work of Government. We know it but we could throw all the blame on the Government. But what happened was that in the next half year 3 P. M. we pumped in 24 millions more pounds in our current account. Our exports rose. Having spent 27 millions in the first half year and pumped 24 millions in the second half, we spent in the net result only 3 millions over the entire period of one year. If as Prof. Shah says we cannot import consumer goods, well, naturally that will be the position.

With regard to the import of capital goods, it is not my responsibility. But I will have to say something on that particular question later on.

So that was one of the factors that worked against us and I must say that I was not particularly happy about it. But you must realize that in this quantum of sterling of 213 crores for three years we will not be exporting the amount due for the payment of pensions. That will bring down the exports needed to offset our imports by another 6 million pounds per year.

Anyway, there it is and it is for you to judge whether it is right or wrong. I may say that I stood out to the end and I had the support of the Honourable the Finance Minister, because both of us felt that we will have to stand the test of criticism in this House. That is a fact which I bore in mind and my honourable friend did bear in mind equally well right through the negotiations, viz., that a delegate who was a Member of this House and a person who is a Minister of Government will have to answer to this Legislature. In fact our responsibility to this Legislature was never lost sight of though the other Members of the delegation were not in the same position. We had this thought uppermost in our minds. If we had not agreed to this amount we had no alternative but to break with U. K. As I said before, the decision taken was made with the full knowledge of the Government of India and their concurrence. It cannot be said that we were not prepared for a break. The Members of the delegation were quite prepared for such a contingency and we had our facts and figures ready for the purpose. If there was to be a break, we were quite prepared to take the next necessary step. I will ask the honourable members of the House to look into the criticisms of the press and of various business organizations. They will see that there is quite a volume of opinion in favour of the settlement which says that what has been achieved is reasonable. After all in a matter like this it is very difficult to judge with any precision and if the honourable members of the House feel that the delegates have failed—well that must be accepted.

On the matter of multi-lateral convertibility my honourable friend, Mrs. Renuka Ray had some criticism to offer. Personally, as between the total amount of releases and the quantum of multi-lateral convertible currency we have obtained, I personally think we have done well in regard to the latter and have obtained a fair quantity of multi-lateral currency and I would ask the House to total up the various items mentioned by my friend the Finance Minister that would go up to a fairly considerable amount and form nearly three-quarters of the amount of surplus releases we have acquired. We are covered against the amount of our deficit in 1947 to Sweden and Switzerland which amounts can be paid in sterling. By this arrangement we can get all European countries, except Belgium, Portugal and the Anglo-American zone of Germany accept sterling from us. So far as Belgium is concerned it is good for us to have things as they are because we have an export surplus with this country.

That concludes what I have had to tell the House in explanation of what the delegation did, a duty cast on me because of the fact that I was associated with this delegation. Finally I would like to urge this. I was myself one of those who in the past in this House, times without number, spoke on the sterling balances. Many others also did. We have always belittled the fact that we would ultimately get any sterling from U.K. Others have said that this is a nest egg from which we can draw upon to meet the demands of all our post-war recovery plans. There was exaggeration on both sides. We have now settled the issue more or less, so far as we are concerned. And after the division of Pakistan the amount that will stand to our credit will be less than 800 million pounds. We have enough security for that amount and we shall spend a substantial quantity out of that 800 millions in the next three years. I would urge the members of this House after the discussion is over just to forget all about it. It is not worthwhile going on harping on the sterling balances and fritting away our energies which should be directed into more fruitful channels.

I agree with the honourable members in this House that we must compel the Government here and now to make adequate arrangements to utilise this 160 millions properly. The secretariat of the Delegation had prepared a list of commodities that we shall require for Government use only for a period of five years and it actually staggered the U.K. officials when the list was presented to them. But if we concentrate even on what the Government could absorb for their various hydro-electric projects, for improvements in various directions, and plan our needs we can utilise this amount. But it would be necessary that we have an adequate and strong organisation in London for this purpose. Let me tell the House that I personally feel that we must have a very good organisation in Europe for purchases, for locating what is available, for getting the best prices, for seeing that those orders are progressed. And as things are with London becoming more or less, again, so far as currency is concerned, the centre of activity in Europe, there is no better place than London for the location of such an organization. I would ask my honourable friends to help in compelling the Government to create a first-class organisation either in London or somewhere else in Europe because there is very little chance of getting anything from America for some time to come. There seems to be an enormous amount of possibility of obtaining the bulk of our requirements in Europe and let us make use of it and let us not after 2½ years say: We have still a considerable portion of this amount left unspent.

I will be failing in my duty if as a non-official member of the delegation I do not mention one fact. My honourable friend, the Finance Minister spoke of the work of the secretariat of the delegation in regard to assessing the value of the market stocks. I had the pleasure of staying in the same premises as

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the members of the secretariat of our Delegation. They were drawn by and large from the Finance Department and the Commerce Department and there were two officers from the Reserve Bank of India. I must say that I felt very proud that we had in them persons who were more than a match for their counterparts on the other side. There is no more fitting tribute to India's ability to govern itself than the fact that when India was bereft of the services of all those people who ruled her in the past, whose rule was supposed to be necessary for us, we were able to take a delegation from India composed entirely of Indians who were able to uphold the credit of India and India's secretariat. I think it is a matter of personal pride to me that I was associated with these gentlemen whose names it would be invidious to single out for praise. I do hope that the House will realise that we need not feel ashamed of our secretariat, for they would distinguish themselves wherever we might send them.....

Shri H. V. Kamath (C. P. and Berar: General): Mutual admiration, I suppose!

Shri T. T. Krishnamachari: It may be that my honourable friend Mr. Kamath being no longer a member of that service has a very natural psychological antipathy towards these people. But these gentlemen did not all come from the I.C.S. They were drawn from other services as well, some of them were also drawn from the Reserve Bank. However, I shall not labour the point. I do feel as a non-official member of the Delegation I must mention the enormous amount of work that the secretariat staff put in and the credit they brought to this country thereby. I hope the House will pass this supplementary demand and the country will rest content with the fact that our sterling assets or such as is left out of it is safe. The money is secure and it would remain so notwithstanding anything that Mr. Churchill might say or anything that Sir Stafford Cripps might say to mollify Mr. Churchill.

Pandit Lakshmi Kanta Mahtta (West Bengal: General): Will there be another supplementary demand in favour of the staff?

Mr. R. K. Sidhva: Sir, while I do not share the views on all the points.....

Mr. Speaker: I might inform the House that in view of the fact that there is a large number of honourable members who wish to speak I would restrict the time limit to 15 minutes now, because at 4.30 the Finance Minister will wind up the debate.

Mr. R. K. Sidhva: Sir, while I do not share the views expressed by my honourable friend the last speaker on all the points, I am glad that he has confessed the failure of the Delegation on certain matters. On the other hand, let me tell you that yesterday while the Honourable the Finance Minister moved the Demand to discuss the sterling balance question he made a very poor show. He rightly stated that our money is quite safe in the Bank of England, viz., Rs. 1,536 crores. As we all know when a depositor deposits his money in a scheduled bank or a guaranteed bank he can draw cheques as he likes, whenever he likes and to whatever extent he likes to the amount that he has in the deposit. If the money is in fixed deposit then there is a certain period during which the interest is to be paid by the bank and he withdraws at the expiry of that agreed period. So one cannot safely state that to that extent our money is safe in the Bank of England. I am referring particularly to the interest which it has been stated would be paid at .78 per cent. I am very sorry that in that respect our delegation had put a sorry figure. America is charging 2.2 per cent from Britain today and America is charging 3 per cent. to all other countries. Naturally I fail to understand why our Delegation was generous enough

to accept .78 per cent. This has brought a loss of 500 crores to us if you distribute the money over 50 years. It brings in Rs. 10 crores loss towards interest every year. I want to put the question to the Delegation whether they feel themselves happy over this transaction, when they very well knew that America was charging quite a different rate to Great Britain, why should we have been so generous to tell Britain that we would be content with .78 per cent. On the other hand we have a grievance. You should have stated that that money is our own money which we can draw whenever we like and to whatever extent we like but we have been prevented from doing so, because of your peculiar economic situation and to that extent we are prepared to help you. Certainly I fail to understand why we should not have stated that and forcibly asked them to pay a legitimate rate of interest. I want an explanation from my honourable friend Mr. Krishnamachari who was a non-official member of the Delegation. I can understand the Government member bringing in many excuses but as a non-official member I am asking my friend what explanation he is going to offer.

As regards installations and stores about which many members have pertinently put questions, my friend Mr. Krishnamachari has not satisfied me in the least. He said "What are those installations? Aerodromes?". Does he refer to the city aerodromes? I do not refer to them but those over which crores of rupees have been spent during the war aerodromes built in the villages of the interior in the various parts of the country. I have personally travelled in motor cars in the interior of villages and there are many such small aerodromes, which will go up to 400, which were built for war purposes. I am not prepared to accept even for argument's sake.....

The Honourable Shri R. K. Shanmukham Chetty: If it can prevent further argument of the honourable member I might say for his information that all the aerodromes that we have abandoned we have excluded from the valuation and we have not paid anything.

Mr. R. K. Sidhva: I would like to know which are those installations which have been abandoned?

The Honourable Shri R. K. Shanmukham Chetty: I will ask my officers to give you the details.

Mr. R. K. Sidhva: I would like it to be placed on the table of the House during this session. Only a fortnight ago I was touring a stretch of 145 miles in a car in the U.P. and Banaras district.....

The Honourable Shri R. K. Shanmukham Chetty: How did you get the petrol?

Mr. R. K. Sidhva: I was on an official tour. I would like you to be very careful before making such a remark. I do not purchase petrol like you in the black market. I was travelling on an official tour a stretch of 146 miles and I came across four aerodromes in the interior. They were the homes of vultures and foxes. The bricks and the buildings were worth nothing, everything were dilapidated. I would like my honourable friend to see whether any part of them will be ever serviceable or worth one pice.

Coming to the stores near this very city in the Delhi Cantonment in the last March session I went with some of my colleagues to the M.E.S. The stores are unserviceable. Thousands of packages are lying unpacked as they were received from America or Britain or elsewhere. They have not been opened but condemned as unserviceable and out of date. I asked the officer in charge "What are you going to do?" He said they are of no use and have to be reshipped. I would ask my friend Mr. Krishnamachari to go and see them. It is only six miles away from here. Let him go and see and let us know what

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is the value of this. If these are to be sent back what would it cost in the shape of shipping, freight and cartage. Otherwise they will have to be thrown into the sea. When we see with our own eyes these things how can we say that this 133 crores which you have made as a present will be returnable to the State. That is my difficulty. It may be that some stores may be valuable lying at some place but stores seen by me have been condemned as unserviceable. Motor trucks, vehicle parts in thousands have been imported and they are absolutely unserviceable. You may have counted all that. Place the whole list on the table and if I find the bargain is profitable we shall give you credit that for 500 crores you have paid 133 crores and thereby saved 376 crores to the State. Take the credit where it is due: otherwise from what I have seen I may say that this money is wasted.....

Shri M. Ananthasayanam Ayyangar (Madras: General): What will you do?

Mr. R. K. Sidhva: I am mentioning it as we see it.

About the release the Honourable the Finance Minister stated yesterday that the fact remained that we must admit that it is the fault of ours by not purchasing the capital goods which were voluntarily offered by Britain. I do not know what kind of goods were offered to us, whether they were capital goods like textile manufacturing machinery, or electric manufacturing machinery or tool-making machinery. He merely stated it and blamed the industrialists and after that he came upon this House blaming the members. May I remind him of the industrial policy, decided in this House only last session and he says he stands by that. We really stand by it. I want to know what has he done. During these four months why did he not purchase these capital goods on behalf of the Government and brought them to India. If need be we could have nationalised them and started our production. Why did he fail in that? He was part and parcel of the Government. He could have told his colleagues and the Prime Minister "This is the position. We must buy these articles. If we don't buy them we are not going to get more money for this purpose". No explanation has been given for that. He merely says that he stands by that resolution. The House stands by that resolution whole heartedly and yet the industrialists want to non-cooperate with us. They don't want to share in the capital—they don't want to subscribe in the loans which may be raised by Government for the reasons best known to themselves and also to the Honourable the Finance Minister. I do not know why they are backing out after this industrial policy has actually been laid down which I consider beneficial to them also.

I consider the Pakistan Agreement is to an extent better than the Agreement that they have entered into with India. In the Pakistan Agreement they have got more amount for release. Their agreement is subject to reconsideration at the end of this year, and the British Government have promised to consider the question of release of sterling and dollar balances at the end of this year. There are many things I would like to point out which nobody—neither Mr. Krishnamachari nor the Finance Minister has stated—as to how Pakistan has fared in this Agreement. Let him say in his answer and refute my statement that Pakistan has not fared better than ourselves.

He told us yesterday that as far as certain capital goods were concerned the Government have been promised cotton, metals and plywood and petrol, oil and lubricants. I questioned him that it was not quite correct to state that the British Government have promised us that they would supply us all these articles. I will, for his benefit, read from page 58 of the White Paper. It is letter written by Sir S. Cripps to the Finance Minister on the 9th of July

from which it would be seen that while they have promised the supply of cotton, non-ferrous metal and plywood, as far as petrol, oil and lubricants—which are more important for us—are concerned, point is doubtful. This is what he says:

"I write to assure you that the Government of the United Kingdom appreciates your problem and will do its best to help."

It is help and no promise. Then he says:

"Representatives of our Supply departments and your officers have already discussed the ways in which the United Kingdom can assist as regards India's requirements of non-ferrous metals, cotton and plywood, to which commodities you drew my special attention."

Whereas in the preamble to the Honourable Minister's statement he has combined all the oil and other articles, stating that all these have been promised, what does the next paragraph say? It says:

"You also expressed anxiety at the possibility that India might have to pay more dollars for her imports of petrol, oil, and lubricants in the event of an increase in the proportion of petrol, oil and lubricants supplied from dollar sources as compared with previous years. I am advised that this is most unlikely, but should such a situation develop my Government will be glad to enter into discussions with yours with a view of finding a solution."

There, in the first paragraph they state they will 'help'. In the second paragraph it is stated 'they will enter into a discussion' with us. Is that a promise, I would like to know from the Honourable the Finance Minister. When he stated yesterday that they have definitely promised us these things and when I questioned him, he says "you don't believe me and you believe them". That was his argument when he was answering my point while I referred to this matter. I would really have quoted the figures to satisfy the House to what extent India has been unfairly helped by this delegation, and to some extent we have been let down, whether innocently or carelessly I do not want to say. But the fact remains that our delegation have been very lenient to the British Government; they have shown a soft corner for them in their heart, at the expense and cost of India. I do not know whether my friend, and particularly my friend Mr. T. T. Krishnamachari—deserves credit and a vote of confidence or congratulation. As far as the Minister is concerned it is a different matter, but my friend, who was the non-officials' mouthpiece, laid stress on this time out of number. I want to ask him under the circumstances "Do you want congratulation from us, whom you represented, when I fail to see after reading and re-reading as to what is the immediate relief that India has really achieved?" It is nothing. If this release money is to be really utilised later on by the Government they must revise their import policy. The import policy is at present very defective. You have no co-ordination with various departments. You did not see that you had so much money with you and still Commerce Department refused grant of licences. People wanted to import goods, they were clamouring for the grant of licences but you would not give them. You favoured somebody with lakhs of rupees. The others you did not. The result was that so much money was left unspent and the money has now been accumulated. I do not know what is going to happen to this unspent money. Sir, when you have rung the bell I must obey you and therefore I sit down, but I would have preferred to satisfy him further from his own books and all other figures from the Pakistan Government which I have that they have certainly fared worse than Pakistan.

Shri M. Ananthasayanam Ayyangar: The reference to sterling balances has almost become a hardy annual. On two previous occasions we had discussions on them besides discussions during the budget debate, and this is the third time. I thought it would be the last time when we would have to discuss the sterling balances issue. I, along with many others in the Standing Finance Committee, wanted that there should be a final settlement of this issue once

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and for all now. That does not mean that England should pay away all the thousand one hundred and odd million pounds straightway into our hands. It may take time. It may pay some amount immediately and it may take some time to pay the rest. We saw no advantage in going there again and again and standing before their doors and getting pittances from time to time.

So far as these thousands one hundred and odd millions of pounds are concerned, the Honourable Minister said that this is the property of the Reserve Bank of India. No. It is not the property of the Reserve Bank. They issued merely notes and have agreed to pay on demand—"I promise to pay to whosoever is in possession of the notes, so much and so much rupees". Therefore the backing for all the currency that has been issued is these thousand one hundred and odd million pounds. It belongs to the toiling millions of this country. It belongs to every man who sacrificed his all during all these five years, underfed his wife and children, himself starved, went naked and supplied the foreign country. It was thus squeezed out from the country. What I am sorry for is that this White Paper that has been placed before us and the various speeches that the Honourable Minister has been making are more in consonance or keeping with what Sir Stafford Cripps should have said that what we should have said. I thought we had one advocate who would certainly place before the world and the United Kingdom our difficulties. I thought Mr. Chetty, being a *baniya*, would be certainly anxious to wrench out from them as much as possible considering the difficulties we have had and the way in which the money was squeezed from the toiling millions of this country. Before War England was a rich country. It was one of the richest countries. Though her exports were small her imports were large on account of the invisible exports she was able to maintain. It is due to that she is thriving with all the force at her command. During the war she did not suffer because she laid an upper limit on wages; rationed articles. Their Health Report stated that during the period of the war, with less eating than they were eating before, their percentage of deaths decreased except those that went under the shell directly. Their health improved. Today, shortly after the cessation of war, like a ball they have jumped once again upon their feet. They are going to place themselves on their feet very soon and I am glad to learn from my honourable friend Mr. T. T. Krishnamachari that our debtor country is certainly sound. To that extent I am extremely glad—for that information, if not for anything else that has transpired immediately. If it is sound, one day we may get back what we have there, provided they are going to give.

Now, Sir, that is the present position. How are we? We are one of the largest countries in the world, with perennial rivers, with a stable mother earth unlike Japan and other places—we have no Vesuvius of any kind,—with equitable temperature, and lots of labour. Everything is there in the shop, but in the mouth of the son-in-law Saturn sits for ever; the son-in-law would not get anything in the mother-in-law's house; though there may be plenty available the son-in-law would not be fed. That is the position in which we are placed. There is an ordinary proverb in our parts like that—I don't know if there is one like that anywhere else.

Day before yesterday I had occasion, in a fit of enthusiasm, to quarrel with our Government, which unfortunately some of our news papers wanted to take too much advantage of, and then say, "There seems to be a rift in the lute". If I criticize our Government it is for the better improvement of our Government. I have stood by the leaders of our Party who have worked for the freedom. (An Honourable Member: 'Not an apology?') It is not a question of apology but I would like to warn persons outside.

In a huge machinery, here and there there may be a nut or bolt which may be loose. With all earnestness I am appealing to my Government not to be indifferent to it lest a hundred years hence the whole machinery may crack. It is not as if immediately the machinery is cracking, or the pilot is bad or the foreman is useless and has to be dismissed. I find some of the news papers are anxious to take advantage of my words. I am sure that they are keen to bring about a split in our camp. I do stand by the Ministers, by the Leader and the Deputy Leader of our Party in whose hands the country is safe; for a long time to come we may not be able to displace them. But speaking out what I feel, I say that so far as the management of a particular wheel has got out of order, we have to see whether greasing is necessary and whether if necessary a wheel has to be displaced here and there; so that the machinery may be set on the road properly in the interests of the larger machinery some adjustments may have to be made by themselves or elsewhere.

Now, Sir, so far as the present subject is concerned, I am not satisfied with the manner in which it has been done. The very approach is wrong. The approach—you will read from this paper—is, "How much can they give"? It is not, "How much do you want"? That is the way the question has been approached and that is the main limit that has been set upon the negotiations. "How much do you want? How much can you digest"? If somebody has my money with him and I ask for it, he says, "Are you going to celebrate your daughter's marriage? Or are you sending your son to America? Otherwise keep quiet, I don't pay". As if I have to go to him from time to time and beg to him placing my entire budget before him saying, "This is my budget; I have placed it before you. Therefore kindly release some portion". I am entitled to ask for it here and now and ask him to pay it with various loans etc. "You have the Marshall Plan, everybody in the world is going to make you richer, but never has any consideration to the poorer countries in Asia. Therefore, you give it."

That is not the approach, instead the approach is, "How much am I able to digest"? That kind of an approach is wrong. Assuming that you knew how much you are able to digest, I am really surprised as to why you travelled all these 6,000 miles to a foreign country to say that we were not able to digest even the £ 80 million granted to us. One of these conditions *should* be there: "Irrespective of my capacity to digest, I want my money because it is my money. Transfer it to my account, I will do what I can". What is the guarantee that they can pay tomorrow? Already Mr. Churchill and others of his like are creating trouble; three years later they may not pay at all. Therefore, say, "Here and now transfer it to my account".

That is the approach. That is exactly why we said in the Standing Finance Committee that you take some more people. On a former occasion I told my honourable friend the Finance Minister on the floor of this House that in the previous six months' arrangement he did not, according to me, fare well. Then I suggested that he must take stout men with him. He said, though not stout bodies he will take stout hearts. I am surprised that he has not stood by it. We have two stout hearts in the Standing Finance Committee..... (Interruption) I am not one, Sir, because I am stout body. We did have two stout hearts.

Sir, I have been a *vakil* practising for a very long time. Never does a client agree to enter into a compromise without always saying that he would consult his younger brother; possibly he will never pay a single pie to his younger brother, but in the matter of compromise he will say, "I will consult my younger brother". In the matter of negotiation he must have taken some younger brother with him; Prof. Ranga who would kick right through and some intractables he must have taken with him. Suppose at any time it breaks,

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what will happen? We assume the threat is made, what does it break? How will it affect us? £1,100 million were due to us on the day the Honourable the Finance Minister took the aeroplane and went to England. It is all the other side that has gained and have not gained.

So far as the military stores are concerned their book value is 500 crores. My honourable friend Mr. Sidhva said so many things. But I am not one who would say that; because it is not possible for them to remove all the aerodromes, therefore, I ought not to deny a fair price so long as I use the aerodromes. Of course we ought not to pay a pie for those left behind unserviceable. If anything is to be paid let it be paid. The only question is whether the 500 crores is correct. The Finance Minister said that his office has looked into that matter. We have no time to look into it meticulously and I am sure the office would have looked into it. £ 100 million is a big figure and unless somebody goes round and investigates these articles it is impossible to assess it.

Therefore, accepting the £ 100 million which they are going to set off for the surplus stores left behind by the British Government here, the total due is reduced from £ 1,100 million to 1,000 million.

We have to pay them pensions. What we in the Standing Finance Committee advised them was that they are not going to give it away. £ 1,000 million at the rate of one per cent per annum gives by way of interest £ 10 million. We have to pay pensions, both provincial and central, of over £ 7 million a year. Why not pay off from the interest that we earn? Why do you liquidate the capital? Why do you convert the pensions to 224 crores and then pay it off? I was not able to understand the explanation on this subject. The Finance Minister was addressing himself constantly to a talk in the Press that he must have commuted these and once for all paid. Between commutation and converting it into a number of annuities there may be a difference. Possibly he may be right. If it has to be judged from the point of view of commutation this may be a better arrangement. But there is still a better arrangement which was suggested to him by the Standing Finance Committee. What is the hurry? In the blocked account today even if Rs. 300 crores odd go away we have still £ 700 million odd and the interest on this at .75 per cent will yield £5½ millions. Those millions are our property and they can go in reduction of these pensions. Under these circumstances I am not prepared to agree to this commutation or purchase of annuities. It is unnecessary. What has really happened is this; the Finance Minister does not possibly understand the implication in the purchase of annuities. For sixty years he has given instalments; he has agreed to purchase annuities in instalments over a period of sixty years. He is prepared to take it instalments, that is sixty years, which the Finance Minister has given to the other side. Now, Sir, I am not agreeable to this course.

Then two other concrete suggestions were made. Nearly a £ 100 million out of this 1,000 million were the property of this country even before the war started. Therefore so far as this 100 million is concerned, at that time they were multilaterally convertible. We were entitled to recover them in gold. So we suggested that so far as these are concerned, we should insist on their being paid by gold or by dollars and their being treated separately from the rest. That has not been done in these negotiations.

Then, so far as the balances are concerned, we divided the entire thing into four parts. We suggested that 25 per cent might be insisted upon for payment either in gold or in dollars or being made multilaterally convertible. This ought to be a final arrangement.

Regarding 25 per cent of the balance, capital goods must be given to us. I am not a little surprised at the manner in which some explanation has been given as to why capital goods have not been purchased or indented for. I have got figures here. In the year 1947 import licences applications were 2,200 to the value of Rs. 53 crores, of which 1,554 applications were accepted and licences granted to the value of Rs. 41 crores. There is no good blaming our people here. Not many have been rejected. Only 185 licences were not issued and even those are under consideration. Now, there are three bottlenecks. Either the applications were not granted by the Commerce Department or the Reserve Bank did not give any exchange, or at that end they were not prepared to part with capital goods. What I suspect is that they are not parting with the capital goods. So instead of a financial agreement with this country, it must have been a commercial agreement with Great Britain. What is the good of merely getting anything on paper from one account in the Bank of England to another account? Hitherto it had stood in the name of X; now it stands in the name of Y. What is the use of this if it is not going to be translated into capital goods we need? Sir Stafford Cripps is not going to give a farthing; nothing by way of gold, bullion, dollar or anything. Under these circumstances, it is idle, it is unnecessarily wasting time as if we are going to get the 1,000 million. What ought to have been done is to have found out what they are going to supply. They are not supplying. That is my feeling. They are not supplying at the other end. Our friends went with a host of Secretaries and Under Secretaries for the purpose of getting something, but evidently they have not been able to cut much ice there. They are not able to show to us anything. It only reminds me of what a person in my country side who is called a Punganoor man did. He went to his house and told his younger brother. "On the way a Pathan came. He asked me to wear a load on my head. I said 'No.' He said, 'You must'. So I carried it. Was I afraid?" Then he proceeded, "He asked me to carry it. I refused to carry it. He said 'You must carry it'. So I carried it. Was I afraid?" And then, he said: "The Pathan was walking swiftly and I lagged behind. I could not follow him. He said 'Walk briskly'. I walked. Was I afraid?" And finally, he said: "The Pathan asked me to take the load to his village and place it there and I did it. Was I afraid?" This is the way in which both the Honourable Minister and the friends that we sent from here have tried to defend this matter. I am not trying to pooh-pooh. This is an important matter. I am only trying to put the humorous side of it, so that one may not lose sight of it.

So far as capital goods are concerned, I am not asking him to re-write what has been done. If it is still possible, I ask him so far as the pensions are concerned, to say that we do not want these annuities. Let us grant only 100 millions now, that is so far as the surplus stores are concerned. Regarding the annuities, there is nothing wrong; there is no breach of faith with the British Government; we are not going to get any profit out of it and we have not refuted our liability to pay the pensions. All that we say is that even with the limited rate of interest of .78 or .75 per cent, we are going to get—although I dare say a more reasonable interest could be expected—even this interest at .78 or .75 per cent, on 1,000 million gives about 7.5 millions which are quite enough to wipe out the pensions that accrue from day to day.

Shri K. Santhanam: But do you want also our balances to be there for sixty years?

Shri M. Ananthasayanam Ayyangar: No. My friend thinks that a man will go on as if he is going to be a *Markandeya*. Whoever is going to live for sixty years? So the amount on pensions will go on decreasing. I do not think anybody will live as long as that and I would suggest to anybody who wants to live long to go to my friend Mr. Santhanam and take his blessings.

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So that is my point as far as capital goods are concerned. We can do that even now if the Honourable Minister does not think.....

The Honourable Shri R. K. Shanmukham Chetty: I have done exactly that thing. I will explain.

Shri M. Ananthasayanam Ayyangar: I am always anxious to be shown that I am in the wrong.

The Honourable Shri R. K. Shanmukham Chetty: No, you are right and I have tried to do what you consider to be right.

Shri M. Ananthasayanam Ayyangar: If that is so, I will pass on. Another thing that I must mention is that my exuberance I said the machine does not seem to be working, but my Honourable friend seems to support me and to have come over to this side. He says who is responsible? He is the Finance Minister. Why did he not drive the others? As a matter of fact, what I see is that there was drive so far as other Departments are concerned. But nothing seems to have come out. The Finance Minister went all the way. He had books. He had figures. He could have negotiated in terms of goods. No 1, 2, 3. This is what England should do. But what happened is this. It happens with every debtor. The debtor says: "I have purchased from this shop. So do not go to that shop. Go to the other shop." He will purchase from the other shop with his current earnings and will not be able to pay the other shop. Similarly, England wants as much advantage as she can from us. Therefore, you must have placed insistence upon them that they should give us priority. Now they are giving priority for all capital goods to X, Y, Z. We have priority 4th. Why could we not have the first priority in capital goods? What is the arrangement that has been made for this 160 million at least? What is the guarantee that you are going to use it? My hon'ble friend Mr. T. T. Krishnamachari says "Establish another concern there and then go on."—Well, a High Commissioner, a Low Commissioner, all kinds of Commissioners there are. What is the present position? Under those circumstances, it is wrong to have obtained a financial agreement. All that I am submitting is that it is necessary that these gentlemen must have addressed themselves to these considerations and entered into not a Financial Agreement but a commercial agreement.

The third point is we suggested that 25 per cent of this we should be enabled to float a loan in America and the British Government may guarantee the loan. Let them pay in various instalments. We have not got dollars. The British Government advised us gently "Go and borrow from the International Monetary Fund." Are we in need of this advice? The debtor refuses to pay and then says there is the other creditor whom you may approach. Still, we have borrowed to the tune of 52 million dollars from the International Monetary Fund. We have an adverse balance of trade with America. My friend Mr. T. T. Krishnamachari says, "You are not going to get anything from America." Now which man will not be willing to sell if we have got the money and offer the money? Today prices are high everywhere and our prices are also high. Under these circumstances, we gave the advice that 25 per cent may be got by way of dollars for a loan.

Lastly, Sir, we advised also that 25 per cent. may be utilised for the purchase of coal mines and others. This advice was given by the Standing Finance Committee to our friends. We are yet to hear why this practically unanimous Resolution was turned down. We still believe that if they had adopted it, we would have fared better in the negotiations.

Mr. Speaker: The honourable member's time is up.

Shri M. Ananthasayanam Ayyangar: If I have said anything and taken more time it is to say that one safeguard may have been obtained. After all, we have not lost much. Still there are two-thirds of the money that is due. If it is still there, it is open to the Finance Minister to consider this proposition that he may once again consider the question as to whether we should now give away 200 and odd millions for the purpose of creating tapering annuities for a long period. If he withdraws that supplementary grant and presses only for 100 millions certainly we need not have any hesitation, even otherwise, if he has entered into an agreement we will certainly stand by him.

Dr. B. V. Keskar (U.P.: General): Mr. Speaker, during the course of this debate, we have had all sorts of views expressed about the sterling balances and what our Delegation, which went to England, should or should not have done. There were two opposite points of view expressed here. On the one hand, some of our colleagues here—and amongst them some very distinguished economists have very violently criticised the Finance Minister for the agreement that he has concluded in England, the very basis of the agreement has been criticised. Well, on the other hand other honourable members have hastened to his rescue; they have even given him certificates about his competence and his ideas about sterling balance. I have no doubt about his competence. You all know it and he is conscious of it and we all know the work that he is doing. I do not think that he is in need of any certificate from us.

I fear, Sir, that during all this debate, we have not tried to tackle the problem. I am afraid most of our honourable friends here have not tried to tackle the fundamental point. On the other hand they are trying to make an unassailable case for India which is good. Supposing that we made an unassailable case for India and we got it passed to our own satisfaction, to the satisfaction of the Indian members, to the satisfaction of the people at large. Well, what then? Where do we go from there? We would not go any further, by having said something to our own satisfaction in this House, in getting the sterling balances settled.

I therefore submit, Sir, that this is a practical question; this is a political question; this is not an economic question; this is not a question of scaling down of the sterling balances which England owes to India and all that it implies. We are all unanimous and I quite agree with my honourable friend Prof. Shah that England does owe to India this huge sum, but the problem is how are we going to make England pay this amount? In all this debate I have heard only one practical suggestion made by my honourable friend Prof. Shibban Lal Saksena, and it is that we should confiscate the British capital invested in India. I again say, Sir, that no other practical suggestion has been put forward.

With regard to his suggestion, I would submit that it is possible, as Mr. T. T. Krishnamachari was saying; personally I think that it is theoretically possible; it is practically not so possible. It is easy to say that we will confiscate all the foreign capital in India; we can do it, no doubt, but we have to be ready for all the consequences. Are you in a position to realize from England this amount today or in a number of years? There is an amendment standing in the name of my honourable friend Mr. Lari that no guarantee has been taken for not scaling down of the sterling balances in the future. Well, Sir, I would submit that whatever assurances that the Finance Minister may give here, I personally think that it is not possible for anybody to guarantee anything with regard to the future of the sterling balances. I think it is always dangerous to predict very long and very far in politics and especially when such big sums are involved. Personally I think that we are probably not going to

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get any enormous amount whatever of the sterling balances, though the Finance Minister has assured us that the balances are not going to be scaled down. It is, Sir, a question of the capacity of England to pay. I know, Sir, that it would be too hard for England to pay us.

Prof. H. G. Ranga: Willingness of America to allow her to pay.

Dr. B. V. Keskar: It is not only the willingness of America to allow England to pay, but it is also the capacity of England to pay. No doubt, we would be very glad if England pays us; personally I would be very glad, but we know that it is not in human nature. Well, in those conditions what are you going to do? Do you think by simply maintaining here that England ought to pay the sterling balances, we are going to make her pay? You are not going to do anything of the kind. Let us be practical and let us be realists and from this point of view I do consider that some sort of settlement had to be arrived at.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Shrimati Ammu Swaminadhan (one of the Panel of Chairmen).]

It is quite possible that the settlement that the Honourable the Finance Minister and the Delegation that went to England, arrived at was not probably the best possible settlement. It is also possible that another Finance Minister, more dynamic and with greater power of persuasion might have persuaded the British Government to give us a few more millions. I agree it is possible—I am not going into the details, but I do maintain that either you had to come to a settlement or you had to throw overboard the whole sterling balances. I am not going to mince matters and I think that whatever you might put in theory, in practice you cannot ask any country however big to pay such a huge amount as my honourable friend Mr. Ananthasayanam Ayyangar just said: "Put it in our accounts this 1,500 million pounds".

Well, Sir, I would very much like it, but I do not think that it is practically possible, and if tomorrow England refused to put it what are we going to do? It all boils down to this that in theory it is very well and we can agree with Prof. Shah, but for me the question is: who is going to implement it? Who is going to bell the cat? I think, Sir, it is this practical point that we have to keep in view and from this point of view, I do think that the Delegation that went there did some good work. I would not agree with it in every detail; there are many details in which I disagree. Many of the points have been stressed by other friends who spoke before me. As Dr. Pattabhi Sitaramayya was good enough to say this was a kind of academic debate, but our having a fling at the Finance Minister and throwing blame on him and the Government policy is a very bad thing. Supposing we had been in the delegation, what we would have done? We could have broken there, come back and sat at home; we would have put the sterling balances into cold storage for ever. (*An Honourable Member:* 'Not at all'.) I would submit to my friends, Sir, that theoretical criticism apart, let us come down to brass tacks and accept that we had to come to a settlement and it is possible that whatever little defects of detail there might have been, we should accept it, that some good work has been done. Many things about the work done by the Delegation I would personally have criticised. They have been already put forward by other honourable members and I would not like to waste the time of the House. I find that most of our friends have been stressing the obligation of England to pay and have taken this opportunity of abusing it; I would like to abuse England, but I think we have done it so much that there is no point in doing it over and over again. (*Mr. R. K. Sidhva:* 'What is your practical point?'). My point

is that we have to come to a settlement, some such settlement, whatever the details might be. I might disagree in the details with the Finance Minister, but a settlement of this kind had to be made and we have to accept it.

Shri Ajit Prasad Jain (U. P.: General): The motion of the Honourable the Finance Minister and the two amendments, one moved by Mr. Lari and the other by Professor Shibban Lal Saxena raise two fundamental questions: Whether the settlement entered into by the Honourable the Finance Minister regarding the sterling balances, that is purchasing stores and installations for a total amount of 100 million pounds, the funding of the pensions at a value of 166 million pounds, the settlement of the Defence Expenditure Plan at 55 million pounds, and the release of the sterling balances, a part of it in the form of hard currency, is a good deal or it is one which does not deserve the approval of the House? The second question is whether the question of scaling down of the sterling balances has been settled once for all or it is still left open?

My honourable friend Mr. Lari referred to the White Paper *in extenso*. But, unfortunately, some of the other speakers who said that the question of scaling down of the balances was still open to U.K., did not refer to any authoritative document. They expressed a kind of *a priori* opinion which does not carry much weight. In fact, Mr. Lari exhibited what one might call the pre-fifteenth-August mentality. His whole argument was that what the Chancellor of the Exchequer in U.K. or Mr. Churchill said is good and what the Honourable the Finance Minister says does not carry any weight. That is the old mentality that the Chancellor of the Exchequer could overrule the Finance Minister of India. The whole question is one of interpretation. The letters and the documents relating to the settlement are all published. I would refer you to page 2 of the White Paper that deals with the first stage, when the question of sterling balances came up for the first time in February 1947. There is a list of questions that came up for discussion. In this list, we do not find that the question of scaling down was raised. The next stage arrives when the basic agreement of 14th July was entered into between the representatives of India and the United Kingdom. Article 4 of that agreement is very important. That article lays down certain claims which England made against India. Those claims are classified in paragraph 2. They relate to the value of the military stores and equipment, settlement of matters outstanding under the Defence Expenditure plans, the question of the release of sterling balances and the funding of the pensions. It is quite clear that there is no mention whatsoever of the question of scaling down. The next stage in February 1948 divides the sterling account into two parts: Pakistan has a separate account and India has a separate account. Even then, no question of scaling down is raised. During the course of the present negotiations, no question of scaling down was raised. Therefore, the Honourable the Finance Minister is perfectly correct when he says that the question of scaling down was never raised. No creditor ever goes to the debtor and says: do you want a scaling down of your debt? England never raised this question; it was not for the Finance Minister of India to say to the Chancellor of the Exchequer, do you want its scaling down? That would have been a foolish thing. The whole question before the Delegation was at what figure the sterling balances should be fixed. As the agreement of the 14th of August will show, tentatively, the value of the sterling balances was fixed at 1160 million pounds, but it was subject to certain adjustments. The question of adjustments was before the Delegation, and the Delegation has struck a final balance, which is acceptable to both the parties. How does the question of scaling down, therefore, remain alive? Why should we care for what Churchill asks and Sir Stafford Cripps replies? I was glad to hear a stout 'No' from the Finance Minister, when a

[Shri Ajit Prasad Jain]

suggestion was made to ask for clarification from the Chancellor of Exchequer. We stand on absolutely firm grounds.

Coming to the details of the settlement the first question was about the value of the stores and installations. A good deal has been said in this House and outside about the value of the stores. We have been told that they have been over-valued. During the speech of the Finance Minister, I asked a question as to the basis on which this value was fixed. Unfortunately, I could not get any definite reply from him. Mr. Krishnamachari has given us some figures; but they do not take us very far either. I have seen some of the assets left by the Britishers in India. We have got an aerodrome and quite a number of barracks and other buildings and installations left in that part of the country from where I come, namely, the Meerut Division. My own idea is that some of these installations left by the British are of no value; they are not even worth the cost of transportation. There are hundreds and thousands of barracks which used to accommodate soldiers, over which crores of Rupees have been spent and which are lying in an absolutely dilapidated condition and which will hardly be of any use. It is not possible for us to correctly assess whether this estimate of 100 million pounds is correct or not. It consists of a variety of items. All that we can say is that it is an *ad hoc* amount, about which it is difficult to say whether the stores and equipment and installations that we have received are worth the amount or not. May be that they are not; but we can well leave it to the experts who have calculated the value.

The other question is about the capitalisation of pensions. I can well understand an absolute capitalisation which absolves us of all responsibility for payments in future. I can understand the position where we are responsible for the payment of pensions until they are exhausted. But this kind of intermediate arrangement whereby the responsibility for payment remains ours, but at the same time, we have locked up not less than 166 million pounds in the hands of the British, without deriving any corresponding advantage, I cannot understand. This amount could have been invested in our account; we could have opened a third account, which would earn interest. We would have absolute domination over this money. Under the present arrangement, however, our responsibility for the payment of pensions remains intact. The Honourable the Finance Minister has advanced three reasons for doing it. He says that it would have shown lack of faith on our part if we had absolved ourselves of responsibility to pay pensions. I submit that this is only a sentimental reason. We were not going to absolve ourselves of this responsibility for nothing. We were going to make a block payment and fix the responsibility upon another person. Another reason which he gave was that these pensions are payable during good conduct. If pensions were to be capitalised, it could have been laid down as one of the conditions that in case any of the recipients of the pension did an act in a manner which would entail the forfeiture of his pension, that amount would be refunded to us. We could continue to be judge of good conduct. The third reason given was that India may impose income-tax. In the agreement, it could have been provided that in case these pensions are subjected to income-tax, the amount of income-tax would be payable to India by the British Exchequer by making deductions at the source from the amounts of the pension. To my mind it appears that we have without deriving any corresponding advantage blocked up a very huge amount of 166 million sterling. In fact in a way it ties us to England for a very long period.

The question about the rate of interest has been raised. The Finance Minister said that the rate of interest on the sterling investment varies between .75 and .8 per cent. That is too low a rate of interest. Mr. Sidhva has pointed out that U.S.A. is charging 2.2 per cent. What is the position in

India? In last October a loan of 40 crores was floated at a rate of 2 3/4 per cent and that did not attract sufficient cash subscription. We invest our resources at a rate of interest of .75 to .8 per cent. while we are floating our loans at 2 3/4 per cent; that is not a very wise thing to do.

The question of release of sterling during the next three years is another question which has been controversial. We failed to utilise the balance released last year. The more important question for us is to utilise the money at our disposal. Regarding that portion about 18½ million sterling which would be available to us for expenditure in hard currency areas, the first letters that were exchanged between the Indian Delegation and the representatives of the United Kingdom say that this amount will be in addition to any amount that we may draw from amounts from the International Monetary Fund. This part of the agreement has been confined only to one year. We all know that India during the last several years has been importing large amounts of grain; and at a time when we want to launch upon big industrial programme, we should have taken more of multilateral convertible money. I am afraid, as the Finance Minister himself admitted, that the amount available may not prove sufficient.

A suggestion was made by Prof. Shah that we could have repatriated sterling balances by acquiring the investments of the Britishers in India. I do not agree with that suggestion. That would mean that we would have converted the sterling balances into fixed productive assets that we already possess in India. We would not have added one iota to our productive capacity and would have locked up this amount. In my opinion their mobile resources should be utilized in setting up new schemes and enterprises. There is one more point that I should like to emphasise and that relates to Article VIII of the Agreement of 14th August 1947 which has been extended by this Agreement. Paragraph 3 of Article VIII says: "Notwithstanding anything in this article the two Governments shall not restrict transfers of capital from India to the United Kingdom representing—

(a) remittances of savings belonging to persons of United Kingdom origin leaving India in order to take up permanent residence in the United Kingdom; and

(b) the voluntary repatriation of investments by persons regarded as resident in the United Kingdom for purposes of exchange control in the United Kingdom".

It means that any resident of the United Kingdom who has been living in India and has made some savings or a person who has made investments here can encash his savings and investments and take them to England. This leaves an unfettered power in the hands of Britishers who want to leave India. I have no objection to their taking away their money, but it should have been made automatically payable out of the sterling balances. Under the arrangement laid down in the previous clause part of these amounts will be offset against our current earnings of sterling. I do not think this is a desirable thing.

I submit that this Agreement has many loopholes, but as it has been already concluded we are left with no alternative but to accept it.

Pandit Lakshmi Kanta Maitra: Madam, this is going to be the last of the series of discussions on this highly important subject of sterling exchanges for a period of at least three years from this date. It is hardly necessary for me to convey to the Finance Minister and to the members of his Delegation that we appreciate the very arduous task that they had undertaken on behalf of this country to effect an amicable settlement in regard to the sterling balances. We are also deeply grateful to him for the vehemence and insistence with which he resisted the claims and counter-claims which have come forth from time to time that India was morally bound to pay a more substantial amount as a set-off

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for the security she had purchased during the war. While we say all this and express our appreciation of the task that he undertook which was both difficult and the Delegation that was going abroad would have some inaugural conference convey to him the reactions of the different sections of the House to the settlement that has been arrived at. We realise that it is not within our competence to ratify it or to reject it; we are simply to express our opinion as to how we look at this deal from the point of view of the larger economy of the country. When such a delicate undertaking was going to be taken up we naturally expected—at least I naturally expected—that the Finance Minister and the delegation that was going abroad would have some inaugural conference here in Delhi or consultations with financial experts and commercial interests and then go prepared for the problems that were to be discussed there. From the speeches that I have heard so far I do not know that any such advisory board or council of experts was called prior to their departure from here. It will probably be argued that such a conference could not in all probability anticipate the various points of view that would be placed before it, and therefore the work of such an advisory expert board would have been more or less guesswork. I do not share that view. Any serious student of economics in this country who has been studying this question of sterling balances could well anticipate the points that were likely to be raised. For instance, my honourable friend the Finance Minister has categorically stated that the ghost of scaling down these balances has been finally laid. Where is the justification for that statement? He comes to that conclusion because of the reticence and perhaps studied silence of the Chancellor of the Exchequer. He must have construed from that silence that for all time to come this question of scaling down had been given the go-by. Today, I read in the newspapers reports to the effect that the Honourable the Finance Minister is said to have had enough documentary evidence in his possession to prove here and now that this was the case. I would invite him in his reply to come forward with all that evidence.

The Honourable Shri R. K. Shanmukham Chetty: I read the letter yesterday!

Pandit Lakshmi Kanta Maitra: If that is all the document which the Honourable the Finance Minister has on the point which he today read in reply to a supplementary question, then I am not in the least happy. For myself, I would not be satisfied with anything short of a categorical declaration from the British Chancellor of the Exchequer, that for all time to come, this question was not going to be raised. (*Shri L. Krishnaswami Bharathi:* 'Would that be binding on the successors?') Whether binding or not, such a statement should have been forthcoming. On the other hand, immediately after the negotiations were ended, Mr. Winston Churchill raised an outcry in reply to which the Chancellor of the Exchequer had to say that the matter was open on both sides. I can quite imagine that, God forbid, if Mr. Churchill were to come to power again in three years' time with his Conservative gang, he will see to it that the scaling down business was pursued with compound interest. (*Shri K. Hanumanthaiya:* 'He cannot'!) You may say he cannot. But if you had that declaration from the British Government the position would have been different.

Coming to the three main issues arising out of this, the question of the stores, fittings, fixtures and installations, which have been satisfactorily accounted for in the opinion of the Delegation, has been considered here and views have been expressed about them. My honourable friend, Mr. Sidhva, whom I do not find in his seat, was perfectly right in saying that most of the stores were out of date, unserviceable and not fit for use. On the floor of this House on several occasions, I have put questions to the Honourable the

had been imported into this country immediately before the cessation of the war and which had been unpacked, had to be sent away, destroyed or put up for disposal. If the Honourable the Finance Minister thinks that he has been able to score a point there. I have nothing to say, because he represents the Indian Government and we must accept his statement at its face-value.

But with regard to the pensionary charges and the capitalization of the pension fund, I am surprised that Mr. T. T. Krishnamachari, defending it with all the vigour that he was capable of, said that it was a most perfect deal. We on this side of the House do not take that view. We do not think that this was really a satisfactory part of the deal. These balances have been in England all this time. Nothing by way of security was demanded and they could have been freely drawn upon from time to time as need arose. There was even the alternative of a lump-sum payment which had certain advantages notwithstanding the fact that income-tax could not straightaway be deducted from them. But that possibility should have been explored.

But what is still more vital is the question of releases. In the course of the next three years they are going to release only 80 millions. Now try to look at the picture as it emerges. Straight off you wipe out a huge block of sterling on account of your pension capitalization fund. That means that it reduces the volume of your reserves and substantially so, quite apart from whatever advantage you may have. We in this country have always looked upon this sterling balances as the very life-blood of the nation. It represents not only the goods and services rendered by the masses during the war, but it represents in abounding measure the sweat, and toil and tears which this country spent in abundance to acquire them. Therefore, it is only natural that Indians should be very sore over its settlement and if one honourable member here and another honourable member there expresses dissatisfaction, the Finance Minister ought not to be put away. This is very vital. We have all built our hopes for the future economic reconstruction of the country on the sterling balances. Therefore, we think that the quantum of release agreed upon will be grossly inadequate. My friend the Finance Minister and Mr. Krishnamachari said that six previous months' experience in this respect was not very encouraging. We could not utilise it to the full. But there is a variety of factors leading to this state of affairs and the Honourable Minister is also responsible in a large measure for that failure. If we could not consume that in the course of six months, is that any argument that he could not do it in the next three years? Could you not visualise that if we were not able to have our blue-prints ready for industrial development, the money would be withheld and the sterling balances would not be available to us? Now, if in the course of three years we cannot spend £200 million do you think there is any chance for this country to make any headway either in industrialization or in economic reconstruction? I do not see any future for it.

Then take the multi-lateral convertibility. Only 15 millions out of this is going to be available for that purpose. We feel that India should try to get her capital goods in the best market, wherever available, and if necessary we shall have to go to America for them: and £15 million sterling in my opinion is too small an amount. Moreover, you will find that nowhere in the report on these negotiations is there any indication that any interest was demanded. Great Britain was made to pay interest to America, though America was her most potent and powerful ally. But could we not claim straightaway from the British Government that since so many hundreds of pounds sterling were with them India was entitled to have some form of interest? I strongly feel that this should have been done and we are sorry that this was not done. This does not necessarily mean that we condemn our honourable friend the Finance Minister for what he has not been able to

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achieve. But I do feel that with his best intentions, with all his sincerity of purpose he has ultimately been out-witted by Sir Stafford Cripps and it is a misfortune that he could not come out better in this deal.

Whatever it may be, the deal as it is should be implemented in the proper way and in the proper spirit. Let not Great Britain come forward again and tell us that because you could not utilise the releases we had made on your behalf during the last three years, we are not going to release any further sterling for you. This is a queer sort of argument that a debtor advances to a creditor! The debtor seems to insist that the creditor should satisfy the debtor that he has spent the money in a certain way. This is not the way of a commercial or financial deal. Therefore we want the Government of India to be particularly careful to see that further tricks on India are not played by the Britisher. We have had enough of it and we must make them understand that he will not tolerate any more of them. As it is we have no other choice but to give our approval to the agreement today but we give that approval with a feeling of disappointment and despondency in our minds.

The Honourable Shri R. K. Shanmukham Chetty: Madam, on the whole I listened to the debate for the last two days with great pleasure. Having been in active public life for over a quarter of a century, I have not been in the least perturbed by some of the adverse criticisms levelled against the agreement on the floor of this House. Some of the criticisms were really actuated by the motive to create difficulties for the Government and to condemn whatever Government did. Mr. Lari's criticism was pronouncedly of that type. Some criticism was based upon a difference in the ideology and the whole approach to the problem. Prof. Saksena and Prof. Shah are representatives of that type. The rest of the criticism was really due to a genuine apprehension on the part of honourable members to see that the interests of India were safeguarded and their apprehension was really enhanced, leading sometimes to some confusion of thought, on account of a misunderstanding of the highly technical implications associated with this problem. I do not therefore resent any criticism at all.

Many honourable members started their criticisms with the observation that the Members of the Delegation were more influenced by the difficulties of England and were not fully alive to the sacrifices made by India in the past or to her needs in the present and in the future. I do not know wherefrom they got this impression. My honourable friend Mr. Ananthasayanam Ayyangar drew my attention to the fact that I ought to have represented to the Chancellor of the British Exchequer that these balances were built on the sacrifice of millions of human being inhabiting this vast continent and suggested that we are entitled to some sort of compensation for the sacrifices that we made during the war period. How does my honourable friend know that I did not make that representation. Surely in presenting the White Paper I never thought it necessary to advance all the arguments that I advanced in my negotiations with the representatives of the British Government. It is not appropriate to give any detailed exposition of the course of an international negotiation. But I do not think that I will be violating any rules of international propriety when I say that in the very first plenary session between the Delegations I made it perfectly plain to the British representatives that they were responsible for the policy which resulted in the building up of these sterling balances, that these balances were built literally on the sacrifice and the blood of the Indian people and we had every right to demand that they should be repaid without demur. I may assure my honourable friend Mr. Ananthasayanam Ayyangar and the other members of the House that it never occurred to our mind to

over-emphasise the difficulties or needs of the British economy, though as negotiators involved in a highly technical matter we were bound to pay some consideration to that aspect of the question also. But the supreme consideration that was present in my mind and in the minds of my colleagues of the Delegation and all the officials that I took with me was the supreme need of India in the present and in the future. I had the fortune of having as colleagues on the Delegation men of undoubted integrity and patriotism, men of great capacity, men who understood the full implications of a highly technical problem of this kind and even to suggest that such members of a delegation ignored the interests of India will be doing very great injustice to our own countrymen. I wish to take this opportunity of expressing my own personal thanks and the thanks of the Government of India for the magnificent services rendered by all those members of the Delegation.

My honourable friend Prof. K. T. Shah referred to the question of the depreciation of the sterling and in an almost gloating manner he announced to the House that a *de facto* depreciation has already taken place, because the value of the pound today in terms of its purchasing power is not the same as it was when we supplied the goods. Yes, he is perfectly justified. But, Madam, depreciation and decay are irretrievably associated with all matters. Nothing that is born in the world, whether it is currency or professors of economics can escape it. Currencies depreciate and even professors decay and whether it is a depreciated currency or a decayed professor we have to accept them at their face-value!

My honourable friend Mr. Ananthasayanam Ayyangar asked me whether we made any attempt to obtain the insertion of a gold clause like the one that the Argentina Government obtained. Yes, we tried our best but we did not succeed. It is no wonder that we failed. Argentina was clever enough, shrewd enough to insert the clause, when the original loans were granted but at the time when these balances accumulated we were not the masters of our destiny. I am sure that if there was a national government during the period of the war that Government would never have accepted the position of the accumulation of these large balances without a safeguard against depreciation. But there the facts are and having been landed in this position, not by our own action, the next best thing that we could do was to see that that very sterling in which so much of our fortune was invested did not depreciate. Madam, it is a curious phenomenon in this world that very often the creditor has to take care so as to see that the debtor does not become insolvent. In fact it is a very common feature in every country in the world that when a man who has borrowed large sums of money from a bank is unable to pay, and threatens to close his business, the bank cajoles him and proposes that further advances will be made to him. As creditors of England it is to our interest, as it is to the interest of all the creditors of England, to see that the sterling does not depreciate and it was in fact one of the vital factors that we had to keep in mind in the course of these negotiations.

My honourable friend Mr. T. T. Krishnamachari gave the other side of the picture as it were, that is the depreciation of the rupee as compared with the depreciation of the sterling during the last seven years. Though it is foolish to prophesy in this quick-changing world, my own feeling is that with all the tremendous efforts put forth by the Britishers their economy will recover very soon. When that economy recovers to anything like normality, not merely will there be no depreciation of sterling, but the chance of our recovering every pound of that sterling balance would become brighter. After all, the very self-interest of England would indicate that she must put forth every effort that she is capable of to restore the position of the sterling as a sovereign currency in the international economic world. England, I am confident, will

[Shri R. K. Shanmukham Chetty]

fight, and fight very hard to get that position restored. When that position is restored, not merely is our balance safe in England, but our balance becomes also automatically multilaterally convertible.

I shall now go on to a few observations regarding pensions and stores. I tried my best to elucidate the points raised by certain honourable members. My honourable friend Mr. Ananthasayanam Ayyangar suggested that the wiser course would have been to accept an interest of approximately 1 per cent. on our balance and out of the proceeds of that interest to pay the annual charges relating to pensions. He was right in assuming that the interest will approximately be sufficient to pay the pensions. What he wanted to emphasize was that we should have the benefit of the accruing interest year by year. Under this Agreement we have completely secured it. My honourable friend will find that both for the Central pensions and for the pensions of the Provinces within the Indian Union we have agreed to pay 168 million pounds. If he adds up the figures of the two tables given in the White Paper he will find that in the course of sixty years, in return for the 168 million pounds that we have paid today, England would have paid £198½ million. That 30½ million pounds represents the interest that we are getting on the capitalised payment.

Shri M. Ananthasayanam Ayyangar: What I was submitting was not that we should earn on these 168 million pounds. I know the Honourable the Finance Minister has taken care to see that this interest is carried over and distributed so that ultimately our country gets £198 million as against £168 million that we have invested. As regards the balance in the blocked account there is interest accruing and from time to time and we may be drawing off. Instead of taking it away as current income of the Reserve Bank we might pay it off in the pensions so that the entire balance may stand as it is.

The Honourable Shri R. K. Shanmukham Chetty: While it will be seen that in the scheme of capitalisation of pensions we have secured full advantage based on 1 per cent. basis, we are also earning interest on the remaining sum—0.7 or 0.8 per cent. I think the difference is instead of earning 1 per cent. on the whole we are earning 1 per cent. only for a portion of the sterling balances. We could not succeed in getting more than 0.8 per cent. interest for the rest. But the interest will accrue in our favour. Therefore we do not lose the benefit of it.

This particular method of payment by paying off a capitalised sum became necessary in our interest because, as I tried to explain in my opening speech, if we did not do this, then the entire responsibility for finding the exchange year after year will fall on the Indian Government and the Pakistan Government will go scotfree in that respect. By making this arrangement the 148½ million pounds which has to be paid as a capital sum against the liability of the Central Government for pensions will be taken from the common pool of sterling before it is actually divided between the Governments of India and Pakistan. That is not merely a substantial advantage, but it was very necessary in our own interest to get this done.

Pandit Lakshmi Kanta Maitra: You hope to realize your share from Pakistan?

The Honourable Shri R. K. Shanmukham Chetty: That has all been done in the Partition arrangement, and we need not go into that now. As a matter of fact I would like honourable members to realize that from the point of view of the actual money earned or even the convenience of payment, there is really not much difference between the final arrangement that I have made and the alternative of adopting Mr. Ananthasayanam Ayyangar's suggestion and

paying these pensions year after year. The one fundamental consideration was the need for separating the sterling balances between ourselves and Pakistan.

My honourable friend Mr. B. Das was somewhat confused about the liability that we have placed on the Indian tax-payer in making this arrangement. He thought that I have saddled the present generation with a liability which will be spread over for the next sixty years. Well, nothing of that sort has been done. This is purely a technical arrangement which will have to be made now with the Reserve Bank. We have agreed to pay £168 million now to the British Government out of our sterling balances. The rupee equivalent of it is 216 crores and odd. What we will do is this. We will have now to instruct the Reserve Bank to give to the Bank of England on behalf of the British Government this £168 million. To enable the Reserve Bank to do that we have to give to the Reserve Bank Rs. 216 crores worth of notes—Currency notes. Obviously we have not got all that cash. Therefore what we will do now—and what we propose to do is we will create *ad hoc* rupee securities of the Government of India to the extent of Rs. 216 crores.

An Honourable Member: Treasury Bills?

The Honourable Shri R. K. Shanmukham Chetty: It is *ad hoc* Government of India securities—I.O.U.s. These will be given to the Reserve Bank. As against this *ad hoc* Government of India security of Rs. 216 crores the Reserve Bank will release to the British Government, through the Bank of England, the equivalent in sterling. After this transaction takes place, if you compare the Weekly Statement of the Reserve Bank with the previous week you will find that so far as Rs. 216 crores is represented, instead of sterling securities to that amount you will find Government of India securities to that amount. So no burden has been placed upon anybody. But the question arises "well, it is all very nice; instead of finding Rs. 216 crores of hard cash you simply write an I.O.U.s and give it to the Reserve Bank and against that you draw sterling securities worth Rs. 216 crores. You have now undertaken a debt to the Reserve Bank. How are you going to discharge it?" What will be done is, year after year, as the pensions become due and as our Budget has to be debited, suppose it is Rs. 10 crores for 1949-50, in 1949-50 we will hand over Rs. 10 crores to the Reserve Bank in cash and withdraw Rs. 10 crores worth of securities. If no other arrangement is made in the mean time, in sixty years automatically this debt of Rs. 216 crores will be wiped out. This is under the assumption that no other arrangement is considered feasible in the meantime. But suppose in the meantime we find that we are in a position to successfully raise loans in the market then it is quite possible that we might decide that as against the securities issued in the market we will tender them to the Reserve Bank and withdraw these *ad hoc* securities from the Reserve Bank.

Prof. N. G. Ranga: What will be the interest on the I.O.U.s?

The Honourable Shri R. K. Shanmukham Chetty: That will be a technical matter which will be decided. The rate of interest will be the rate appropriate to the rate prevailing at the time.

Pandit Govind Malaviya (U.P.: General): What happens if England and India go to war against each other?

The Honourable Shri R. K. Shanmukham Chetty: I do not see how it arises here.

Pandit Govind Malaviya: Yes, we lose Sterling Balances all right. But you are taking this loan from the Reserve Bank to pay this sum. We will lose the Sterling Balances as well as this additional huge sum.

The Honourable Shri R. K. Shanmukham Chetty: We are responsible for that.

Pandit Govind Malaviya: So, that is additional burdened responsibility.

Mr. Chairman: Let the Honourable Minister go on.

The Honourable Shri R. K. Shanmukham Chetty: So, that is the technical operation involved in this pensions scheme, and no liability is placed upon this generation, which really ought to be spread over sixty years.

Now, coming to the stores and fixed assets, if honourable members will study the figures in detail, I have no doubt in my mind that they would be convinced that the bargain, to say the least, is fair to both sides if not positively on the side of India. Now we have paid Rs. 133 crores for assets and stores which are estimated to be Rs. 500 crores. The break-up of the 133 crores is somewhat like this:

	Rs.	
Surplus stores	37.71	crores
Fixed assets	20.64	„
Stores retained for the use of the Defence Department by the Army	65.12	„
Unit equipment that is equipment that remained with the Army	4.73	„
Miscellaneous S.E.A.C. items	5.13	„

Out of the 133 crores that we have now paid to the British Government, we would recover from Pakistan in the form of sterling approximately Rs. 25 crores. In other words, so far as we are concerned we have paid only Rs. 108 crores and the House must satisfy itself whether we have got really tangible assets which are worth Rs. 108 crores. I will give a few facts and figures in this context.

Shri K. Santhanam: Do the 500 crores include the value of stores in Pakistan also?

The Honourable Shri R. K. Shanmukham Chetty: Yes, it is the total. Some honourable members especially expressed somewhat sceptic views regarding the valuation of surplus stores. They think that we have probably paid for junk. The total amount that we have paid for surplus stores is Rs. 37 crores most of which is really in Indian territory. Out of this, up to 31st March, 1948 we have already realised Rs. 18 crores by the sale of these surpluses. But for the embargo that the Industries Department put upon further sales, we would have realised very much more. In the course of the current year we expected to realise about Rs. 20 crores. In other words by the end of this year we would have realised Rs. 38 crores which is exactly what we paid to the British Government for the stores. While it is not possible to predict accurately how much we will ultimately realise, the expectation of my officers is that on the whole we will realise not less than Rs. 50 crores in the sale of these surplus stores. In other words, in this transaction relating to surplus stores we are really making a profit of Rs. 13 crores. Now, if we realise 50 crores by way of the surplus stores then the value of the stores retained by us becomes Rs. 43 crores and what we have paid for the assets is only 18 crores.

My honourable friend Mr. Sidhva was very anxious to know whether we have paid for all the abandoned aerodromes, for instance. My honourable friend will be interested to know that the original book value of these fixed assets is 120 crores; for assets on which nearly Rs. 120 crores was spent, we have paid Rs. 18 crores and I would leave it to the honourable members to judge whether the bargain is not really in the interests of India.

But, Madam, apart from any question of bargain, there is one other factor which I refrained from mentioning, but since there was so much criticism on the floor of the House, I am bound to mention this. Let me tell this House that but for the existence of all these stores that we took over from the British Government on the 1st of April, 1947, we would not have had the where-withal in the matter of equipment and armament and munitions to engage in the Kashmir operations. It came to us in a very handy manner. Therefore, please don't be under the impression that we have paid money for worthless stuff. We have not only acquired stuff which has stood us in great stead at a time of great crisis and need, the very acquisition of all these stores at such a time was in itself of value and the value that we have put upon it, the money that we have paid for it, is to say the least, fair to both the countries.

I am sure, Mr. Chairman, that I have given explanation of most of the points that were raised in the course of the debate.

Pandit Lakshmi Kanta Maitra: What about the £200 million reserve?

The Honourable Shri R. K. Shanmukham Chetty: So far as that observation that probably in any case we would retain £200 million as currency reserve, I would ask honourable members not to take that statement literally. In fact, it is more or less an *obiter dictum*. We are bound to retain, at any rate, our currency authority is bound to retain, foreign exchanges in various countries of the world. Until now we were tied down to keep our foreign balances only in sterling and honourable members will find in the Amending Bill that we have now introduced for the purpose of nationalizing the Reserve Bank, I have taken away that restriction. In fact our instruction to the Reserve Bank will be now to build up dollar and other currency balances. So, if the valuation of our foreign trade is to be kept up uninterruptedly, and if we are not to be caught napping when any question of an adverse balance of payment arises, it is necessary in the modern economic set up that the currency authority of any country must retain ample foreign exchange resources to meet any balances that may arise. And it is in that connection that we made more or less an *obiter dicta* that probably we might have to retain £200 million in the form of sterling. It is quite possible that later on we may decide that we will not retain more than £100 million or not anything at all. This is merely an *obiter dictum* indicating the fact that in an actual position of the sterling balances that will be ultimately left, and which will have to be liquidated, you must bear all these factors in mind.

The sterling balances, after making all these payments and after paying the share of Pakistan, will be approximately £800 million. Now out of the £800 million if we are wise, prudent, energetic and vigilant, we would spend £160 million in the next three years which reduces the balance again to £640 million. Assuming that you decide that £100 million is necessary as a currency reserve, the ultimate balance is £540 million.

So, when the picture is seen from this angle you find there is nothing to be alarmed about the size of the sterling balances, and even this is now perfectly secure.

Honourable members referred to the British assets in India. We do not exactly know what the value of the British assets here is. The Reserve Bank is at present engaged in a detailed and scientific study about the valuation of all the British assets. Probably within the next six months or so the actual figures will be available. Whatever might be the results, I feel that the British assets will be not less than £500 or 600 millions so that our sterling balance is completely covered. If any number of Churchills arise in the future and threaten us we have got the security and the remedy in our own hands—we

[Shri R. K. Shanmukham Chetty]

need not go to negotiate with Mr. Churchill, but we can straightaway confiscate the assets of the British people here if such a contingency arises. Therefore, the House might feel now perfectly confident that the sterling balance is safe, notwithstanding all the Churchills of England and that for some time at any rate we may take leave of the sterling balances and think of other subjects.

Mr. Chairman: May I ask the honourable members who have moved their cut motions whether they wish to press their motions?

Mr. Z. H. Lari (U.P.: Muslim): I beg to withdraw my cut motion.

Prof. Shibban Lal Saksena (U.P.: General): I beg to withdraw my cut motions.

Mr. Chairman: Have the honourable members leave of the House to withdraw their cut motions?

The cut motions were, by leave of the Assembly, withdrawn.

Mr. Chairman: The question is:

"That a supplementary sum not exceeding Rs. 2,16,27,18,000 be granted to the Governor General to defray the charges which will come in course of payment during the year ending 31st March, 1949, in respect of 'Capital Outlay on Sterling Pensions'."

The motion was adopted.

Mr. Chairman: The question is:

"That a supplementary sum not exceeding Rs. 65,33,33,000 be granted to the Governor General to defray the charges which will come in course of payment during the year ending 31st March, 1949, in respect of 'Defence Capital Outlay'."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday the 16th August, 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATS

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Monday, 16th August, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A. M.

RESOLUTION RE: INDIAN PARLIAMENTARY GROUP OF INTER-PARLIAMENTARY UNION

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): Sir, I beg to move the following Resolution:

"This Assembly is of opinion that the Honourable the Speaker be pleased to take steps to form an Indian Parliamentary Group of the Inter-Parliamentary Union in conformity with the aims and objects of the said Union."

This Inter-Parliamentary Union was formed some sixty years ago for the purpose of promoting international arbitration and peace. The Union is an association of parliamentary groups constituted within the various national parliaments set up on democratic lines. A group may be formed in each parliament from amongst the Members of the national Parliament of the Country. There is no particular formality connected with the creation of an Inter-Parliamentary Group and its admission to the Union. A group constitutes itself and announces its membership. The Union is a Federation of National Groups. Each Group within a Parliament draws up its own rules of association and fixes the amount of actual contribution of its members. In its internal working each Group is autonomous, subject of course to the limitation that it conducts its work in conformity with the aims of the Union to which it is affiliated.

The aims of the Union are as follows:

- (a) to promote personal contacts between Member of the World's Parliaments;
- (b) to work for the establishment and development of democratic institutions and the advancement of the work of peace and international co-operation;
- (c) to study and seek solutions for all questions of an international character suitable for settlement by parliamentary action;
- (d) to make suggestions for the development of parliamentary institutions.

There is an Inter-Parliamentary Council on which each Group is represented by two delegates. The Executive Committee of five members supervises the work of the Inter-Parliamentary Bureau, and it is located at Geneva.

This question arises immediately now because a meeting of this Inter-Parliamentary Union will be held fairly soon. An invitation for this has been received by the Honourable the Speaker for this House to send its delegates to the meeting. You, Sir, were good enough to consult me about it and I expressed the view of Government that we would welcome our association with

[Pandit Jawaharlal Nehru]

this Union, and that if this House is sending some representatives it will be in the fitness of things if the Honourable the Speaker chose those representatives, and not the Government.

I propose therefore that by this Resolution we may empower the Speaker to associate this Assembly with this Union.

Mr. Speaker: Resolution moved:

"This Assembly is of opinion that the Honourable the Speaker be pleased to take steps to form an Indian Parliamentary Group of the Inter-Parliamentary Union in conformity with the aims and objects of the said Union."

Shri H. V. Kamath (C.P. and Berar: General): Mr. Speaker, Sir, the aim of this Inter-Parliamentary Union as defined in Article 1 of the Statutes in the brochure supplied by the Assembly Office, is very laudable indeed. The genesis of this Union appears to have been at a preliminary meeting organised in Paris in 1888 by a Member of the British Parliament and a Deputy of the French Chamber. Nobody will gainsay today that the need for this Union and the work of such a Union is supremely great. We have all been working for peace, praying for peace, and striving for peace all these years, but peace is not yet in sight. Statesmen and diplomats however—I do not mean India's Statesmen and diplomats—but most of the world's statesmen and diplomats—have made peace a matter of war. When there is war we talk of peace; soon after war we talk of peace. But a few years after peace we again talk of war. That is the position today. Therefore we all agree that we should take steps to associate our country, India, which has stood for peace through ages, with this Union so that we may be able to take active steps in furtherance of this idea of world peace, world co-operation and world brotherhood.

But I would like a little clarification and a little more information on the points that have arisen in connection with the Resolution that has just been moved by the Leader of the House. Here, in this brochure, in Article 1 of the Statutes, the aim is said to be "to promote personal contacts between Members of Parliament"; further on it goes on to say that there will be "a universal organisation of nations". But if we turn round to the last page of the little pamphlet attached to the brochure we find that among the countries represented, or which are going to be represented, at this conference in Rome next month, the South Asian countries do not figure at all, and Russia which is one of the Great Powers of the world is also not in the picture. Among the Asian countries that will be represented at Rome I find only 5 names—Iraq, Iran, Syria, Lebanon and that semi-Asian country, namely Egypt—I won't call it Asian; it is partly Asian and partly African and that is why I said semi-Asian. Apart from these five countries there is no other Asian country which has been represented, or is going to be represented at this Conference. We would like some information as to whether our neighbouring Asian countries which have just emerged, after the last World War, from the darkness of slavery into the sunlight of freedom will have a place at the forthcoming Conference. Because, if at all any nations will pull their weight in the cause of peace, I believe, and I am convinced, that it is only the Asian countries which will do so, and ultimately achieve peace in the world. There is nothing in this pamphlet which throws any light on this point.

Then this brochure goes on to say (page 3) that "all Parliaments are invited to take part in the work of the Union". I do not know if you, Sir, as Speaker of this House or the Leader of the House knows today whether all the countries of the world have been invited or not; because there is a little snag in it and we find it at the bottom of page 3. It says "All Parliaments", it will be seen, are invited to take part in the work of the Union. But Article 1 adds, in the same sentence, that the work of international peace and co-operation between nations is to be established and developed on democratic lines. The words "democracy"

and "democratic" have been much abused and mis-used in the past. Who will judge which country is democratic, and which is not; which Parliament is democratic and which is not? After all, political theorists today are not agreed on this, whether Britain and America are democratic or not—they are said to be pluto-democracies or capitalist democracies. After all, what is democracy nobody clearly knows. Even in the Constituent Assembly, during the last session, the Honourable the Leader of the House, when speaking on an amendment as regards the Objectives Resolution, said that it is all very well to say that it will be a democratic Republic, but what kind of democracy will it be? These were his own words. I would therefore like to know what is meant by the snag in this that the peace and co-operation between nations is to be established and developed on democratic lines. Whether Russia is democratic or not who will judge? Who will judge whether Britain is democratic or not and whether America is democratic or not? Is it Rome and the Rome Group that is going to decide what is democracy and what is not,—the group which will send invitations to the various countries of the world.

Then I would like to invite the attention of the Leader of the House to a report which appeared in the papers the other day. I do not know how far it is authentic, how far the news emanated from official sources. That report said that India is going to send some observers to this Conference. The point arises here, whether it will be delegates or observers that are going to be sent. If it is observers the question is what part they will take at all. Will they be mute spectators? What is the part they will play in this Conference at Rome? If it is delegates, it is more important. What is the mandate they will carry from this House? After all, they are going as representatives of this Parliament and not as Government's representatives. And if they go as delegates it is in the fitness of things that they should carry a mandate from this House, from the Indian Parliament, and not from any Government source. Therefore we are concerned with this question whether our country, India and our Parliament, will be represented by delegates or by observers. It is a moot point.

We find from this brochure that only one Group may be formed in each Parliament. Later on when we turn to the small leaflet attached to it we find that Groups have been allotted voting strength in the Inter-Parliamentary Conference at Rome. There are three categories—(a), (b) and (c). Category (a) says that each Group, irrespective of its strength, shall have a minimum of five votes, whether it is a country consisting of one million people or 400 million people. Category (b) says that Groups belonging to countries of less than one million inhabitants shall be entitled to one extra vote; those belonging to countries of 1 to 3 million, 2 votes and so on; and those belonging to countries of 350 million population will be entitled to 23 extra votes. The other category is the last one: groups consisting of at least 50 per cent. of the Members of the Lower House of Parliament shall be entitled to one extra vote, and so on and so forth.

Now, according to this strength, India is entitled to at least 28 votes; under category 'C' the relative strength of the Group will be decided by you but a minimum of 28 votes is absolutely certain for India, if we choose to follow this table appended in the Schedule. We do not know in what way it is going to be constituted. I hope—of course I cannot request the Leader of the House because it is a matter, Sir, entirely in your hands—but I hope you will be pleased to give attention to this Schedule contained in the leaflet appended to this brochure.

Then there arises the question of a mandate from this House because I said that our Group represents us, represents our Parliament, and not the Government. It is made clear here in this very brochure that:

"It will thus be seen that the Union is an organisation which offers unique opportunities for full and all-round discussion of outstanding international problems by men holding responsible political positions in their own countries."

[Shri H. V. Kamath]

I come to the important point now:

"Not being official delegates of their Governments, they may express their own views freely, and it often happens that members of the same Group hold different views on a particular question. But such free and frank discussion, Inter-Parliamentary meetings are able to prepare the ground unofficially for international measures and decisions to be taken by the respective states....."

So, Sir, I for one would request you if it would be possible to allow this House, to permit this Parliament of ours, to express its views on the Agenda that will be brought up before the Conference in Rome in September—the Agenda is given in the leaflet appended to the brochure—so that Members of this House can express their view on the important matters that will come up before the Conference. There it is stated the Agenda will be—

1. Election of the President and Committee of the Conference.
2. General debate on the Report of the Secretary-General.
3. Principles of international morality.
4. Protection of mothers and children.
5. Present position with regard to non-self-governing territories.
6. Regional economic solidarity and regional economic agreement.

Items 7 and 8 are relatively unimportant.

But, Sir, the most important item of the Agenda is, to my mind, item 3—'Principles of international morality', which to India and to Indian delegates should assume top priority because India has always believed that peace will come only through co-operation, through international work based on the eternal principles of morality and spirituality. The other day the Leader of the House in a message to America, I believe, said it is not so much economic or political co-operation that is needed today, but a change in the psychology of the peoples. I would go a step further and say that what we need is a psychic re-orientation of the entire humanity and we need today a spiritual approach to the problems of international peace and international co-operation. Therefore, Sir, I would request you, if we can manage it within the time allotted to this Session, that we have a brief discussion on the various items on the Agenda so that our delegates, if they are delegates—if they are observers I have nothing to say, they will sit there and will silently see and come away,—but if they are to be delegates the picture changes, the entire face of the situation changes and they will be asked to take part—will be in a position to take decisions in regard to the important resolutions before them. As a matter of fact, later on at page 4 of the leaflet it is stated:

"In this connection the Inter-Parliamentary Council makes an earnest appeal to the national groups to send complete delegations qualified to take decisions...."

Not merely just to observe and come away or merely to make some speeches and come away, but to take decisions in regard to the important resolutions which will be submitted to them, in the full knowledge of their responsibility towards the Union and towards their respective Parliaments. There is nothing about the Governments here; the Governments' view does not count, and the delegates will be guided by the views, by the opinions, by the mandates that might be given to them by this House.

Lastly, there is another little point which has arisen in connection with this Resolution, and that is the financial commitment, the financial commitment of this country towards the Union. As soon as they appear in the Conference the delegates will have to make their country's position known with regard to its financial obligation towards the Union. On page 5 of the brochure we find:

"Though unofficial, the Union has a regular connection with the Governments in so far as it is supported financially by grants from the different states. This practice was introduced in 1909 by Great Britain. Several Governments also pay the travelling expenses of the members who attend Conferences or meetings of the Inter-Parliamentary Council. On joining the Union, Groups are expected to take steps forthwith to obtain grants towards the central funds of the Union. These are fixed by an agreed 'Scale of Contributions'."

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What is an agreed scale? We do not know at present, but we hope our country is not committed more than is commensurate with the part which she will play in this Union. It has happened in the United Nations Organisation that we are bearing financial burdens incommensurate with the part that we play in that Organisation or with India's strength in the U.N.O. Secretariat. So I would request you, as the matter is entirely in your hands, to consider these points, give your earnest attention to these matters, before we send our delegates or observers.

Then, Sir, one last word, and I have done. I suggest that our delegates—if they go to attend this conference—should function as an independent unit, a completely independent unit. Though we are still not out of the British Commonwealth, I believe, Sir, that in international affairs we shall not be tied to the apron strings of Britain or of America, or for that matter any other country in the world. When we sign a document, in Biblical parlance "Let it not be the hand of Esau and the voice of Jacob".

When we sign, let it be the hand of India and the voice of India; let it not be the hand of India and the voice of America or of Britain. I hope our delegates will toe an independent line, a line independent of any bias in favour of America or England, or against any other State, and will function as Indians of a free and independent India. If at all the idea of 'One World' has to be materialized, 'One World' has to come to fruition, it is only India that can bring it about, because long before Wendell Willkie spoke of it, long before other statesmen spoke of 'One World', our sages, our seers, chanted it. Thousands of years ago, our sages declared 'सर्वे खल्विदं ब्रह्म' (Sarvam Khalvidam Brahman). All this, not merely this world, but the whole Universe is Brahman, and there is nothing else. There is nothing in this Universe apart from Brahman. I hope and pray, Sir, that our Group will play such a vital part in the activities and work of this Union; that the time will not be far distant when this Union will evolve, will blossom forth into a Super-Parliament of Man, the Federation of the World; when, Sir, this Parliament will represent the machinery, the nucleus of a World Government which our Leader of the House and our other statesmen who have been stung to the quick by the devastation of modern war, are aspiring after. May that World Government come to pass and may the ancient saying embodied in our scriptures that वसुधैवकुटुम्बकम् (Vasudhaiva kutumbakam): The World is a family may that come to pass,—is my earnest prayer. And my request to you, Sir, is to see that such steps are taken that our delegates will in course of time, play their part in the accomplishment of this noble ideal.

Shri M. Ananthasayanam Ayyangar (Madras; General): Sir, I only wanted to say a word. My friend Mr. Kamath was extremely surprised as to what form of democracy we want. We do want that kind of democracy where the hero of the War, Churchill, was thrown overboard immediately the war was over. We have to learn a lesson from the British democracy. They did not merely idolise him. On the other side there is Russia. I felt that my friend was idolising Russia.

Shri H. V. Kamath: No, Sir. I do not idolise Russia. I am sorry my honourable friend has misunderstood me.

Shri M. Ananthasayanam Ayyangar: Well Sir, I only wanted to say one word. In Russia, is it possible after the end of that war, to throw out the person in charge of the Administration? That democracy was exercised in Great Britain and therefore, that is the kind of democracy that we want, so far as democracy is concerned.

[Shri M. Ananthasayanam Ayyangar]

I do want also the delegates who go from here not to make any statement or commit so far as our future political programme is concerned. I find, Sir, from the morning papers a statement by Sir B. N. Rau who has been sent as a delegate to the International-Court of Justice to sit there or to discuss, that India would not leave the British Commonwealth of Nations. I would say that while this matter is on the anvil we ought not to commit ourselves. No delegate who goes as an official delegate either sent by you or otherwise should make statements or commit India in those matters. This is one other international institution where we can sit together and evolve common forms and also benefit in the matter of procedure, so that democracy might be established and the rule of the law may prevail all over the world. I wish all success to this institution and I hope that under your guidance a proper group will be formed.

The Honourable Pandit Jawaharlal Nehru: Sir, this debate has attained higher levels than I anticipated. My proposition was a fairly simple one. This Inter-Parliamentary Union is not, by any means, something that might develop into One World or One Universe. It is a body which has no executive authority. It is a body which does not want to consider any big controversial issues which the United Nations or the Security Council do.

Shri H. V. Kamath: I never said that it would itself develop into one World or one Universe.

Mr. Speaker: Let there be no interference.

The Honourable Pandit Jawaharlal Nehru: Well, Sir, as I say, it is not an organisation which will concern itself with psychic matters either. It is an organisation chiefly meant to promote intercourse between parliamentarians all over the world. It is a public forum to discuss parliamentary matters without committing anybody—either any Government or even any individual—and in the world today it is important that people should know each other; that legislators in various Parliaments should profit by each other's experience and by each other's failure. Therefore, from that point of view, it is desirable that we should go there and take part in that public forum.

There has been talk of democracy etc.—a very complicated subject, which it is not easy to answer in a phrase this way or that way, even in the way that my honourable friend Mr. Ananthasayanam Ayyangar answered it. We need not, therefore, go into that question. So far as this organisation is concerned, it is open, as far as I know, to every country. Even now, it has within its ranks legislators from countries of varying types of Government. It has certainly from the legislatures of Western Europe; it has from the legislatures of Eastern Europe also. I do not think that U.S.S.R. is there, although representatives from the U.S.S.R. have also come in touch with this organisation; but some of the other Eastern European countries are represented on it. So far as Asian countries are concerned, Mr. Kamath is perfectly right in saying that at the present moment we are not adequately represented, but that is, I think, due to various factors. Some of them have only recently come into the international scene like Burma like the Philippines, like Ceylon. I believe both Burma and the Philippines have expressed their willingness to join. Japan was of course in this organisation till this war when various things happened which terminated its connection. At the present moment, as the House knows, Japan is in a peculiar position. Thus there is no question of any country being kept out—Asian, European or any other. It is an inclusive organisation and it wants to include any country that wants to come in except possibly—I cannot say—that there may be some exceptional cases, but none of that kind has been brought to my notice.

Therefore, I do not think while I put this Resolution to the House, that it should understand anything much more than what it says. I say this because Mr. Kamath's speech might, I feel, delude the House into imagining that they are deciding some very high matter of principle or policy or that they are going to an organisation which will make a vast difference to the world. It is a useful organisation which we should encourage which should help us in promoting international contacts, but no important question in the world is going to be decided there or is being considered there at present. The other organisations will do that.

Mr. Kamath suggested that this House should consider various matters that are coming up. This is entirely for you to decide. The various matters that are coming up are important; nevertheless, they are not, normally speaking, of political importance. The care of infants is highly important but on this political parties do not differ, and it is for you, Sir, to consider these problems—certainly—or, it may be that some members of this House interested might consider the Draft Resolution, but in any event, the representatives of this House will go there and I do not think in matters of this kind the House should give specific mandates on issues of this kind. They can discuss and they can generally say what they feel and leave a certain measure of freedom, because as I said, it is not a highly political matter. It is not a matter which will lead to executive action and the House should not attach too much importance to a particular activity, which probably would not be quite correct.

Mr. Speaker: Before I put the motion to the House, I will just point out one fact. I find Russia's name mentioned as one of the countries in which the Inter-Parliamentary Group had been affiliated to the Union.

Shri H. V. Kamath: That is an old one before the Revolution.

Mr. Speaker: Whatever it is, Russia was there. Then Mr. Kamath referred to our present representatives being called "Observers". Although they have been called Observers, in substance they act as Delegates. The reason for their being called observers is that till we have the authority of this House to form a group, it was not possible or desirable on our part to send a delegation, a full-fledged delegation. That is why the word "Observers" as suggested by the Conveners of the Conference was used while accepting the invitation.

As regards the contribution, I understand that it will come to about Rs. 14,769 a year.

The Honourable Pandit Jawaharlal Nehru: It will be much less, but the maximum is about Rs. 14,769; it is open to us to determine a smaller figure in consultation.

Mr. Speaker: It may be much less; it depends upon us.

The question is:

"This Assembly is of opinion that the Honourable the Speaker be pleased to take steps to form an Indian Parliamentary Group of the Inter-Parliamentary Union in conformity with the aims and objects of the said Union."

The motion was adopted.

Dr. P. S. Deshmukh (C.P. and Berar: General): On a point of information, may I know if the names* that have already appeared in the newspapers have any authority behind them?

Mr. Speaker: Yes.

*Dr. B. V. Keskar and Shri R. R. Diwakar.

DURGAH KHAWAJA SAHEB (AMENDMENT) BILL

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I beg to move for leave to introduce a Bill further to amend the Durgah Khawaja Sahab Act, 1936.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Durgah Khawaja Sahab Act, 1936."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: Sir, I introduce the Bill.

INDIAN ARMY (AMENDMENT) BILL

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Army Act, 1911.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Army Act, 1911."

The motion was adopted.

The Honourable Sardar Baldev Singh: Sir, I introduce the Bill.

COAL MINES PROVIDENT FUND AND BONUS SCHEMES BILL

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power): Sir, I beg to move for leave to introduce a Bill to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines."

The motion was adopted.

The Honourable Shri N. V. Gadgil: Sir, I introduce the Bill.

INDIAN TELEGRAPH (AMENDMENT) BILL

The Honourable Mr. Rafi Ahmad Kidwai (Minister for Communications): Sir, I beg to move for leave to introduce a Bill to amend the Indian Telegraph Act, 1885.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Indian Telegraph Act, 1885."

The motion was adopted.

The Honourable Mr. Rafi Ahmad Kidwai: Sir, I introduce the Bill.

CENSUS OF REFUGEES BILL

The Honourable Shri Mohan Lal Saksena (Minister of State for Relief and Rehabilitation): Sir, I beg to move for leave to introduce a Bill to provide for the taking of a census of refugees.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the taking of a census of refugees."

The motion was adopted.

The Honourable Shri Mohan Lal Saksena: Sir, I introduce the Bill.

ELECTRICITY (SUPPLY) BILL—Concl'd.

Mr. Speaker: The House will now proceed with further consideration of the Bill to provide for the rationalisation of the production and supply of electricity, and generally for taking measures conducive to the electrical development of the Provinces of India as reported by the Select Committee.

Mr. Naziruddin Ahmad (West Bengal: Muslim): I do not propose to move amendment No. 82 as it has already been covered. I simply beg to draw attention to the unsatisfactory state of sub-clause (2) of clause 78. In fact, this is a power given to the Government to frame rules. They are not complete or they have not taken into account all the places or all the passages where the power has been given. The list is very incomplete. If the list is at all to be given, it must be complete. If no list is given, there will be no confusion, because the draftsman of the rules can read the Act in various places and frame the rules. But if no such thing is done, if some of the places are mentioned in the rule-making powers and others are not mentioned, there is the risk of confusion. I think the ordinary procedure for the draftsman should be to make out a meticulously full and complete list of all the rule-making powers in the body of the Act and then to incorporate them serially by giving reference to the sections. In that way alone you can make the list complete. With these observations, Sir, I do not wish to press or rather move amendment No. 83.

Mr. Speaker: Then there is no other amendment.

The question is:

"That clause 78 stand part of the Bill."

The motion was adopted.

Clause 78 was added to the Bill.

Shri B. L. Sondhi (East Punjab: General): I have to draw the attention of the Honourable Minister regarding the representation received from the East Punjab Government in connection with its Hydro Electric Scheme which is already paying about ten lakhs a year. I think special concessions should be given as the Punjab Government shall be losing a lot of money on account of taxation. I want to know what has happened to the representation.

Mr. Speaker: How does the question arise during the consideration of this clause and at this stage? If he has to make a statement in respect of any other request, it may be done at the proper time. I do not think it is a proper time in the midst of the passage of a Bill, to make a statement, unless this has some relevancy to the clause under consideration.

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power): I shall reply to this particular query after seeing if anybody wants to make a speech on this particular clause.

Mr. Speaker: The question is:

"That clause 79 stand part of the Bill."

The motion was adopted.

Clause 79 was added to the Bill.

Shri T. T. Krishnamachari (Madras: General): Sir, I move:

"That for clause 80 of the Bill, the following be substituted:

"80. *Exemption of Board from Central taxation.*—Notwithstanding anything contained in any other law for the time being in force, the Board shall be exempt from liability to pay any tax on income, corporation tax or any other like tax levied by the Central Government."

[Shri T. T. Krishnamachari]

Sir, this is nothing new; I do not claim any originality for this. This is exactly the clause that was clause 78 in the Bill before it went to the Select Committee. That clause 78 has been deleted and the present clause 80 has been put in the place of it. Any member of the House who reads clause 80 will find that exactly the opposite is the intention of this clause. Whereas clause 78 wants exemption for these Boards from all taxes levied by the Central Government, this clause 80 says that these Boards will be liable for the taxes and it goes on adding a further clause to say that the Provincial Government shall not be entitled to any refund of any such taxes paid by the Board.

One point which is a matter of convention of the House, at any rate, it used to be in the days past, that no member of the House raised any question whether any particular portion of a Bill is *ultra vires*. I do not know if that convention really obtains in the case of an amendment made by the Select Committee, which is *ultra vires*. At the time of the introduction of a Bill, nobody takes any objection to any portion of the Bill which may be *ultra vires*. It has to be decided elsewhere. My own feeling is that the Select Committee has gone far beyond its powers in making this change, a change which is obviously *ultra vires* of the constitution. I would like to mention this aspect of the matter although I am not going to raise the specific issue. I would like to invite the attention of the members of this House to section 155 of the Government of India Act. Section 155 is paramount until the new Constitution Act comes into force, and that section does not find a counterpart in it. It happens that when a bill as introduced in the House is perfectly in order, the Select Committee cannot arrogate to itself powers to make any provision which is exactly *ultra vires* of the constitution under which we are acting. This runs, as I have said in my minute of dissent, which I think some honourable members have read and several provincial Governments have also seen, exactly counter to section 155 of the Government of India Act.

Apart from that, there is another aspect of the problem. That is a provincial problem so far as I am concerned. The Madras Government gets a fair amount of revenue out of this and it is a progressively rising revenue. The figure is now about 45 lakhs and it is going up every year. It works to about eight per cent. on the capital invested. The creation of the Board will not affect the provincial Governments' revenues if the clause was as clause 78 as it was originally introduced. The surplus revenues of the Board will go to the provincial Government and the provincial Government will treat it as part of its general revenues. The position will be more or less as it is today. But what this particular section seeks to do is that before the money passes to the provincial Government, a companies tax of five annas plus two that is seven annas in the Rupee will be taken away. My honourable friend, the Mover of the Bill is going to say that the position is not altered very much because out of this Income-tax the Provincial Governments get a contribution. That is so; but the pool is made up by the various Provincial Governments contributing and the Provincial Governments get back a portion. That will not be on all fours with the position as it is today; the Provincial Government is now taking over what is its legitimate revenue, what it had been getting all along. This, I think, is a round about way of achieving a purpose which is not only unconstitutional, but is highly immoral. I have received a communication from the Minister in charge of Electricity from my province, supporting my minute of dissent and asking me to urge on the House and on the Government to retain the clause as it was before it was altered by the Select Committee. What my honourable friend Mr. Sondhi seeks to tell the House is that there is a similar complaint emanating from the East Punjab Government. My own feeling is this. I have no doubt that the Honourable Members of Government who rule the destinies of the people are very wise people. They must

have very good reasons for introducing a provision running counter to popular opinion, running counter to the Provincial Governments' opinion and also running counter to the constitution under which we are functioning. I would suggest to my honourable friend to tell his colleagues that it would be eminently unwise at this stage to provoke the Provincial Governments in a matter which they feel is their own province. The whole question of allocation of revenues will be considered in all its aspects by the constitution making authority. It is perfectly open to the constitution making authority to say that all provincial Government undertakings will be taxed or not taxed. My honourable friend is also going to say in regard to another amendment which I would move later on that he is going to give as much time as is reasonable to the Provincial Governments to form the Boards or not to form the Boards for four years according to him. When he is so generous, I do not see why he should not extend his generosity to this matter where it will also be wisdom, and allow me to persuade the House to accept this amendment and ask him to waive any objection which he may have. I think acceptance of this amendment will be an act of wisdom. Of course, if my honourable friend refuses to accept this, as a loyal member of the party, I know what to do. But I think it is extremely unwise both from the constitutional, legalistic as well as the extremely practical point of view for the Government to adopt an attitude of complete indifference to provincial opinion and to the opinion of such members of this House who feel strongly on this.

Shri H. V. Kamath (C.P. and Berar: General): On a point of order, Sir, can the loyalty of a member to his party.....

Mr. Speaker: Order, order; let me first put the Amendment to House.

Amendment moved:

"That for clause 80 of the Bill, the following be substituted:

"80. *Exemption of Board from Central taxation.*—Notwithstanding anything contained in any other law for the time being in force, the Board shall be exempt from liability to pay any tax on income, corporation tax or any other like tax levied by the Central Government."

Mr. Naziruddin Ahmad: Sir, I wish to speak on this amendment; but before doing so, I should ask the honourable member to explain once again how this is *ultra vires* of this legislature. I have not been able to follow his argument.

Shri T. T. Krishnamachari: I am afraid I am not entitled to make a second speech.

Mr. Naziruddin Ahmad: That is only by way of clearing the point.

Mr. Speaker: The honourable member need not worry about it. In the first place, he did not raise the point. He has merely stated the point and abstained from raising it. The point is not before the House at all.

Mr. Naziruddin Ahmad: Sir, I beg to support this amendment. There has been a tendency, I submit with all respect, a dangerous tendency on the part of the Central Government of killing all provincial activities before they could stand on their legs. There were two brothers who wanted to open a business and they agreed that they should not eat out of the capital, but spend only out of the profit. But, before they began the business, they tried to calculate the first month's profit, they anticipated a very decent profit during the first month and they thought they should eat up this portion which to them on safe calculation was clear profit. In this way, they went on and the business went into liquidation. These infant institutions should be encouraged in every possible way and they should be allowed to stand on their legs. These are highly beneficial to the public and a large number of small industries will be induced to stand on their feet. If the Central Government takes a large slice

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out of the profits, the effect would be that the cost of running these institutions would be high. And that would affect the income of the consumer. If the Central Government foregoes this claim of income-tax there would be an enormous benefit to a large number of people, one of them being that local institutions like factories and other types of business which depend upon these institutions would be able to work more economically and show more profits. And in the long run the consumers would give the Central Government their share of income-tax. It is an accepted principle that income-tax is not a tax on the board itself but on its constituents; a tax on a company is a tax on the shareholders and every shareholder is entitled to a rebate on account of the personal factor in the tax. If we tax a board at all we should also provide for personal rebates to the consumers. But as circumstances stand no such rebate could be given and there would be many consumers whose income would not reach the taxable limit. If you tax these institutions at the source the effect would be that it would leave many consumers whose income is below the taxable limit absolutely without any remedy whatever. They cannot get a rebate or exemption. Unless one is prepared to give facilities for exemption in suitable cases it is not right to tax them at the source. From all these circumstances I submit that the Central Government should forego its claim to income-tax; it would enable industrial concerns to grow more easily and contribute to their prosperity. The effect would be reflected in greater receipts in income-tax from the consumers. Sir, I support the amendment.

Shri K. Santhanam (Madras: General): Sir, I will deal with one or two matters that have been brought forward. On the question of *ultra vires* I do not think there is any such issue at all, because these boards are separate legal entities and not Provincial Governments and so section 155 of the Government of India Act would not apply; it is not absolutely identical with the Provincial Governments. The fact that my honourable friend has to bring in a positive clause and is not content with the mere deletion of clause 80 shows that it is *intra vires* because he knows that if the clause is merely dropped this Board would be liable for taxation. I would have liked Government not to have provided this clause at all. If they had kept quiet the Board would automatically come under Corporations and would be taxable.

Shri T. T. Krishnamachari: Sir, on matter of explanation. The honourable member is taking advantage of something that I told him this morning. What happens is that if there is no specific mention in the body of the Bill the Board would be taxed as an association of persons but would not be liable to taxation as a company, which means that it might have to pay not 7 annas but 15½ annas in the rupee.

Shri K. Santhanam: My friend may have told me something but he knows that it is *intra vires* and he was not entitled to bring before the House an argument which he knew was not correct. As to the province I will point out that all the moneys invested in the province become loans from the provincial Government to these electricity Boards and the interest on that capital will be treated as expenditure before calculating the profit. Therefore the province would be entitled to put in interest of the six or nine per cent., whatever they may say, and then lend it to the Board, and the Central Government will be entitled to its tax only when it comes in the form of profits. Therefore the Provincial Government's interests are in practice safeguarded though in theory they are to a certain extent infringed by this clause 80.

As to sub-clause (2) it is only to avoid any ambiguity about this taxation. In order to avoid ambiguity it is very essential. It is only to make things absolutely clear that sub-clause (2) has been put in.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I also beg to oppose this amendment. This involves a question of principle and if we exempt the Board from taxation it will lead to inefficiency. Moreover, as my honourable friend Mr. Santhanam said, section 155 of the Government of India Act does not seem to apply here. Here we have passed a clause which provides that the Board may be for more than one province and the proviso to section 155 makes it clear that when a Board or persons.....

Mr. Speaker: I think we need not go into that question at all. That point seems to be very clear and, as I said when Mr. Naziruddin Ahmad addressed the House, the point was not raised by the honourable member. Even if it is raised, it will be only a hypothetical ruling or statement from the Chair. I do not wish to uphold anything as *ultra vires*, because I do not like that a Bill or a clause should be killed by any ruling of the Chair. If really it is *ultra vires*, there will be ample chance of contesting it in a proper court of law. Therefore the point need not be argued.

Shri Prabhu Dayal Himatsingka: The Select Committee considered this question and with the exception of my honourable friend Mr. Krishnamachari every one else has agreed to clause 80. Therefore I support the clause as it stands.

Shri T. A. Ramalingam Chettiar (Madras: General): Sir, I support the amendment. Whatever may be the view with reference to Government—Central or Provincial—it is not fair to the consumer that this tax should be levied on the Board. It may be that the tax is levied and collected and the Provincial Government will be enabled to get it back when the income-tax or corporation tax is distributed among the provinces; but to the extent the tax is levied and collected the consumer's price of electricity will be raised. It is only when you charge to the consumer a much greater price that a portion of it goes to the Central Government.

Shri K. Santhanam: They may not make a profit; they may reduce and work at a loss.

Shri T. A. Ramalingam Chettiar: It cannot be that the Provincial Government will so work things that they will work at a loss and throw a burden on the Central Government and itself incur a loss. The local Government wants to make some money and one of their sources now and hereafter will be from transactions like this. They will have to take up enterprises and earn more profits and so add to their exchequer for the benefit of the people. That means that they are to earn not five rupees but ten rupees to make five rupees for their exchequer, and the consumer will thus be charged ten rupees instead of five rupees. To that extent it is the consumer who is made to pay.

Another thing is this. One of the arguments that may be advanced with reference to the levying of the tax will be that this is a competitive commodity with reference to which no one wants to place private enterprise at a disadvantage. In the case of this electricity which is going to be a monopoly of the State it cannot be considered in that light at all. I do not see why the consumer's price should be raised to make a profit for the Central exchequer and giving it back to the province, thereby doing great damage to the consumer. It is in that light that I oppose the clause and support the amendment.

Shri M. Ananthasayanam Ayyangar (Madras: General): Both my friends—Mr. T. T. Krishnamachari and Mr. Chettiar have missed the bus. I was also a party to this amendment. But this is sister to another amendment which we tabled but it was not argued with such vehemence as this is sought to be supported, though the House turned it down! It is true that under the

[Shri M. Ananthasayanam Ayyangar]

Government of India Act if a Provincial Government starts an undertaking or trading concern, it must limit its operations to the limits of that province. It is not liable to Central income-tax. So far as Madras is concerned, it produces 99 per cent. of the electricity obtainable in the province as a Government department and therefore all the profits go to it. Under the existing law, such profits are not liable to income-tax under section 155 of the Government of India Act. But even now, Madras has within a period of two years to instal a Board and hereafter they cannot carry on the business of electricity supply departmentally. Every Board has to be compulsorily started there and once a Board is established it is an autonomous body under the provisions of this Act. According to section 12 there is no authority or warrant in the Government of India Act, as it stands now to exempt any such Board from Central taxation. Once we have accepted the principle, the appointment of *ultra vires*. It is open to the House to exempt any of these Boards from Central taxation. Once we have accepted the principle, the appointment of the Board must also be accepted. I do not want to sell away the cow and then catch hold of the string tied round its neck. The main cow disappears and is taken away from my hands. The policy of the Central Government is that if in future various undertakings are started by the State they are to be run departmentally though it may not be run as efficiently as when placed in the hands of a corporate body. But a statutory organization like a Board is to be established so as to keep the undertaking away from political influence. When we have accepted this principle, it is not right that the Centre should be deprived of the means of its continuance by exempting this Corporation. There are various other Corporations. I believe the Damodar Valley Corporation is also liable to this tax. This is a middle step between state-ownership and private ownership. They will take charge of Corporations sponsored by the State. So we may visualise a state when private enterprise will disappear, when all the undertakings may be taken over by the State in the form of these Corporations. The State must get on. It must either take the share of the profits or contribute from the share of the profits by way of taxation. Let us work this for some time. The power is in our hands to scrap this if it does not work. Therefore when we have accepted one amendment.....

Shri T. T. Krishnamachari: The other amendment has not even been moved.

Shri M. Ananthasayanam Ayyangar: Then that is still worse. I am sure my friend is not going to move it, nor will he have the support of this House. Under these circumstances, there is no use pursuing that amendment which also stands in my name. I think we have changed over. I now recommend to the House not to accept this amendment.

The Honourable Shri N. V. Gadgil: There are three clear positions: the first is to exempt these Boards from income-tax altogether; the second is to have a positive provision under which income-tax would be levied on the income of the Board; the third is to leave the thing as it is, neither accepting the amendment moved by Mr. T. T. Krishnamachari nor allowing section 80 as it is on the Statute Book.

Having given my best consideration, I am inclined to think that the clause as it is in the best interests. I do not want to repeat the arguments I referred to in my speech two days ago. But one point, it is only fair, I should bring to the notice of this House and it is this. In certain provinces, if this particular clause comes into operation immediately some hardship is bound to occur, and I may refer to the case of East Punjab. Today they are expecting round about rupees ten lakhs by way of profit on their electricity undertaking and if this provision comes into operation immediately, they will have to part with Rs. 5 lakhs under the provision of section 80. At the same time I want

to bring to the notice of the House that Clause 80 is not going to be brought into operation immediately. What is provided for in sub-clause 4 of clause 1 is:

"Provided that the Central Government may as respects any Province extend the said period of two years and in such event the remaining provisions of the Act shall come into force in that Province on such date, not later than the extended period, as the Provincial Government may, by notification in the official Gazette, appoint."

Initially, there is a period of two years and if any province makes out a case for further extension in point of time, I have not the least doubt that the Central Government will always come to its help. After this assurance, I do not think there is any further need to reply to the arguments that have been urged. I would request the honourable member to withdraw his amendment.

Shri T. T. Krishnamachari: In obedience to the request of the Honourable Minister, I have pleasure in withdrawing the amendment though I am not convinced by the arguments he has advanced. I however, ask leave of the House to withdraw.

Mr. Speaker: Has the honourable member the leave of the House to withdraw?

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

Mr. Speaker: The question is:

"That clause 80 stand part of the Bill"

The motion was adopted.

Clause 80 was added to the Bill.

Clauses 81 to 83 were added to the Bill.

Shri K. Santhanam: Sir, I move:

"That in Part I of the First Schedule to the Bill, in the second proviso to sub-paragraph (2) of paragraph I, the words 'loans other than' be omitted."

This refers to the last line of the proviso. If the words "loans other than" are deleted, it will read: "capital of the licensee and the loans advanced by the Board under this sub-paragraph". It was considered necessary to bring in the other loans into the scope of this proviso.

The Honourable Shri N. V. Gadgil: Sir, I accept it.

Mr. Speaker: The question is:

"That in Part I of the First Schedule to the Bill, in the second proviso to sub-paragraph (2) of paragraph I, the words 'loans other than' be omitted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in Part I of the First Schedule to the Bill, in paragraph III, for the words 'agreed between', the words 'agreed upon between' be substituted."

It is only a drafting amendment. The point has been covered already by a passage which appears in clause 32 sub-clause (2). In that clause there is the passage "agreed upon". This word "upon" has been inserted specially by the Select Committee. Taking that as an authority I submit that in order to obtain some amount of uniformity this also should be brought into the same line. It is only a drafting amendment.

Shri T. T. Krishnamachari: I do not think there is any meaning in the amendment. The clause is all right as it is.

The Honourable Shri N. V. Gadgil: Sir, I do not accept the amendment.

Mr. Speaker: The question is:

"That in Part I of the First Schedule to the Bill, in paragraph III, for the words 'agreed between', the words 'agreed upon between' be substituted."

The motion was negatived.

Shri K. Santhanam: Sir, I move:

"That in Part II of the First Schedule to the Bill, in paragraph XI, for all the words beginning with the words 'The licensee shall' and ending with the words 'in that month', the following be substituted:

"Of the kilowatt-hours purchased by the licensee from the Board in each month, a number of kilowatt-hours not exceeding the number which bears the same proportion to the total number purchased as the scheduled effective capacity for the month bears to the maximum demand of the licensee on the Board in that month shall be purchased at a price determined under paragraph XIII; the balance being purchased at a price determined under paragraph XIV."

It is a technical amendment. The present wording does not bring out the objective very clearly and so this is intended to clarify the whole position.

Mr. Speaker: The question is:

"That in Part II of the First Schedule to the Bill in paragraph XI, for all the words beginning with the words 'The licensee shall' and ending with the words 'in that month', the following be substituted:

"Of the kilowatt-hours purchased by the licensee from the Board in each month, a number of kilowatt-hours not exceeding the number which bears the same proportion to the total number purchased as the scheduled effective capacity for the month bears to the maximum demand of the licensee on the Board in that month shall be purchased at a price determined under paragraph XIII; the balance being purchased at a price determined under paragraph XIV."

The motion was adopted.

Mr. Speaker: The question is:

"That the First Schedule, as amended, stand part of the Bill."

The motion was adopted.

The First Schedule, as amended, was added to the Bill.

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

*The Assembly re-assembled after Lunch at Half past Two of the Clock,
Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.*

Mr. Speaker: The question is:

"That the Second Schedule and the Third Schedule stand part of the Bill."

The motion was adopted.

The Second Schedule and the Third Schedule were added to the Bill.

Shri K. Santhanam: Sir, I move:

"That in part (b) of paragraph III of the Fourth Schedule to the Bill, for the words and figures 'paragraphs VIII and XVII', the words and figures 'paragraph VI' be substituted."

This is a purely drafting amendment.

The Honourable Shri N. V. Gadgil: I accept it.

Mr. Speaker: The question is:

"That in part (b) of paragraph III of the Fourth Schedule to the Bill, for the words and figures 'paragraphs VIII and XVII', the words and figures 'paragraph VI' be substituted."

The motion was adopted.

Mr. Speaker: The question is:

"That the Fourth Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Fourth Schedule, as amended, was added to the Bill.

Shri K. Santhanam: Sir, I move:

"That in part (f) of paragraph I of the Fifth Schedule to the Bill, for the words 'scale set out in the Seventh Schedule', the words and figures 'provisions of paragraph VI of the Sixth Schedule' be substituted."

This is a similar drafting amendment.

Mr. Speaker: The question is:

"That in part (f) of paragraph I of the Fifth Schedule to the Bill, for the words 'scale set out in the Seventh Schedule', the words and figures 'provisions of paragraph VI of the Sixth Schedule' be substituted."

The motion was adopted.

Mr. Speaker: The question is:

"That the Fifth Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Fifth Schedule, as amended, was added to the Bill.

Shri K. Santhanam: Sir, I move:

"That in sub-paragraph (1) of paragraph IV of the Sixth Schedule to the Bill, for the words 'appropriation only to that extent shall be made', the following be substituted:

'no appropriation shall be made which would have the effect of increasing the reserve beyond the said maximum'."

The Honourable Shri N. V. Gadgil: I accept it.

Mr. Speaker: The question is:

"That in sub-paragraph (1) of paragraph IV of the Sixth Schedule to the Bill, for the words 'appropriation only to that extent shall be made', the following be substituted:

'no appropriation shall be made which would have the effect of increasing the reserve beyond the said maximum'."

The motion was adopted.

Mr. Speaker: Then there are a number of amendments by Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad: I shall explain. I may not move many of them. Numbers 90 to 102, all standing in my name, are only of a formal nature. It is not necessary for me to move them because the Draftsman can take charge of them. Most of them occur in page 39 of the Bill under 'Definitions'. The definitions as a whole consist of one sentence with different sub-divisions. But at many places, at the beginning of sentences, capital letters have been used, and most of these amendments are directed to correct them. And there are some punctuation mistakes. I hope these will be rectified by the Draftsman. They need not therefore be formally moved.

Shri K. Santhanam: Sir, I move:

(i) "That in sub-paragraph (1) of paragraph XV of the Sixth Schedule to the Bill, after the word 'Board', the words 'or where no Board is constituted, the Provincial Government', be inserted."

(ii) "That in sub-paragraph (2) of paragraph XV of the Sixth Schedule to the Bill, after the word 'Board', the words 'or the Provincial Government, as the case may be', be inserted."

Both are the same. In certain parts of the Section, where the Board is not constituted the Provincial Government has to act. It is only to provide for these cases that this amendment is necessary.

Mr. Speaker: The question is: ?

(i) "That in sub-paragraph (1) of paragraph XV of the Sixth Schedule to the Bill, after the word 'Board', the words 'or where no Board is constituted, the Provincial Government', be inserted."

(ii) "That in sub-paragraph (2) of paragraph XV of the Sixth Schedule to the Bill, after the word 'Board', the words 'or the Provincial Government, as the case may be', be inserted."

The motion was adopted.

Shri K. Santhanam: Sir, I move:

"That in part (2)(b)(ix) of paragraph XVII of the Sixth Schedule to the Bill, the word 'hereafter' be omitted."

Mr. Speaker: The question is:

"That in part (2)(b)(ix) of paragraph XVII of the Sixth Schedule to the Bill, the word 'hereafter' be omitted."

The motion was adopted.

Mr. Speaker: The question is:

"That the Sixth Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Sixth Schedule, as amended, was added to the Bill.

The Seventh Schedule was added to the Bill.

Shri K. Santhanam: Sir, I move:

"That in part (f) of paragraph I of the Eighth Schedule to the Bill, for the words 'scale set out in the Seventh Schedule', the words and figures 'provisions of paragraph VI of the Sixth Schedule' be substituted."

Mr. Speaker: The question is:

"That in part (f) of paragraph I of the Eighth Schedule to the Bill, for the words 'scale set out in the Seventh Schedule', the words and figures 'provisions of paragraph VI of the Sixth Schedule' be substituted."

The motion was adopted.

Shri K. Santhanam: Sir, I move:

"That in part (a) of paragraph II of the Eighth Schedule to the Bill, after the word 'Board', occurring in line three, the following be inserted:

'plus one-half of one per centum per annum'."

Mr. Speaker: The question is:

"That in part (a) of paragraph II of the Eighth Schedule to the Bill, after the word 'Board', occurring in line three, the following be inserted:

'plus one-half of one per centum per annum'."

The motion was adopted.

Mr. Speaker: The question is:

"That the Eighth Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Eighth Schedule, as amended, was added to the Bill.

The Ninth Schedule was added to the Bill.

Shri T. T. Krishnamachari: Sir, I beg to move:

"That for sub-clauses (3) and (4) of clause 1 of the Bill, the following be substituted:

(3) This section shall come into force at once, but the remaining provisions of this Act shall come into force in a Province only if the Provincial Government, by notification in the official Gazette so directs and from such date as may be specified in the said notification."

Sir, this again is just a re-introduction of a clause as it was before the Bill emerged from the Select Committee. The Select Committee here has made a very substantial change and I had indicated my disapproval of the action taken by the Select Committee in my dissenting minute.

The difference between the position as it was when the Bill went to the Select Committee and when it emerged, is merely this. There was an option for the Province concerned to follow the scheme set out in this Bill as it was before the Bill went to the Select Committee. Now, subject to a period of grace that is allowed in sub-clause (4), the Provinces are compelled to come into the scheme. I am sure my honourable friend the Mover will tell me that we have given two years straightaway for the Provinces to come in and that he has powers to extend it by another two years which he shall exercise in the case of deserving Provinces. I have no doubt he will exercise that discretion very generously. But that, Sir, is not the crux of the problem. The problem really is that there is a certain amount of independence due to the Province in a matter like electricity which is a Concurrent Subject. The Province has got to do the whole thing; the Central Government cannot by any stretch of imagination give directions to the Provinces as to this, that and something else. Once they contemplate doing it, the Act will become *ultra vires*.

So, what is now sought to be done is to exercise that non-existing power of compulsion, that power of giving executive direction, in a different way, in a round about way which I think is neither fair to the Central Government nor to the Provinces concerned. I agree that in any measure like this a certain amount of uniformity is necessary, but are the Central Government in a position to exercise that uniformity if the Province rebels against it? Surely, the Central Government must be aware of the fact that there are so many ways and means by which the Province can get out of the conditions of this particular Bill when it becomes an Act, if it so chooses. You can always lead a horse to water but you cannot make it drink. What my honourable friend Mr. Gadgil seeks to do is to make the horse drink the water; I am afraid clever and experienced as he is, he will not be able to do it.

Sir, the Bill itself leaves a fair amount of loophole to the Province if it does not want to fall in line. Actually there are certain provisions in this Bill which it would probably be beneficial to the Province to take advantage of. If it does not want to do it, what is there to prevent the Province in merely publishing it in the Gazette and then satisfying the statutory conditions and not acting according to it?

There is another matter. The objective of the Central Government may be defeated in half a dozen ways. One way as my honourable friend Mr. Santhanam suggested was that the Province can levy an interest of 12 per cent. on the monies advanced to the Board, and the whole scheme will be a failure because the Board, as my friend Mr. Ramalingam Chettiar put it, will have to sell electricity at such a price that the objective of the Bill will be defeated.

Again, the Provinces have got the power of levying sales-tax; a Province can levy a sales-tax on electrical energy either at the consumption level or at the distribution level in which case the price of electricity will be put up. So, there will be no uniformity with regard to development in all Provinces and again the purpose of this Bill will be nullified.

So I feel that though the Central Government, like a big brother with a big club, can wield it—and the legislative club is always in their possession—they will not be serving the main purposes of the Bill by wielding that club fairly openly. I am sure my honourable friend Mr. Gadgil possesses enough powers of persuasion, he has got enough money at his disposal which he would dole out to these provinces by means of subventions to make them come into the scheme willingly, rather than enact this particular provision in the Bill and thereby make a fundamental change in the set up of this Bill.

[Shri T. T. Krishnamachari]

Again, Sir, there is the other question of an objection on moral grounds. My honourable friend mentioned at the early stages of the discussion of this Bill that the Provincial Governments have been consulted. May I ask him if he consulted the Provincial Governments after having introduced this radical change in the set-up of the Bill? I do not think he has done it. I think it is therefore not quite proper for him, after having consulted the Provincial Governments up to a particular stage and got them committed to a scheme, to radically change the scheme and say, well, I have the Legislature at my disposal and I shall get any legislature passed.

Sir, I feel that the change effected by the Select Committee is a change that is not dictated by wisdom and a change which would only make the provinces render this particular measure over which the House has spent such a long time, over which members of the Select Committee have spent such a long time and in which the honourable member himself has taken so much interest, into more or less a dead letter. Sir, I warn the Government against using the club even though they can possibly use it. I do hope that it is not too late for wisdom to dawn and my honourable friend will be able to change his mind and accept my humble proposal.

Mr. Speaker: Amendment moved:

"That for sub-clauses (3) and (4) of clause 1 of the Bill, the following be substituted:

'(3) This section shall come into force at once, but the remaining provisions of this Act shall come into force in a Province only if the Provincial Government, by notification in the official Gazette so directs and from such date as may be specified in the said notification'."

Mr. Naziruddin Ahmad: Sir, I have with a considerable amount of hesitation to oppose this amendment. My objection is based on a simple ground that it will perpetuate the distinction between one province and the rest of India. In fact, we have just passed a provision relating to taxation. We have decided to tax the Boards, but if we allow any province not to form a Board but to run the business on its own account as a State-owned business, then that business will escape taxation. That would be perpetuating a distinction between one province and another. I beg to submit that all the provinces should be put on the same basis. I would have supported my honourable friend's amendment if there would not have been this invidious distinction. I submit, Sir, that the big club which he has referred to is the big club really which is embedded in the tax proposal. That is a club with which the Honourable Minister can always break the heads of all institutions and prevent them from raising their heads. For these reasons I oppose this amendment.

The Honourable Shri N. V. Gadgil: Sir, I am unable to accept this amendment. As a matter of fact, the question is not of the Madras's needs; the question really is whether this particular industry and its development should be mainly through a Government Department or through an autonomous Statutory Board. After taking all factors into consideration, Government have decided that this is the best. In order to accommodate the view point which has been pressed now and which was also pressed in the Select Committee by my honourable friend Mr. Krishnamachari, I have made enough provision in the proviso of this Section. In the light of that it is not necessary, I think, even for him to press for this amendment. I have not attempted in any way to use the legislative stick—big or small—at all. What I have always sought is hearty co-operation from every province and from every member of the House. If the desire is that this industry should be put on a solid basis, that development should be quick and in a scientific and methodic manner, then there must be some agency which can carry out this policy. Mere enunciation of policy—however good that policy may be—is no use. The organisational set up must be appropriate and I think that the set up contemplated in this Bill is the best under the circumstances. I would therefore ask the House to reject the amendment.

Shri M. Ananthasayanam Ayyangar: Just one word, Sir. I am also a party to this amendment and I beg to submit that the question is that we wanted as in Madras the State to take up this concern. Madras has taken it over. We believe that the State will do it better than any corporate body set up under the aegis of the State. Every province may take it up. The reason so far as Madras is concerned is this. They have introduced prohibition. Pre-prohibition they were getting about 16 crores for their general revenues which they have now lost, but electricity gives them all the profits and in addition they have also started road transport services departmentally. These two are expected to give them some substantial finances. Now, the profits from electricity will be taken away by the Board, although of course a balance of the profits will go to the Provincial Government. But the Board will be a completely autonomous body and we do not know what it might do. The Provincial Government may not be able to exercise full power over it. Take the Railways for instance. Under the Government of India Act 1935 they provided for a Federal Railway Authority. We oppose this existing railway system which is directly managed by a Minister of State in a Department. Under the Act of 1935 they wanted to create a Federal Railway Authority vesting all the Railways under that Authority and taking it away from the purview of this House. All these Corporations which form separate entities have no chance of their Administrations being subjected to debate in this House. If it is a Department, it is easy. Judged from any point of view the idea of a Corporation does not seem to be more appropriate. Option may be given to those provinces where the electric production and supply is being run by the State itself. However, my honourable friend the Minister thought that two years are being allowed within which they can make certain experiments and if the experiments fail they can come back. Under that assurance, I was prepared to withdraw this amendment and I appeal to my friend because it is a joint amendment and I am entitled to 50 per cent. of it. Let us see if the experiment succeeds and if it does not, under your kind guidance we can introduce another Bill and revoke it.

Shri T. T. Krishnamachari: Although my responsibility is only 50 per cent., I would beg leave of the House to withdraw my amendment.

Mr. Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Speaker: The other amendments of Mr. Naziruddin Ahmad need not be put to the House. As regards Prof. Shibban Lal Saksena's, he is not there. So, the question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri N. V. Gadgil: Sir, I beg to move:

"That the Bill, as amended, be passed."

I do not want to make a long speech, but I would be failing in my duty if I do not express my debt of gratitude to the House. I am deeply thankful to those members who have made speeches and also to those who have not. I am also grateful to those members who moved the amendments and to those who did not, and also those who moved and withdrew them.

[Shri N. V. Gadgil]

Sir, the beginnings of this Bill were some time in 1942. In the course of the last six years, the Bill has gone from stage to stage and today the Bill is about to be put on the Statute Book. As I said, the Bill was so big and complicated, so technical in character, that although I am familiar with it for nearly a year, I do not claim that I will stand the cross-examination of anybody who really knows about it. Yet, all the same this is an effort which is consistent with the industrial policy that has been adopted by this House. It is not claimed by the Government that this will satisfy those who stand for socialism and State ownership and control all at once. At the same time this will not satisfy those capitalists who will not move an inch, although the needs of the time are pressing and urgent. Obviously this is a compromise between the two extreme views. That it is an experiment in mixed economy is undoubtedly true and let us hope that as all mixed things give very healthy results, this Bill will also result in the healthy development of this industry. What is sought by this Bill is rationalisation in the supply and distribution of electric energy and a plan of development, the object of which is, as I said when I first made a motion for the reference to Select Committee that every village in this country should have electricity and every house a radio, and I have no doubt that in the course of next ten years when the boards start functioning and the great river schemes will have materialised, that objective will have been completely realized. And when this is done, some of us who will be still there either outside or here will have the satisfaction that in these few years we have done what the country expected.

Mr. Speaker: Motion moved:

"That the Bill, as amended, be passed."

Shri K. Santhanam: Mr. Speaker, Sir, I do not want to take the time of the House except to say a few words. Some of my friends, especially Mr. Ananthasayanam Ayyangar spoke of the possible failure of the experiment and of having to go back on the experiment. I do not conceive that this Bill is an experiment at all. It is in my opinion the only pattern on which India can go towards socialism. Sir, for the last 20 years I have been a passionate advocate of a peaceful evolution towards a socialistic society and I see in this Bill as in the other Damodar Valley Corporation Bill and the State Employees Insurance Bill the first steps towards that evolution. Sir in a socialist society if mere departmental management takes up all economic life, there can be nothing but inefficiency, corruption and ultimately complete breakdown. A handful of people calling themselves ministers cannot be expected to deal with vast departments dealing with the production, distribution and consumption of wealth. We want large centres of initiative, of resource and of people who will have day to day touch and who will have the authority to deal with problems as and when they arise. If every problem dealing with every department of our economic life is to be referred to one set of people either in the provinces or the Centre, then there will be congestion at those centres. Each centre has to delegate this responsibility to competent persons who will be responsible to that centre; it is only by that method that a socialist re-organisation of society can be achieved. I did not indulge in exaggeration when in the opening speech, I said, I conceive it as an effective measure of nationalization of electric power. Sir, I think this is the beginning of all nationalization and if these boards act, if the Provincial Governments and the Central Government act in accordance with the principle of this Bill, then, I am sure within ten or fifteen years' time the entire production and distribution of electricity will be in the hands of public authorities, all of whom are appointed and are responsible to the responsible ministries either at the Centre or the Provinces. I believe that this is a really effective nationalization measure and in that spirit, I heartily support this motion for passing this Bill and I tender my hearty congratulations to the Minister for successfully piloting this Bill.

Sir, as he himself said many of the clauses of the Bill are a headache to any one who tries to understand it and just as he said, I do not think I shall pass an examination on the Bill, especially in the schedules, but I may assure this House that even these technical clauses, we patiently tried to understand and at least we forced the experts to correct wherever they were not very clear and wherever they were ambiguous. So, I am sure the House may feel satisfied that nothing has been left undone to make it as good as we can make it at this time and in the light of actual experience, if it is found that there are defects, they will, be remedied in due course. Meanwhile, I do not like that any impression should go abroad that this is a temporary experiment. I would like the people of India to believe that this is the pattern in which all other industries especially the nationalised industries will have to be managed and that there is no other way. Sir, I support the motion.

Shri M. Ananthasayanam Ayyangar: Mr. Speaker, Sir, on behalf of all persons who took part in the discussions, as also on behalf of all others of the House, I congratulate the Honourable Minister for getting through this Bill. This will certainly mark a landmark in the history of industry and agriculture in this country. Hitherto electricity was confined for lighting and other purposes and to some extent to industry in the urban areas. Electricity was not extended to rural areas. The cream of profits were taken away by the industrialists or by persons or private agencies who introduced by way of corporations generation of electricity and distribution of electricity etc. They were charging high profits per unit and they were unwilling to extend it to rural areas for agricultural purposes. They also give large supplies to industry at low rates and that is why agriculture has not progressed as well as we should expect; nor industry has progressed; they were only anxious to take all the advantages of the monopoly, but not take the liability of expanding it to the rural areas. That was the object with which the Bill was conceived and the Bill has been passed. Certainly as a first measure a Corporation will be very useful. In all those provinces where they have undertaken generation and supply of electricity this will certainly be useful, but in other places where as in Madras and other places where the State itself has been supplying electricity and that very well without any complaint, doing it cheaply and earning the profits also for the State, I do not see how this is the last step in nationalization and that is a retrograde step. My own feeling is that nationalization as I conceive it is that the State must take charge of every industry directly and all property must belong to the State. Today this property does not vest in the State. Under these circumstances, if we should have credit for having ushered a new era of socialism and nationalism, certainly I am one with my honourable friend, Mr. Santhanam for taking all the credit. Let us take this as a first step and this must lead on to the other step. So far as Madras is concerned, the State itself has undertaken without any murmur, without any difficulty or complaint, and if the object of the State is to expand and to carry electricity to the very doors, that experiment is being tried and successfully also. In the other provinces this experiment has not yet been tried. Therefore, as a first measure, it must be tried. This is certainly a step in the right direction, next only to the state managing departmentally. This is no property of the State; it is as well managed by the State as any other; it is not a proper corporation at all. In that I agree with my friend. If any traducers should be there and quarrel with us for not having nationalized, I will certainly agree with my honourable friend and all others who are responsible for this Bill and say that we have nationalised this industry and that every step taken by these boards will be controlled subject to the supervision of the state. My conception of a State is this: The State instead of being a policing authority, the entire industry must be run by the State. Other activities are only subordinate. Formerly, when the British Government came here, they appointed collectors mainly for the purpose of gathering

[Shri M. Ananthasayanam Ayyangar]

tax; welfare of the people, growth of property and wealth of the country was not their main concern. Now that we have attained independence, the whole thing must be reversed; the main object of the State must be to make this country more and more wealthy, industrially, agriculturally. Economically, its standards must be lifted up. Then, taxes will flow naturally. Tax collecting, policing and defending against foreign aggression these are only subordinate activities. What is the good of saving us against foreign aggression if we are starved. Hereafter, the Minister in charge of agriculture and industry must have the foremost place in the Government, both in the Centre and in the provinces. After all, freedom should be for improving the economic activity and wealth of the nation. It is not strange if a Minister is directly, through his subordinates, kept in charge of the administration of an Electric Supply Corporation. How many persons are in charge of a Board: three to five. They are appointed by the State. Under the Minister, he has got a Secretary, Deputy Secretary and three or four assistants to help him. How is this worse than a Board constituted for that very purpose. The legal entity is no doubt different. Let us not, in our enthusiasm to embrace the new child which has not yet come into existence, which has not yet begun to crawl, be too much in favour of it. This is after all an experiment. The other experiment will be tried, of taking over electricity directly.

As regards the working of this corporation, I would try to guard against one or two difficulties. Private enterprise is on the wall; it is watching as to how this experiment works. As a matter of fact, they insisted upon income tax being imposed on this corporation. They were very vociferous about it. They insisted that private industry and this Corporation should have an equal start so that they may reduce their overhead charges, pay their labour well, pay attention to their accommodation, they may show that this service is deficient and ultimately twit the Government and say, scrap this Board and give it to the industry. In this way, they insisted on imposing liabilities on this corporation. No doubt, the Centre would like to clutch at the prospect of getting more Income tax. I may also say that in the yearly Finance Bills, a difference can be made in favour of the corporation. Whereas on other industries, you impose the heaviest tax, tax at the maximum rate, less than the maximum rate may be imposed on the profits of this corporation, and the various other statutory corporations. Let us not yield to the temptation of trying to make them absolutely commercial concerns; it is a public-utility service also. The way in which it caters to the needs of the public must be placed in the forefront, before any consideration of earning money alone. Therefore, these corporations must be established and worked with a view to cater to the needs of the public.

Once again, I must congratulate the Honourable Minister for having pushed through this Bill with all his good humour and his enthusiasm for work.

श्री गोपीकृष्ण विजयवर्गिया : श्रीमान् अध्यक्ष महोदय, मैं इस बिल के बीचमें बोला नहीं हूँ लेकिन आखिर में दो शब्द कहना चाहता हूँ। मेरा ख्याल है कि जो हमने बहुत से असूल ले डाउन (lay down) किये हैं, और कम से कम देश में यह ख्याल है कि मुख्य इंडस्ट्रीज (industries) को नेशनलाइज (nationalize) होना चाहिये, खास करके जो एसेन्शियल इंडस्ट्रीज (essential industries) हैं उनको तो होना ही चाहिये। मेरा यह ख्याल था कि कम से कम इलेक्ट्रिक इंडस्ट्रीज (electric industries) पूरी तरहसे नेशनलाइज (nationalize) होनी चाहिये। यह हम लोगों के लिये एक मौका था कम से कम एक नमूने की तरह ही काम करके

बतला देते की जिससे हम नेशनलाइजेशन (nationalisation) की शुरुवात कर सकते। मेरा तो यह पूरा यकीन है और विश्वास है, कि कम से कम यदि और इंडस्ट्री (industries) नहीं तो इलेक्ट्रिसिटी (electricity) पूरी तरह से नेशनलाइज (nationalize) होनी चाहिये। इसलिए "मैं पूरे संतोष है" ऐसा नहीं कह सकता। इसको हाफ हार्टेड कमप्रोमाइज (half-hearted compromise) के तौर पर हम लोग यहाँ पेश कर रहे हैं। जो लोग कहते हैं कि बिजली वगैरह डिपार्टमेंटल (departmental) ढंगसे नहीं चलाई जा सकती, और इसतरह से वह प्राइवेट एन्टरप्राइज (private enterprise) ही सारा रखना चाहते हैं, मेरे ख्यालसे वह प्राइवेट एन्टरप्राइज (private enterprise) अच्छा नहीं होता क्योंकि कुछ मामलों में तो हमको नेशनलाइजेशन (nationalisation) की शुरुवात करनी ही पड़ेगी, और यह जरूरी है, कम से कम इलेक्ट्रिसिटी का मामला तो ऐसा है जो फुल्ली नेशनलाइज (fully nationalize) होना चाहिये। मुमकिन है कि इस तरह से हम जो कमप्रोमाइज ऐक्ट (compromise act) यहाँ पेश कर रहे हैं, जो हाफ हार्टेड मेज़र (half hearted measure) है, वह सक्सेसफुल (successful) न हो सके और फिर सारी बुराई गवर्नमेंट के ऊपर आये। अभी गवर्नमेंट पूरी तरह से डिटरमिन्ड (determined) नहीं है। मैं चाहता हूँ कि हमारी सेन्ट्रल गवर्नमेंट (central government) पूरी तरह से यह तय करें, कि जहाँ तक हो सकता है हम नेशनलाइजेशन की पौलिसी (nationalisation policy) ही अमल में लायें। जबतक बिल्कुल यह पौलिसी (policy) नहीं बरती जायेगी तब तक सिर्फ़ ऐक्ट पास करने से कामयाबी नहीं हो सकेगी। जो लोग कहते हैं (this is a full fledged nationalisation Act) दरअसल ऐसा नहीं है। नेशनलाइजेशन (nationalisation) की इसमें गुंजाइश होते हुए भी जबतक गवर्नमेंट की पौलिसी पूरी तरह से नेशनलाइजेशन (nationalisation) करने की नहीं होगी तब तक नेशनलाइजेशन (nationalisation) अपने आप नहीं आयेगा। अभी तो बहुत सी दिक्कतें हैं, हमको मशीनें और दूसरी चीजों को पाने में मुश्किलता का सामना करना पड़ता है। अभी तक जो मिक्स्ड इकोनोमी (mixed economy) की तजवीजें हो रही हैं और आगे बढ़ रही हैं और बहुत से रिजोल्यूशन और ऐक्ट (resolution and act) पास कर रहे हैं यह सब (unplanned economy) है फिर भी यह कानून एक एक्सपेरिमेंटल (experimental) है और इसकी जरूरत थी। इस चीज के लिये मैं मंत्री महोदय साहब को बधाई देता हूँ। लेकिन मैं यह पूरी आशा करता हूँ गवर्नमेंट (government) सब चीजों का पूरा नेशनलाइजेशन करने की तजवीज को अमल में लायेगी।

(English translation of the above speech)

Shri Gopikrishna Vijayavargiya (Gwalior State): Mr. Speaker, Sir, I have not spoken during the course of discussion on this Bill, but I want to say a few words in the closing stage. I think we have laid down many principles, and at least there is a strong feeling for nationalization of key industries in the country, especially for essential industries. I was of the opinion that electric industry at least should have been completely nationalized. This Bill afforded us an opportunity to create a precedent for future nationalization. I am, therefore, fully confident and believe that electricity should at least be completely nationalized even though other industries may not be nationalized. Therefore, I cannot say that I am fully satisfied. This is a half-hearted compromise. People say that Electric enterprises cannot be run by Government departments and advocate private enterprise. In my opinion private enterprise is not desirable because in some cases we will have to begin nationalization and it is very essential that Electricity should at least be nationalized. It is just possible that a compromise Bill which we are considering here—being only a half-hearted measure—will not be successful, and as a result the entire blame will be attributed to the Government. The Government is not fully determined as yet. I would like the Central Government to decide finally that as far as possible we should implement the policy of nationalization. Unless and until this policy is persuaded *in toto*, no useful purpose would be served by merely passing legislation. This is not really a full fledged nationalization Act just as some people say. Although it contains provisions for nationalization, yet so long as the Government does not launch upon a policy of complete nationalization, this cannot materialize. There are still so many difficulties which we have to encounter in purchasing machinery and other goods. Uptil now all those plans of mixed economy that are being developed and many Acts and Resolutions which we are passing are unplanned economy. Even then this Act is only an experiment which was needed. For this, I congratulate the Honourable Minister. I have a fervent hope that the Government will soon implement its policy of nationalization of all such industries.

चौधरी रनवीरसिंह : अध्यक्ष महोदय, मैं इस प्रस्ताव का समर्थन करता हूँ और किसानों की तरफ से मंत्री महोदय के प्रति कृतज्ञता प्रगट करना चाहता हूँ। उन की सेवा में दो तीन नमू निवेदन करना चाहता हूँ। एक तो यह है कि आमतौर से ऐसी कारपोरेशन के अन्दर जो सामर्थ्यशाली लोग हैं और जिनके हाथ में प्रेस होता है और जो वोकल (vocal) होते हैं उनके फायदों का ज्यादा अच्छा ध्यान रखा जाता है। अतः मैं उनसे यह अपील करूंगा कि वे विशेषतः देहाती भाइयों का जिनके पास न तो प्रेस है और न जिनकी आवाज ही है उनके फायदों का अच्छी तरह से ध्यान रखें।

दूसरा निवेदन मैं ईस्ट पंजाब के बारे में करूंगा। ईस्ट पंजाब एक बच्चा सूबा है, उसको पैदा हुये मुश्किल से एक साल हुआ है, जैसा कि मंत्री महोदय ने प्रातः बताया था। टैक्स लगाने से पांच लाख का सालाना घाटा पड़ेगा और वह पांच लाख का टैक्स सेंट्रल गवर्नमेंट को देना पड़ेगा। ईस्ट पंजाब एक डेफिसिट (deficit) प्रान्त है और वह अपना खर्चा बरदाश्त नहीं कर सकता। जैसा कि प्रातः मंत्री महोदय ने विश्वास दिलाया कि वह क्लॉज ८० (clause 80) को जब तक इस सूबे

वाले राजी नहीं होंगे लागू नहीं करेंगे। मैं समझता हूँ और यह विश्वास रखता हूँ कि मंत्री महोदय ने जो विश्वास दिलाया है वह उसके ऊपर आरुढ़ रहेंगे। दूसरा एक और खतरा है जैसा कि मेरे कई दोस्तों ने इस बिल पर जब बहस हो रही थी अपने खयालात का इजहार किया कि प्रान्त अपने फायदों की रक्षा इस तरह कर सकते हैं कि वह पूंजी पर इन्ट्रस्ट या ध्याज ज्यादा लगा दें। इस तरह से एक संघर्ष पैदा हो जायेगा और प्रान्त और सेंटर (centre) में जो संघर्ष का खतरा है उसको बचाने की कोशिश करें।

अभी मेरे लायक दोस्त श्री अनन्थासायानम आयंगर ने मद्रास का केस (case) प्लीड (plead) किया। मद्रास के अन्दर बड़े बड़े वक्ता हैं हमेशा इस असेम्बली के अन्दर मद्रास का ही बोलवाला रखते हैं। मद्रास तो एक बहुत आगे बढ़ा हुआ सूबा है। ईस्ट पंजाब के रिप्रेजेन्टेटिव (representative) आमतौर से इस सभा के अन्दर शान्त और चुप रहते हैं। उनके फायदे के बारे में उनसे अपील करूंगा कि वह उनका ध्यान रखें। ईस्ट पंजाब के अन्दर भांखरा डैम (dam) की स्कीम है और भी स्कीमें हैं। और इस समय भी प्रान्त को मण्डी हाईड्रो इलेक्ट्रिक से १० लाख रुपये की प्रतिवर्ष आय होती है। और ईस्ट पंजाब की जो स्कीम होगी उसमें देहातियों का बहुत ज्यादा लाभ होगा। इसलिये मैं मंत्री महोदय से यह पुरजोर अपील करता हूँ कि वह इस सूबे का खास तौर से ख्याल रखें। जैसा मैंने मद्रास के बारे में बताया, वह तो एक अच्छा सूबा है, पढ़े लिखे और बोलनेवालों का सूबा है। उसका अगर थोड़ा कम ध्यान भी रखें तो कोई हर्ज नहीं, मगर ईस्ट पंजाब का ध्यान जरूर रखें क्योंकि ईस्ट पंजाब मद्रास के मुकाबले में एक छोटा सूबा है और मैं समझता हूँ वहां मद्रास से ज्यादा काम हो रहा है।

मद्रास के लिए प्राहिबिशन (prohibition) स्वीकार किया गया है। मैं ईस्ट पंजाब के बारे में भी आपका ध्यान आकर्षित करना चाहता हूँ कि वहां की सरकार ने अक्टूबर के महीने से विशेषतः मेरे जिले रोहतक में, जो कि देहली के पड़ोस का जिला है, प्राहिबिशन (prohibition) जारी करने का इरादा किया है। ईस्ट पंजाब यों ही घाटे का सूबा है और इस तरह की स्कीमें चलाने से उसे और भी घाटा होगा। अतः पंजाब को आर्थिक सहायता की आवश्यकता है।

दूसरी एक बात मैं और कहना चाहता हूँ और वह यह है कि किसानों की आवाज अगर कहीं थोड़ी बहुत सुनाई देती है या उसका असर है तो वह सिर्फ ईस्ट पंजाब के ही सूबे के अंदर। तो इस सूबे के बारे में आप विशेष तौर से ध्यान रखें। मैं आपसे यह अपील करूंगा कि इसमें कोई शक नहीं है कि हमने क्लॉज ८० (clause 80) पास कर दी है, मगर प्रथम तो आप उसको पंजाब के लिये लागू ही न करें और अगर

[चौधरी रनबीरसिंह]

लागू करें तो उसी हालत में जब कि पंजाब की फाइनेन्शियल पोजीशन (financial position) बहुत स्टेबिल (stable) हो जाय। अपील करते हुए और यह विश्वास रखते हुए कि मंत्री महोदय ईस्ट पंजाब को अपने ध्यान से नहीं जाने देंगे, मैं अपना भाषण समाप्त करता हूँ।

(English translation of the above speech)

Ch. Ranbir Singh (East Punjab: General): Mr. Speaker, Sir, I support this Bill and would like to express gratitude to the Honourable Minister on behalf of the agricultural community and respectfully submit two or three points for his consideration. Firstly, it has been generally noticed that in such Corporations more attention is paid in looking after the interests of the wealthy and influential persons who control the press and are vocal. Therefore, I would appeal to him to particularly safeguard the interests of the rural population who have neither any Press nor are vocal.

Secondly, I would say something in regard to East Punjab which is still a newly born Province hardly an year old. And just as the Honourable Minister stated this morning, it has to lose Rs. 5 lacs annually by the levy of income tax, and that amount will have to be made good by the Central Government. East Punjab is a deficit Province and it cannot meet its expenditure. The Honourable Minister also gave an assurance today that the provisions of Clause 80 will not be brought into operation without the consent of the Provincial Government. I believe and am confident that he will stick to this. Another thing of which we are afraid is that just as many of my friends pointed out during the course of discussion on this Bill, that the Provinces can safeguard their interests by charging more interest on their capital. This will lead to a conflict and efforts should therefore be made to eliminate the possibility of such a clash between the interests of the Central and Provincial Governments.

Just now my honourable friend Mr. Ananthasayanam Ayyangar has pleaded the case of Madras. Madras has many renowned speakers, who have always dominated this Assembly. Madras is already a much advanced Province. The representatives of East Punjab in this House are generally silent. I would appeal to them to look after their interests. East Punjab is having the Bhakra Dam and other projects, and even at present Mandi Hydro Electric is yielding a profit of Rs. 10 lacs per annum.

The East Punjab schemes are likely to prove much more beneficial to the rural population. Therefore, I will earnestly appeal to the Honourable Minister to give special consideration to this Province. Just as I have stated in respect of Madras, which is an advanced Province—its people are educated and good speakers. There is no harm if you pay relatively less attention to that province, because East Punjab is a very small province in comparison to Madras and I think more work is being done there than the latter.

Prohibition was enforced in Madras. I would also like to draw your attention to East Punjab. The Government of that Province have decided to introduce prohibition from the month of October more particularly in the Rohtak District from where I come and which is adjacent to Delhi. East Punjab is already a deficit province and it will have to sustain a further setback by the implementation of such schemes. Therefore, this Province is in urgent need of financial assistance.

Another thing which I want to say is that East Punjab is the only province where the peasants have got some effective voice. Therefore, you should be particularly careful towards this Province. There is no doubt that we have passed Clause 80, but I would appeal to you not to enforce the provisions thereof in East Punjab in the first instance, which should be done only when the financial position of the province is fairly stabilized. With this submission and in the hope that the Honourable Minister will not ignore East Punjab, I conclude.

Mr. Naziruddin Ahmad: Sir, I support this motion. I am in general agreement with the principle of the Bill which goes midway between the two extremes of nationalisation and private ownership. I submit that it is a very difficult thing for Government to jump all at once into business without sufficient experience. Government departments are run by rules and practices, references and notes flying backwards and forwards. They are not particularly suited to function as business concerns though they may become so with experience.

The second reason for opposing State ownership all at once is that our country has not sufficient experience of industries. I therefore submit that the course that has been adopted in the Bill is a wise one and should be given a good start and a good and fair trial.

Apart from these points of substance which have been ably referred to, I have a few remarks to make in regard to the form in which Bills are generally couched. I think form is as much important as substance because after all we have to interpret these Bills on the wording and the form in which they are put. I had a number of amendments of which some were accepted by the Honourable Minister while others were of a more or less formal character which were not formally moved. By a convention established here mere formal amendments which will be taken care of by the Draftsman have not been moved. But there are large numbers of clerical errors; punctuation mistakes, capital letters in the middle of a sentence, and other mistakes of a like nature are not rare. In recent legislative measures I have noticed a tendency to write "Official" with a small 'o' in the words "Official Gazette", as if it is not one expression but "official" is only an adjective of the noun "Gazette". But it is one expression. If while writing "Connaught Place" we spell "Connaught" with a small 'c' or write "Federal Court" with a small 'f' the mistake would be of the same kind. "Official Gazette" is one expression and if we need a sample it is given in the General Clauses Act. This kind of mistake in Bills should be prevented.

Then a large number of amendments were not accepted by the Honourable Minister; I do not blame him or the House because they were not such as could be discussed here, nor can we blame the Select Committee. These are responsibilities of the Draftsman. It is the right of the House and the duty of the Honourable Minister to insist on a better standard of drafting. Otherwise it creates difficulties for members who have to go through these Bills carefully without being sufficiently paid for it. In fact it takes nights and days to go through them and find out these errors. This has been going on for a long time and now the draftsmanship should improve. With these few words I heartily support the motion.

Prof. N. G. Ranga (Madras: General): Sir, I do not know why my honourable friend Mr. Santhanam quarrels with the idea that this should be treated as an experiment. Personally I think there are ways and ways of public management. Even the earliest joint stock companies used to be known as public companies. We do not want it; we want to improve upon it. Therefore at one time socialists in the beginning and later on everybody began to think of State ownership and direct management as being the best possible public concern.

[Prof. N. G. Ranga]

Recently in England experiments have been made with such public corporations as are now sought to be established. This is the second time that this House is dealing with a proposition like this. Recently we established the Damodar Valley Corporation, and now we are establishing another one. We have yet to see how these corporations are going to function, to what extent they will be able to give satisfaction to the people and make this business a success. Therefore in that spirit and to that extent it certainly is an experiment.

Then there is the other experiment also that has been made in various places, that is, the older kind of State enterprise. In Madras, as has been said, and in Mysore the other experiment has been made and it has proved to be a success. No one has come forward and said that it has not proved a success or does not give satisfaction to those consumers who had to use electricity. But at the same time we do know that if we are to extend that kind of ownership and management to various other spheres of activity, even to the other provinces under the aegis of the Central Government, there are grave doubts whether it would be equally a success, whether it would be useful to the people and whether it would give sufficient satisfaction to everyone. Therefore this experiment is now being started. I have no objection to this. It is not even a middle course. But there is one difficulty. Whether you have direct State management of the whole thing in this Legislature at the Centre, the Provincial Legislatures have direct control over the Ministry and through the Ministry over the management of that particular concern. But when you come to establish these public corporations, the control that the Legislature can possibly exercise can only become very distant, very much limited, almost diluted. It is there that there is a certain amount of danger. How can we get over this particular difficulty.

Sir, Mahatma Gandhi has raised one objection to the Western conception of Socialism. This Socialism laid too much stress on centralization. So Mahatma Gandhi wanted decentralization. Now decentralization does not mean that the State should go on establishing a number of these *ad hoc* committees and boards or corporations, and hand over responsibility to them and say to the public: Do not tackle me for anything done right or wrong by this corporation or board. I cannot be held responsible. I have handed over all responsibility and authority to them. Therefore you cannot question me in regard to administration and management of it. You cannot even tackle me or pass a vote of no-confidence.

Now, that is where shirking of responsibility comes in. If a Minister really wishes to dodge the Legislature and legislative control and at the same time have complete control over an industry like this, the best he can think of doing is to establish a committee, a corporation or a board like this. That is where the sting lies.

How are we to get over this difficulty? There is one way, and I am glad it has been anticipated and provision has been made in that direction, namely, to associate the public at as many centres as possible—the interested public—with the organisation that is being set up. I am glad to find, Sir, that there are two organisations to be set up in the provinces—one a committee and the other an advisory council. I think there is to be an advisory council at the Centre also. If it is not, then I hope that very soon Government will come forward to make good that omission and provide for the constitution and functioning of an advisory council at the Centre also. So far as the province is concerned, I am satisfied with the provision now made because all those who will be using electricity in their respective sphere—industrialists, municipal consumers, agriculturists, ordinary tradesmen and businessmen—will be provided with sufficient representation on the advisory council as well as on the Committee, and to that extent we can expect the local public to make their voice heard at the proper centre and in that way not only decentralization, but also a democratic control, a democratic contact and supervision over the activities

of the Committee that has to be set up is ensured, and that ought to satisfy all those who are really keen on seeing that our public ownership and public organizations are organized in such a way that the public are brought into direct contact with these organizations and also entrusted with sufficient power and influence over them.

But so far as the Centre is concerned, I am anxious that a similar advisory council should be set up. Unfortunately, there is no provision made here for this but I suppose nothing will prevent my honourable friend, the Minister in charge, to constitute a council like that and then provide it with certain powers to start with, and afterwards come forward with an amending Bill in order to give them also certain statutory powers. Once such Councils are established, I personally feel this sort of mechanism ought to give us, even as an experiment, much better satisfaction than any joint stock company.

Then if it is compared to a direct State-owned management, how will it bear comparison? There is one difficulty. If it were to be merely direct State ownership there is the danger of the personal predilections of a Minister coming in and interfering with the efficiency of the service that has to be rendered. There is also the danger of some of our own legislators trying to interfere where they need not have to interfere and where they ought not to interfere. Such interference also has to be guarded against as much as too much authoritarianism from experts themselves. Secondly, we know the physical limitations of any Minister or Deputy Minister. We find it now through the experience of other countries, that Ministers as we find them today are not really capable of giving as much attention, thought and consideration to all the details of administration that are needed if we are to ensure efficient management of any State or industry. It is for that reason that this idea of a public corporation has been developed. If in England with all their experience in popular government they have found it necessary to resort to this means, I think we cannot be doing wrong in trying to make a similar experiment in this country also. And what is more, our Ministers have got to undertake more and more responsibility in this country in order to make our State a social State, a State that will not be content, as my honourable friend, Mr. Ananthasayanam Ayyangar has put it, with police functions only, but will be willing to attend to all the growing social needs of our population,—and a vast population it is—and to develop our own economic resources.

In these circumstances, keeping in mind these physical limitations, I think it is on the whole wise for our Ministers not to leave our enterprise entirely at the mercy of private enterprise: not to take upon themselves this, too ambitious task of managing all these industries directly through the State, but to rely more and more upon these public corporations, provided they are willing to take into co-operation not only these local advisory councils as suggested here, but also one thing more, that is to take into co-operation the Provincial Governments and the Municipal authorities at various stages and thus strengthen their control over these industries. Sir, I hope the Honourable the Minister in charge of this Bill will take into consideration the suggestions that I have made and will also try to invoke the aid, even to a greater extent than proposed here, not only of the Provincial Governments but also Municipal authorities.

The Honourable Shri N. V. Gadgil: I am thankful to honourable members for their appreciation of what little I have done. It would be wrong on my part if I were to accept it and annex the whole appreciation for myself exclusively. I have a silent partner in this and that is the band of silent officers who have worked in the secretariat here and in Simla. But for their efforts and hearty co-operation, it would not have been possible to draft the Bill or see it through those various stages. I must appreciate their services and I should like the House to express their appreciation for their services too.

[Shri N. V. Gadgil]

I have nothing more to say. I only want assure my honourable friend Mr. Chaudhuri that more than 80 per cent. of the population of this country live in rural areas and so no Government can justify its claim to be fair unless it is keen on doing something in the interest of this 80 per cent. of the population.

It is not strictly in compliance with parliamentary etiquette to reply in detail on the third reading to the various points that have been raised and I am rather very strict about these matters. I do not want to reply in detail. I once more thank honourable members for their appreciative remarks.

Mr. Speaker : The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

MINES AND MINERALS (REGULATION AND DEVELOPMENT) BILL

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power): Sir, I beg to move:

"That the Bill to provide for the regulation of mines and oilfields and for the development of minerals, be referred to a Select Committee consisting of The Honourable Dr. Syama Prasad Mookerjee, Shri K. Santhanam, Shri Biswanath Das, Babu Ramnarayan Singh, Shri B. P. Jhunjhunwala, Pandit Lakshmi Kanta Maitra, Shri Surendra Mohan Ghose, Shri Yudhishthir Mishra, Professor Nibaran Chandra Laskar, Syed Muhammad Sa'adulla, Mr. R. K. Sidhva, Shri Jaspat Roy Kapoor, Shri S. Nijalingappa, Shri M. Tirumala Rao, Shri V. C. Kesava Rao, R. B. Lala Raj Kanwar, and The Mover, with instructions to report on or before the 25th August, 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Shri K. Santhanam, (one of the Panel of Chairmen.)]

Mr. Chairman, this Bill as its title shows is meant for the purpose of the regulation of mines and oilfields and for the development of minerals.

Shri H. V. Kamath (C. P. and Berar: General): Sir, may I know if the motion has been put to the House?

Mr. Chairman : The Honourable Minister has not moved the motion yet. He is speaking on the motion and after he has finished it will be put to the House.

The Honourable Shri N. V. Gadgil : The necessity for this Bill has been accepted long since. During the war time it was found that it was absolutely necessary to have central control over certain minerals, which were then called strategic minerals. Immediately after the war this question of regulation of minerals assumed great importance as it was appreciated that minerals are a wasting asset and no geological process or fertilisers can add anything to them. Once they are taken out of the earth and used up they are lost and in this respect they differ from other commodities like foodgrains, etc. If this fact is appreciated it becomes all the more necessary that what one day may become scarce should be regulated. Steps should be taken that nothing should be wasted. Care should be taken that the utmost use is made of what is available.

In this connection there is some belief prevalent in this country that India is extremely rich in all kinds of minerals. To some extent this belief is justified. But to say that India is rich and self-sufficient in all those minerals

which are either useful for industrial purposes or for strategic purposes is not consistent with the facts.

If we can classify the minerals according to their availability which has been ascertained so far, they may be classified as follows:—

Minerals of which our exportable surplus can dominate the world market. That would be one category.

Minerals of which our exportable surplus forms an important factor.

Minerals in which India may be considered self-sustaining for present needs and those of the immediate future.

Minerals for which India has to depend largely or entirely on foreign imports.

Now in the first category the House will be interested to know that there are only three minerals—Iron ore, titanium ore and mica. It is no doubt true that we have enough supply in the sense that at present they not only meet our local needs but we are even in the position of exporting these in such a manner as to dominate the world market in these minerals. With respect to this category it should be our desire that taking into consideration the needs of this country in all other fields, this should supply us with a sort of bargaining power in the world market, so that whatever we want for the purpose of our industrial expansion should be made available by a resort to methods which are approved and are consistent with commercial practice and morality.

As regard category 2, the House will be interested to know that some of these ores are manganese, bauxite, magnesite, refractory minerals, natural abrasives, steatite, silica, gypsum, monumental granites, monazite, corundum and cement materials. We have some exportable surplus and this is an important factor and can be utilised for the same purpose for which minerals in the first category can be utilised.

The third category consists of coal, aluminium ore, gold, chrome ore, building stones, marble, slate, industrial clays, limestone and dolomite, mineral pigments, sodium salts and alkalies, nitrates, phosphates and so on. In the matter of these minerals there is no doubt that our present needs are satisfied and they are quite enough. When I say our present needs and also the needs in the immediate future it clearly means that if we want to expand those industries in which these minerals form the major commodity we must necessarily have more regulation in the matter of these minerals.

Then there is the category 4 in which, as I said, we have to depend largely on foreign imports. It would be a revelation probably to some members of the House to know that nearly 50 per cent. of India's imports are of goods manufactured out of minerals as raw materials which are sent away from this country. So here is a big possibility of making proper use of these minerals in the manufacturing process in this country and of thus securing industrial expansion and also a rich market for the manufactured articles abroad. If it is completely appreciated that these minerals are necessary not only to keep the present state of industries but also if we want our country to expand industrially more and more, it becomes, as I said, a question of how best we can regulate, how best we can conserve and how best we can make the best use of these. This aspect of the question has been gone into by various committees, official as well as non-official. In the National Planning Committee this point has been sufficiently stressed, and it has been laid down that so far as the key minerals are concerned they must be under some central control, that they must be properly conserved and utilised to the best possible extent. The

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same emphasis has been laid on this aspect of the question by the Policy Committee that was appointed in the year 1946. What I want to urge is this that I am introducing, and asking this House to consider, this Bill not a minute earlier than what is absolutely incumbent on us if we want to proceed and progress more rapidly towards industrialisation. If we go into the history of how our mineral wealth has been so far exploited, it is a very sorry tale to tell. There has been no proper conservation; there has not even been any scientific and methodical exploitation of certain minerals, and in the case of some we are only getting a price which is so little in comparison with the price which the manufactured article out of that gets. This is not the occasion when I can take mineral after mineral and give a comparison between the prices of the raw material and the manufactured product. It is enough to say, as I said, that here is a field in which we can move with great success. The Coalfields Committee also recommended that the time has come when these things must be managed by some Central organisation. And the Central organisation that has been suggested by the Coalfields Committee is a Ministry for Power and Fuel. But the point has been sufficiently made out that there must be some Central control and regulation. If the minerals are such as are absolutely necessary for our industrial purposes and for strategic purposes, this is not a matter which can be left entirely to the discretion of the Provincial Governments. Two years ago when the Government of India decided to formulate a policy in the matter of minerals, certain proposals were framed and they were sent to the various Provinces for their respective consideration. The views of the Provinces were ascertained and it was found that the Provinces had nothing to say about the desirability of having some Central organisation, but they wanted to restrict the functions of the Central organisation to advice and direction. In the present context of circumstances that is not enough. And when this House has passed the Resolution on Industrial Policy on the 6th of April 1948 it is obvious that minerals cannot now be left entirely to be managed by the Provincial Governments. Mineral oils are put in category No. 1 which according to the statement is a category in which the State must own and control. As regards other minerals they are in category 2 where it is expected that there would be complete and effective control as regards production, conservation and utilisation. The House is probably aware that so far as the supply of petroleum is concerned, the production that is available from this country hardly meets more than 7 per cent. of its requirements. And I may let the House know that at present the exploratory permits granted to just a few companies extend only to 29,000 square miles and no more. As regards prospecting lands they do not go beyond 2,339 sq. miles. As regards actual mining leases it is just 48 square miles. That is the position. It does not mean that there are no sources available, but as the House is aware, prospecting of oil is not a very easy business and it has an element of speculation, and probably years go by and crores are spent before even a drop of oil is seen. (Prof. N. G. Ranga: 'Why not Government take it over and run it?') The policy of the Government as enunciated in the Industrial Policy Resolution, is that mineral oils must be owned and controlled by the Government. But in the statement it has been laid down that if for any reason it is not possible for the Government to do it then under certain suitable conditions private enterprise may be allowed. I have been expecting in the course of the last twelve months private enterprise to come and take up this job. But it is a matter of regret that nobody comes. If anybody comes he wants an assurance that if at all he succeeds after spending so much he must have the fruits of his labour for a fairly long period. So the dilemma is that the Government has not got the technical personnel, has not got enough capital immediately to

invest in this which undoubtedly contains an element of speculation, as I said. At the same time we are not yet so practical as to allow private enterprise and one fine morning take over the thing when it is ripe.

However, the fact remains that this is the position so far as mineral oils are concerned. What is expected is that in order to carry out even the policy of public ownership and control in the matter of minerals you must have some organisation, some regulation and that is exactly the purpose of this Bill. The House will find from the Bill itself that provision is made under clause 5 to make rules with respect to mining leases, with respect to the manner in which these leases are to be executed, the time and other conditions on which the leases may be granted.

Then in clause 6 power is to be taken to make the rules as respects mineral development. That contemplates conservation—even the prohibition of exploitation of certain mines or certain minerals, and also utilization according to a plan.

Then the third question remains about the existing leases. In respect of existing leases, the House will find that sub-clause 7 contemplates modification and changes in the terms and conditions of existing leases. All these alterations and modifications are to be made with a view to implement the national policy with respect to minerals.

These three clauses are the main clauses which so far as this Bill is concerned are to be borne in mind.

Another important fact which I must bring to the notice of this House is that these rules would be framed by the Central Government, and the Central Government in this respect will function through mainly the Bureau of Mines which has already been set up and which will be the agency to give directions, to look after reserves and to secure uniformity. The rules will be laid on the table of this House, but in certain matters the rules will require the approval of this House before they become operative. That is so with respect to compensation—

"The principles on which, the manner in which and the authority by which the said compensation shall be determined....."

The fact is that very keen and critical views are entertained by some of the members of this House. They range from cutting the vested interests with a shilling, that is from one extreme to the other extreme in which he is not on any given adequate and fair compensation but something more by way of consolation. So, whatever the principles which the Central Government will decide, those principles will be embodied in the rules and those rules will be laid on the table of this House and they will not be operative unless they are approved by this House, because it is a question of rupees, annas and pies. What those principles are will largely depend upon what colour the Government of the day takes ultimately. If it is blue something will happen, if it is pink something else will happen, if it is red I need not say what will happen. So, the thing that really counts has not been foreclosed and I cannot be accused that I have been either favourable to the capitalists or that I have been favourable to the other side. I have kept myself in such a position that I shall be guided by the wishes of the House in those matters.

These are the main provisions of this Bill. I do hope that if there are any suggestions that the honourable members of this House may offer in the course of the discussion on this particular motion, they will undoubtedly be taken into consideration by the Select Committee. But the urgency of putting this Bill on the Statute Book cannot be too much emphasized. Already in the

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various Provinces Bills either are introduced or have been passed, in connection with land. The Zamindari Bill has already been passed in Bihar; I understand a similar Bill has considerably progressed so far as Madras is concerned. If Madras follows one policy with respect to existing leases or future leases and if Bihar follows another, I think such differences and departures from the National Policy that has been accepted by this House are certainly not welcome and before the mischief becomes great or assumes a somewhat dangerous proportion it is absolutely necessary that Central legislation should have been passed. Under the present Constitution if the Central legislation comes into conflict with any Province, to the extent to which the Provincial legislation is repugnant with the provisions of the Central legislation it will be disregarded by the court. Although under the present Constitution the subject matter of this Bill is in the Concurrent List, we have done our best to see that the maximum of uniformity, a fair measure of control and direction are secured.

I do not want to take more of the time of this House and would request the House to agree to this motion.

Mr. Chairman: Motion moved:

"That the Bill to provide for the regulation of mines and oilfields and for the development of minerals, be referred to a Select Committee consisting of (1) The Honourable Dr. Syama Prasad Mookerjee, (2) Shri K. Santhanam, (3) Shri Biswanath Das, (4) Babu Ramnarayan Singh, (5) Shri B. P. Jhunjhunwala, (6) Pandit Lakshmi Kanta Maitra, (7) Shri Surendra Mohan Ghose, (8) Shri Yudhishtir Mishra, (9) Professor Nibaran Chandra Laskar, (10) Syed Muhammad Sa'adulla, (11) Mr. R. K. Sidhva, (12) Shri Jaspat Roy Kapoor, (13) Shri S. Nijalingappa, (14) Shri M. Tirumala Rao, (15) Shri V. C. Kesava Rao, (16) R. B. Lala Raj Kanwar, and (17) The Mover, with instructions to report on or before the 25th August, 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Dr. P. S. Deshmukh (C. P. and Berar: General): Mr. Chairman, Sir, I am glad the criticism of the minerals policy of the Government that we had in this House has had some influence on the Government and as a first step—I am not prepared to call it anything more than a first step—the Government has come forward with this legislation.

Sir, we were glad to notice that the Government accepted the correctness of all the criticism that we made some time ago. In the speech to which we have just heard, the Government admitted that the regulation of mines and the control of the minerals was in an unsatisfactory condition and that for the sake of uniformity as well as a fair amount of control, this legislation has been proposed. The only pity is that the Government has not as yet been able to disclose a definite plan or policy so far as the exploitation and utilization of the minerals is concerned. This Bill is more or less innocuous. It is a Bill which gives to the Government power to frame rules. What the nature of those rules will be it is absolutely impossible to judge either from the provisions of the clauses entered in this draft Bill or from the speech of the Honourable Minister. Indeed, he said in so many words that he does not want to assume any colour; he left it to the imagination of the members of the House as to what will happen if he were to assume a particular colour—if it were red, blue or black. From this reference of his to colours, may I infer, Sir, that he and his Government are absolutely colourless? I think that is where our dissatisfaction comes in. It is better to assume some colour than to have no colour at all, and even if the Government were to go red that would be far more preferable than to have a colourless Government and to have this sort of a Bill which is not likely by itself to lead us anywhere. As I have suggested, it would have been far better that the Honourable Minister had been able to

place before the House the precise steps which the Government of India were prepared to take in the exploitation of the mines and the better utilisation of the minerals. He admitted that our mining was not properly done, that in good many cases we had invaluable minerals and yet the nation was not deriving all the profit that it should make. But how does he intend to make up the losses or improve the situation? That is certainly not clear from his speech or from the Bill itself. So I think I am correct in saying that we have as yet only an intention of the Government before us, that they have now, at long last, decided to intervene in the case of the minerals and the mines but nothing very much beyond that. Had we been given some details and had we been informed as to how the Government proposes to proceed the House would have been in a better position to judge. It is not sufficient to admit that certain things are going wrong. It is also not sufficient for us to know that the Government has realised that things are going wrong and that it has decided to correct them. But we must know when, at what stage and how the Government proposes to rectify the mistakes and thus contribute materially to the progress of the country. This unfortunately, Sir, neither the Minister's speech nor the Bill that is before me is able to give us.

Apart from the fact, Sir, that there is no indication of a definite plan as to how these things are going to be worked out, we are very anxious to see that everything and anything that the Government wants to do should be based on a concrete plan—a concrete plan which will be placed before the House, which the House will have adequate opportunity of discussing. In most cases Sir, the Government has no plans. But where they have they are so unsatisfactory that they contribute merely to worsen what exists. So in this particular case, I think I voice the feeling of many members when I say that it would have been better for the Minister to have provided us with some inkling as to the steps which the Government of India are going to take for the regulation of the mines and the minerals.

I do not wish to take much time of the House. As I said, there is very little on which we can offer any comment, because there is very little in a concrete shape in the Bill itself. But I think there is much to be said so far as even drafting is concerned. I just cursorily glanced through the Bill and I am sure my friend Mr. Naziruddin Ahmad will have to take a lot of pains to correct the Bill. We have this clause 2. I am afraid I am unable to make any sense out of it. The heading is: "Declaration as to expediency of control by Central Government" and the wording of the clause is as follows:

"It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation of mines and oilfields and the development of minerals to the extent hereinafter provided."

I do not see the propriety of having this as a clause. It should have been properly speaking embodied either in the Preamble or, more properly, it may have formed part of the Statement of Objects and Reasons. I do not think there is any purpose, or any meaning in the inclusion of this clause, as a clause. It does not provide for anything.

Mr. Chairman: May I point out to the honourable member that this is necessary in order to take it to Schedule I under item 33 in the Government of India Act? It is only when there is such a declaration that the Government becomes empowered to deal with this subject.

Shri Prabhu Dayal Himatasingka (West Bengal: General): Information, Mr. Chairman. In regard to clause 7 where to be taken to make rules for modification of existing that will be framed affect the leases granted by the P

Mr. Chairman: That is a thing to be addressed when the turn comes, the honourable member may

coming of

Dr. P. S. Deshmukh: It is quite natural that my honourable friend should commit a mistake, because you Sir always come to the rescue of the Honourable Minister and even where in the Chair Sir, you are trying to do the same. You have already answered on behalf of the Minister, but I must still say that in spite of the explanation, I remain unconvinced. I have not seen such a clause in any other enactment simply because it is one of the subjects which belongs to the concurrent list of legislation. I think the clause, at least as it stands, is absolutely meaningless.

Coming to the subject proper, Sir, although we are glad that some steps are going to be taken in this direction I would suggest that at least in the Select Committee the entire nature of the Bill may be improved as far as it lies in the power of the Select Committee and that we should really have a more concrete scheme of exploiting the minerals and rectifying the mistakes that have been committed in the past or the mistakes that persist even at the present moment. I am glad the Bill has been brought forward. I congratulate the Minister on it, but he must make it more useful and put it in a more acceptable form.

Shri Ajit Prasad Jain (U.P.: General): I am afraid, Sir, I cannot congratulate the Minister on bringing this measure. Not that I do not want to give him the power to control and regulate the mines and oilfields, but the manner in which he wants to seek the powers is very objectionable. The war has left a bad legacy. There has been an increasing tendency on the part of the executive to encroach upon the rights of the legislature and this Bill is a typical example of that. The Honourable Minister said in his speech that there were only three operative clauses in the Bill, namely, clauses 5, 6 and 7. Clause 5 gives power to the Government to make rules as respects mining leases. Clause 6 gives power to make rules as respects mineral development. Clause 7 gives power to make rules for modification of existing leases. In fact, the Bill contains nothing to which we can give our consent or in which we can concur. All that the Bill requires of us is to give the powers of making rules to the Government. As such, I do not see what objects will be served by referring this Bill to a Select Committee. What this House can concur in or assent to is concrete proposals but in this Bill we do not find any concrete proposals.

Sir, the climax is reached in clause 8 where it is said:—

"The Central Government may, by notification in the official Gazette, direct that any power exercisable under this Act shall be exercised, subject to such conditions, if any, as may be specified therein by such officer or authority as may be specified in the direction."

By virtue of clauses 5, 6 and 7 Government have taken the power to make rules and under clause 8 Government can delegate the power of making rules to such officer or authority as it may nominate. I hope, Sir, that this will not be done, but anyway clause 8 as it stands does give that power to Government.

Clause 9 deals with penalties. Of course, the limit of the penalties is laid down there, but what will be the offences for which these penalties could be inflicted, we do not know. Those offences will be created by rules.

At the top of it is clause 10 which says that all rules made under any of the provisions of this Act shall be laid before the Central Legislature, as soon as may be, after they are made. The assent of the legislature will not be sought for those rules; they will be simply laid before the legislature and the legislature will have no say. There is one rule regarding compensation. This is referred to in clause 7, sub-clause 2, paragraph (c) which refers to rules for determining compensation. Those rules will have to receive the consent of

this House before they become operative. The Honourable Minister has only a short time before, steered a very complicated and comprehensive measure in the shape of the Electricity Control Bill to which the House gave its consent. I do not think that the detailed provisions for controlling and regulating mines and oilfields would be more complicated than the Bill which the Honourable Minister has just steered in the House so successfully. What the Honourable Minister wants to do by the rule-making power should have been done by definite and appropriate clauses in this Bill. All those clauses should have come before the House, so that we may know what exactly it is that we have given our consent to, what exactly is the concrete scheme for regulating mines and oilfields. We should not be asked to vote merely in a vacuum.

I would very humbly suggest to the Honourable Minister to withdraw this Bill and bring a detailed measure before this House, so that the proper thing may be done by the proper authority. The legislative functions may be exercised by the legislature and not by the executive. If my suggestion is unacceptable, I hope the Minister will at least accept an alternative, that is all the rules that are made under clause 5 or clause 6 or clause 7 should be placed before this House and before they come into operation the consent of the House should be taken. That will save the Honourable Minister from all the technicalities and procedure which have to be undergone in case of an enactment. It will be a simple procedure, but all the same this House which is the proper legislative authority will have an opportunity of expressing its views, of proposing any amendment that it considers proper and altering the rules. The Honourable Minister also said that this item is on the concurrent list. I should have expected that the Honourable Minister will consult the Provincial Government in regard to the detailed provisions of the Bill.

Mr. Chairman: If I may correct the honourable member, it is not in the concurrent list; it is in the provincial list, but the Central Legislature has been given the power to transfer it to the Central list by a declaration.

Shri Ajit Prasad Jain: Then, Sir, it comes to the concurrent list because a declaration has been made.

Mr. Chairman: It comes to the Federal List.

Shri Ajit Prasad Jain: It comes to the same thing. The Honourable Minister said that the provisions of this Bill would overrule the provisions of Provincial Acts which are contrary to any provision of this Bill. That is the correct position, but what are we doing? We are not passing any definite and concrete law in this Legislature which will overrule the provincial laws but the provincial laws passed by the Provincial Legislative Assembly in a legal manner will be overruled by the executive rules framed by the ministry. That I do not think, Sir, would be a very happy position. Before I sit down, I would once again repeat to the Honourable Minister to honour the procedure and principles which should ordinarily govern Parliaments and democratic institutions. He should come out with another Bill with detailed provisions regarding the control and the manner in which he wants to exercise it.

Shri M. Tirumala Rao (Madras: General): Mr. Chairman, Sir, soon after my friend the Honourable Minister Mr. Gadgil has gathered laurels at the hands of the House for his Electricity Bill, I least expected that he would come with this ineffective measure that would detract from those honours. This measure, Sir, on the very face of it is not calculated to achieve the purpose for which it is intended, namely, to provide for the regulation of mines and oilfields and for the development of minerals. I think, Sir, the development of minerals cannot be effectively guaranteed or brought about by merely regulating the regulation of mines and oilfields. I was one of the members, Sir, at a conference invited by his predecessor, Mr. Bhabha, in the early beginning of

[Shri M. Tirumala Rao]

1947 when all the mining and mineral interests in the country were invited to chalk out a plan for effectively exploiting this country. The Britishers by our good fortune have neglected to exploit the earth below to the extent to which they have done on the surface; fortunately we are left with what remain under the bowels of the earth to be exploited further, but the greatest weakness in the development of the mineral wealth of this country is want of proper geological survey. Even after the advent of the popular Government, I do not think that effective steps have been taken to have a proper and wholesale survey of the mineral wealth of this country. Every time we asked for this measure, we are trotted out the old excuse that we are lacking in personnel, but we are not aware of what effective steps have been taken to create the personnel from our universities by the talent that is available in this country. All the reports that are available and which Sir Cyril Fox left give us information regarding the potential wealth of this country. Now the Government cannot tinker with this problem any longer by these half-hearted measures. It is a problem wherein nationalisation must act effectively, because the mineral wealth of the country is intimately connected with the defence industry of our country. If all the articles that are required for our defence could not be got from our own country in times of danger and crisis, we have to depend on foreign countries and if they would range on the opposite side, on the enemy's side, it will be impossible for us to get the raw material. Sir, therefore, what I suggest is this. There is no use merely tinkering with the few clauses of this Bill affecting to control the superficial management of this industry. The bottle-neck of our country is the fuel oil and iron. We will have to make effective survey for oil, if we want to keep not merely the defence industry but also every other limb of our industrial activities which can be kept under proper gear. Every industrialist, every big commercial magnate gives us the reason for the present depression in production the bottle-neck of transport and our transport entirely depends on oil and fuel which is a foreign product and which has to be imported entirely from outside. For some time we have been depending on Burma for oil and with the loss of Burma from the Indian Government, we are completely rendered helpless and dependent on foreign products. Sir, it is up to the Government and the Minister in charge of this Department to see where we can strike oil and get as much out of it, to strike oil wherever it is available, even if it costs a good deal to obtain it.

With regard to iron too, that is an important item of our industry on which depend the entire subsidiary industries, and really the very economic and food problem of the nation. I am glad that the Madras Government has been trying to do something with regard to finding out new iron ores in the south and working them out. There is no use of depending for your coal on private enterprise. We know what havoc the coal producers have played during the last critical times of the war. I can tell you one foreign company has practically cornered the management of local fields and the distribution of coal because the particular man had the advantage of controlling transport in Government. Unless all the coal was dumped in the particular dump of that company and from there distributed to all the ends of the country, the private producers were helpless. Therefore, I would submit we should not tinker with the problem with a half-hearted measure where you would control the licensees. I know so many Indian businessmen, who manage to get a licence from the provincial Government, go about auctioning it to foreigners. There are concrete examples of this in my province. A certain individual invested Rs. 60,000 and manages to scrap a few samples and get a licence and bargains the thing for three lakhs or four lakhs. These

things should not be allowed. You are well aware that I. C. I. has taken a long lease of a mineral area in the Punjab for some time, with exclusive rights of exploitation. Of course, we will take advantage of the technical assistance and also capital under our own conditions if possible from abroad. But, you cannot make this industry a slave of foreign exploiters and foreign capitalists. I therefore urge upon my honourable friend Mr. Gadgil to view it from a larger view point and live up to the reputation which he has just earned in the Electricity Bill, and bring a more comprehensive measure than merely to provide for some rules which may be used to harass some of those producers. I do not think there will be concrete results from this measure. As it has come before the House, we have to support it with what amendments may be necessary. This will have to be looked into in the Select Committee. I would urge upon him to bring in a more comprehensive measure whereby the mineral wealth of our country is completely utilised in the best interests of the country and ease the present industrial situation wherein fuel and iron are the chief bottlenecks.

Prof. N. G. Ranga (Madras: General): Mr. Chairman, Sir, I am in favour of this Bill. But as I have already said even when it was being introduced for the first time, I want something much more than this. Several honourable members have already said that. I hope the Honourable Minister will keep that in mind, try to get busy in preparing an additional Bill and get it ready if possible for introduction even during this Session.

So far as this Bill goes, it has got to be passed immediately. I have no doubt whatsoever about it. If any one reads these clauses 6 and 7, he will be convinced how poor must be our provincial as well as the Central Governments in the matter of their own power to regulate and control the mineral resources of this country. That they should have found it necessary to come before this House to ask for these very elementary powers with which the State should have clothed itself long long ago, shows how in this country, anyhow, the past regime had neglected the proper regulation and protection of the mineral resources and had neglected its duty to safeguard the proper exploitation of our mineral resources. It also brings out one other point. Although our provincial Governments have been clothed with these powers, they have not taken care to pass the necessary legislation and to protect and regulate our mineral resources. It is all the more reason why the Central Government should at least now have come forward with this Bill asking for these powers in the hope that in the near future it may be able to take the necessary action in this direction.

Several honourable members have asked the Government why it is not stated what exactly are the powers that it wants, in regard to which it wants to make these regulations and in what directions it wishes to make these regulations and so on. What we ought to do is to clothe this Government with this minimum of power and afterwards expect it to look into the whole matter and come forward with more positive proposals, one honourable member wondered whether all these rules that are sought to be passed under this Act would be placed on the table of this House at all. I would request him to look at Rule 11.....

Shri Ajit Prasad Jain: I never said that they will not be placed on the table; I said that they will not require our assent.

Prof. N. G. Ranga: They would be placed on the table of the House as everybody knows, once any set of rules are placed on the table of the House, it is open to any of the members to ask the leave of the House to proceed with the discussion of those rules, if he finds any of them to be objectionable. It is never too late; it is provided in the standing orders. A certain period of time is given within which it is open to a member to take the House into his confidence.

[Prof. N. G. Ranga]

I am in entire agreement with what my honourable friends have said when they complained about the inactivity of this Government. What is it that has prevented this Government to invest, sink if necessary and risk four or five crores of Rupees in order to discover any mineral oils in this country? Why should my honourable friend have given this one year to the private capitalists and begged them to invest their money in this? When they have failed, he expresses his regret. On the other hand, I would have expected him to have expressed his happiness that private enterprise has failed in this direction and has left plenty of scope for the State to develop the mineral oils. Does he not know the experience of Mexico where mineral oils were allowed to be exploited by the Americans and the British? When later on the Mexican revolutionary leaders wanted to nationalise it, any amount of trouble was created by them and the Government was not allowed to function for several months and the Government was almost made bankrupt. Does he want our Government also to be faced with a similar contingency, having allowed our own mineral oil resources to be exploited either by Indian enterprise or Indian plus foreign enterprise? Therefore, I would make this suggestion very seriously that the Government should even now come forward before this House, as soon as it may be, with a proposal to ask for four or five crores to be risked in this particular venture. Let them go into it; if they can possibly tap it, well and good; if they cannot, it is money well worth spent and lost also, because, if we were to have another war, what would be our fate? Should we not think of that? Should we not sink as much money as is necessary in order to ensure ourselves against a similar miserable plight that India has had to suffer from during the last war? Sir, it is well known that petrol in America is selling at 13 or 14 annas a gallon, whereas it sells here, I do not know how it is selling in Delhi, it is selling at Rs. 2-4-6 here. It is nearly three times as much as it is in America. Why should it be so? Because, the Americans and the British between themselves have a kind of monopoly over the entire extraction, refinement and supply of petrol. In these circumstances is it not in our own interest to take this risk? Therefore I want Government to move in this direction as expeditiously as it possibly can.

Then, Sir, coming to this Bill itself, there is one particular provision to which I take very strong objection, and that is clause 12. This Government wants to give to itself power to exempt any concern, any mining authority or any one from any obligation to respect any of the rules that it might make under clause 6. This is an absurd clause. Why do you want to take these powers here and then give it yourself again to exempt any authority from compliance with any one of these provisions here? And not one, all of them too. It reads thus:

"The Central Government may authorise in any case the granting of any mining lease or the working of any mine on terms and conditions different from those laid down in the rules made under sections 6 and 7, or exempt any mine from all or any of the provisions of this Act or of any rules made thereunder."

I do not think the Honourable Minister has really bestowed any kind of thought at all to this case; if he had done so he would not have agreed to this and would certainly have scrapped it and brought this Bill up without this clause.

Then there is another clause, clause 8. My honourable friend Mr. Rao wondered why this power of delegation has been taken by Government. Then the Honourable Minister was saying that he wanted to give this delegated authority to the provincial Government. If he meant only the provincial Government and nothing else—and indeed in the Statement of Objects and Reasons he has stated that he was thinking of Coal Commission also—he should have stated it clearly in so many words. Otherwise it would mean that it would be open to the Central Government or the Honourable Minister

to authorise any one of his own officers either at the top or anywhere else to exercise any of these powers. That we are certainly interested in guarding ourselves against. You should make it perfectly clear here to which particular recognisable authority you wish to delegate your powers. If it is the provincial Government say so, if it is the Coal Commission or any other similar Commission that may be established under statute, say so; but do not make it as vague as you have made it here.

Lastly, I wish to express my regret that till now our national Government has not come forward with any piece of legislation to propose the nationalisation of mining. I wish to remind my honourable friend the Minister that there were two Coal Commissions which had gone into this matter, and they came to the conclusion that our coal resources are being scandalously neglected or wasted; and in order to prevent that, they suggested that coal mining should be nationalised. Government have not come forward with any proposal. The Honourable Shri N. V. Gadgil: That is not true? One Commission did recommend it by a majority, though of course there was a minority to make it convenient for my honourable friend to provide an argument. But nevertheless there was a recommendation; and, what is more, my honourable friend was also with me when we were all in the opposition and we were demanding in the name of our own Congress Party the nationalisation of our coal mines. And yet he has not come forward with any such proposal till now. I want him to think about it seriously; I want him to come forward with such a proposal at the earliest possible moment. I know that today on the railways some of the best kinds of our coal are being burnt, whereas ordinary coal of the lowest possible quality would do the job and would be quite useful. Why is it being wasted? Because there is no authority to regulate the proper utilisation of our coal. Therefore I do trust that my honourable friend will soon give his best thought to it and will come forward with the necessary legislative proposals for the nationalisation of our coal mining industry.

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Sir, I desire to say a few words at this stage regarding the scope of the Bill a portion of which affects my Ministry as well. In fact the Bill has been drafted by the Ministry of Works, Mines and Power in consultation with my Ministry. I quite appreciate the motives which have prompted several of the members who have spoken today urging the immediate necessity of taking adequate steps for the purpose of fully utilising our mineral resources; but I shall ask them to consider what the principal object of this Bill is. It is true that this Bill does not aim at solving those very important and essential matters which must be solved as quickly as possible for the purpose of increasing a portion of our vital national wealth and also for meeting any emergency which may arise in the coming years. One difficulty which we have felt is with regard to the powers which the Central Government now has, to regulate the administration of mines and mineral rights. As has already been explained by my honourable friend, the Minister for Works, Mines and Power, the provincial Governments have these powers today. It is essential as a first step that the Central Government must get these powers so that a centrally regulated and directed policy may be formulated with the least possible delay. What the Bill does today is only to provide the fulfilment of the first step and nothing more. But much more yet remains to be done and will have to be done,—may be in the form of a Bill, may be in the form of Governmental policy. All matters will not come up before the legislature; they will have to be done by executive orders in accordance with the national policy which has already been approved by the House. But this is the first essential step that we have to take, if we do not want to fritter away whatever valuable resources we possess today. The Central Government must take

[Dr. Syama Prasad Mookerjee]

over the power. In fact a difficulty was raised by the Ministry of Law—and quite naturally—with regard to the powers which the present Parliament can exercise in relation to the existing Constitution Act. It was pointed out that the powers proposed to be taken by Government must come within the four walls of the provisions of the existing Act. That is the reason why such a modest proposal has come before the House, not that the Honourable Minister for Works, Mines and Power or myself do not realise the need for taking more drastic steps; but we cannot do so under the existing Act. The utmost that we could do has been provided in the Bill now before the House. For the rest we must wait until the new Constitution Act is suitably enacted.

With regard to the question of nationalisation, I would submit that that is not a matter which really arises on this Bill. The industrial policy has been laid down. Take my honourable friend Prof. Ranga's point about the nationalisation of coal. Rightly or wrongly this legislature has decided, in accordance with the statement of industrial policy which I placed before the House in April last that you will give ten years' time to the coal mining industries and then later on you will take up the question of nationalisation. But meanwhile it is proposed that the Central Government will have ample rights to regulate the proper working of these mines.

One important question has arisen today, so far as the administration of coal mines is concerned; it is a matter which comes under my Ministry. Now we have decided that we shall wait for ten years. During this period of ten years it may be quite possible that the mining interests may be jeopardised; the mines may not be worked properly, they may be overworked, the people who are in charge of the mines may not be anxious to carry out the policy which may be consistent with the welfare of India as a whole. Surely the Government of India is not going to sit idle and watch the mining rights being destroyed or their value minimised. Therefore we want to take the power even during this period of ten years. We shall have the power to give directives what particular mining operations should take place in accordance with what the Government of India consider to be desirable and necessary; and if it so happens that there are cases where our directives are not followed, power must be taken to meet the situation, even to take over those mines and work them ourselves. But we are prepared to give ten years' time to all the existing interests, and if they fall in line with Government policy they will have nothing to be afraid of. Therefore the essential thing here is that the Government of India must be clothed with power to regulate in accordance with Central policy. It is not a question of private interests alone. It is a question of conflicting policies of the Provincial Governments. We have administrative or legislative Acts passed or done by the Provincial Governments. Each province wants to look at matters from its own provincial point of view. We should not permit that to continue. The Government of India must step in and with the powers it may now get, it must see that it lays down quickly a Centrally administered policy.

With regard to coal, a Coal Commission is to be appointed. We are discussing how to bring it into existence. We want that a special authority should be created under the Government of India, to whom we shall hand over the task of re-orientating the policy during the next 10 years and also formulating a policy which you can give effect to after 10 years. We have been advised that it will not be necessary to come before the Legislature and pass an Act for that purpose. The Government of India has sufficient power to appoint a Commission and give to it adequate powers for the purpose of carrying on the administration during the interim period. I am hoping that in the course of the next few weeks we will be able to make an announcement. The House should give its full support to the Bill as proposed by the Minister

in charge of Works, Mines and Power and accept it as the first step which must be approved by the legislature so that the Government may go forward and give effect to the policy already approved by the House.

The Honourable Shri N. V. Gadgil: I do not want to take up much time of the House. I want to make it clear that the industrial policy was laid down and was accepted by this House on the 6th April, 1948. I believe, Sir, that every member of this House, and more particularly my honourable friend, Dr. Deshmukh, was completely aware of it. That policy clearly lays down that the State must play a progressively active role in the development of industry, and from that point of view it divided the entire industrial field into three categories. In the first category mineral oils are included and that sphere will not only be controlled but owned by the State. I do not think there is any doubt about that policy. So also other minerals are to be controlled. They are included in category 2. So there is no question that there has been a complete absence of policy on the part of Government with respect to this.

As regards the criticisms of my honourable friend, Mr. Tirumala Rao, I find from the proceedings of the conference to which he made reference that the conference came to certain conclusions and one was that there must be central legislation to co-ordinate and secure more uniformity in the matter of mining leases and other matters. That conference also decided that the mineral policy should be laid down in terms of the memorandum of Dr. Wadia, the Mining Adviser with the Government of India. That lays down the following objectives:

- (a) Attainment of mineral and metal self-sufficiency as far as possible;
- (b) Bringing under central control minerals of strategic and national defence importance;
- (c) Regulation, amounting to stoppage of export of some key minerals, such as manganese, chromite, ilmenite sillimanite, beryl, rare earths, etc., without a compensatory return or barter of minerals and metals in which the country is deficient;
- (d) Encouragement of local manufacture, especially of non-ferrous metals and products now imported from abroad, e.g., aluminium, various ferro-alloys, alloy-steels and alloy-metals, heavy chemicals, mica goods, titanium paints, etc.;
- (d) A better adjustment of mineral tariff in the levying of export and import duties and fixing of quotas;
- (e) Revision of mineral taxation, royalty and lease laws; and lastly,
- (f) A progressive change-over to State-ownership, where economically feasible, of the coal, petroleum and basic metals mines.

That is exactly what is embodied in substance in the policy laid down and accepted by the House on the 6th April. Surely, it cannot be expected that every detail of every mineral should be embodied in a small Bill, the character and scope of which has been precisely defined by my honourable friend, Dr. Syama Prasad Mookerjee. A little more careful study of the provisions of this Bill will convince any fair minded observer that what has been the mineral policy as accepted has been sought to be implemented under these rules.

Now an objection has been raised by my honourable friend that this is something novel about doing everything by rules. Probably he is not aware of the modern legislative practice. Well, rules have got to be made and when they extend into a hundred, three hundred and even four hundred,

[Shri N. V. Gadgil]

you do not expect any House of Representatives to consider in detail all those four hundred rules and regulations. It has now been accepted that a fair measure of legislative power has got to be delegated to the Executive of the day, if you believe it capable of doing the right thing. And more particularly, when executive is a responsible Executive. It only takes the colour that the House has, as the majority of the Members of the House invests the Government with the colour that it has got, whether blue, pink, or red, or something else. So the accusation really comes home to the honourable member himself. My whole point is that this delegated legislation is an accepted matter in modern times. I have taken particular precautions in so far as the principles of compensation are concerned to see that I do not merely by my executive order decide them, because that is really a matter which touches the purse of the taxpayer, and from that point of view I have incorporated a clause under which it will be necessary that those principles when embodied in the rules must be accepted by the House before they become operative. I have tried to be very fair as I have already stated, and with regard to the other suggestions which have been made with respect to some of these clauses, I have no doubt that the Select Committee will take them into consideration.

Mr. Chairman: The question is:

"That the Bill to provide for the regulation of mines and oilfields and for the development of minerals, be referred to Select Committee consisting of The Honourable Dr. Syama Prasad Mookerjee, Shri K. Santhanam, Shri Biswanath Das, Babu Ramnarayan Singh, Shri B. P. Jhunjhunwala, Pandit Lakshmi Kanta Maitra, Shri Surendra Mohan Ghose, Shri Yudhishtir Mishra, Professor Nibaran Chandra Laskar, Syed Muhammad Sa'adulla, Mr. R. K. Sidhva, Shri Jaspal Roy Kapoor, Shri S. Nijalingappa, Shri M. Tirumala Rao, Shri V. C. Kesava Rao, R. B. Lala Raj Kanwar, and The Mover, with instructions to report on or before the 25th August, 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday, the 17th August 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Tuesday, 17th August, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-50 A.M.

STATEMENT BY SHRI R. K. SHANMUKHAM CHETTY ON HIS
RESIGNATION AS MINISTER FOR FINANCE

Shri R. K. Shanmukham Chetty (Madras: General): Sir, with your permission I should like to make a brief statement about the circumstances that led to my resignation of my office. Even though the matter is explained to some extent in the letters that were published this morning, it is a parliamentary privilege for a Minister who resigns to explain to Parliament the reasons for his action. I must thank you, Sir, for according me this privilege and I may assure you at the very outset that I will not abuse the consideration that you have shown to me by making any reference to any matter that might involve any controversy at all.

The circumstances arose out of certain actions of mine connected with the Income-Tax Investigation Commission. The Act for constituting this Commission was passed as early as April, 1947. On account of the preoccupations of the then Government with the partition and the 15th August, no action was taken under that Act. After the new Government assumed office on the 15th August we took steps to constitute the Commission, and accordingly the Commission was constituted early in December. In the meantime it was felt that the Act of 1947 was not adequate to enable the Commission to function effectively. Therefore an amending Bill was prepared to be placed before the legislature in due course. In the Act of 1947 the last date for reference of cases to the Commission was prescribed as 31st December 1947, after that date Government did not have the power to refer any cases at all. It was brought to my notice that even though we have got an amending Bill on the anvil we cannot act on the assumption that that amending Bill will be passed by the Legislature. If, for instance, the amending Bill had been thrown out by the Legislature and we failed to take any action under the old Act we would have lost the power of referring cases to the Commission and the whole work of the Commission would have become null and void. Under the Act we are charged with the responsibility of referring to the Commission only those cases in which we ourselves are satisfied that there is a *prima facie* case. Unfortunately there was no time to examine all the cases in detail to decide which of the cases involved in the various reports showed really a *prima facie* case. Under these circumstances,

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with a view to save limitation as it were, I ordered that all the cases about whom Income-Tax Officers had reported should be referred to the Commission before 31st December; and my intention has been always that later on I should examine these cases and then withdraw if I found it necessary in cases which did not disclose a *prima facie* case for reference, because it was my duty not to refer any cases to the Commission unless I was satisfied on examination that there was a *prima facie* case. Later on the amending Bill was introduced and in the meantime after reference of the cases to the Commission somewhere towards the last week of December I began to examine some of the cases, and I found that some of these in my opinion did not show any *prima facie* case at all. So in accordance with my original intention I gave instructions to the Central Board of Revenue to withdraw certain groups of cases. In the letter that I have written to the Prime Minister a very serious error has unfortunately crept in. I asked some one on my behalf to find out for me when the amending Bill was introduced in the legislature and I was told it was the 1st March, whereas according to my decision my instructions for the withdrawal of the cases were given on the 19th February. Subsequently this morning to my utter amazement I found that the Bill was introduced in the Assembly on the 10th February but that the reference motion to the Select Committee was made on 1st March. This is a very grievous error which I ought not to have committed. It was my duty to have verified the dates, and I therefore apologise to the Honourable the Prime Minister for the grievous error contained in my letter.

There is one other reference in that letter which I think on further consideration absolutely inappropriate on my part, to have introduced. I stated in that letter that whether in the light of the passage of the amending Bill through the Select Committee my original order of withdrawal should have been kept in abeyance did not occur to me or my advisers. I now find that I should not have made any reference to my advisers at all because at an early stage, as early as in January when I discussed this matter with my advisers, they drew my attention to the proposal that we ourselves were incorporating to the effect that cases can be withdrawn only with the consent of the Commission. But it is on my responsibility that I took the view that the object of that amendment was entirely different. The object contemplated by that amendment according to me was that after the cases were once referred, no pressure should be brought to bear on any Minister to withdraw for extraneous reasons. But in this particular case—in these groups of cases—since I thought that we had not even a chance of examining whether there was a *prima facie* case, I understood that it was not necessary to ask for the consent of the Commission in such cases. Therefore my advisers are not responsible for this decision. On the other hand they did their duty in pointing out to me the need for that consideration. I therefore must take the fullest responsibility on my own shoulders and not try to shove it on any of my advisers who have always during the past one year discharged their duties most conscientiously and honestly.

These are the circumstances relating to these withdrawals. This matter was raised and subsequently in consultation with the Honourable the Prime Minister, the whole procedure was set right by our referring the cases again to the Commission and asking for their consent for the withdrawals. Even though that has been done, my conduct in the original order of withdrawal has created a suspicion about my *bona fides*. It would naturally create a suspicion in any man who reads the circumstances. So I put it to the Honourable the Prime Minister whether he, at any rate, had any doubts about my honesty or *bona fides*, and he was good enough and generous enough to repeat on more than one occasion that he was thoroughly satisfied with my honesty and *bona fides*. But Sir, notwithstanding this assurance from the Honourable the Prime Minister, I felt that in the context of the new independence that our country has obtained, in the context of the parliamentary institution which we have begun to work,

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we must set absolutely the highest standards of integrity in public life: not even the second-rate of standards would be sufficient for us. It must be absolutely the first-rate. Even though a Minister's conduct and *bona fides* may be justified by argument, yet, if, in the minds of our people who may not understand these technicalities, there is a room even for suspicion, such a Minister ought not to continue in office, and it is under these circumstances, and because I felt like that, that I requested the Honourable the Prime Minister to relieve me of my office: and he has relieved me of my office today.

That is all the statement that I have to make and I wish to take this opportunity of thanking every section of the House for the courtesy and the co-operation that I have received from their hands during the past 12 months of my office. There have, no doubt, been differences amongst us and criticisms have been levelled against me. But criticisms and differences are the very salt of political life. I have never taken them with malice and I hope that I have not shown any malice towards any honourable member of this House.

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): Sir, after the full and very frank statement by my honourable friend and colleague, there is very little that I need say in this matter. In various ways this question has been before us and the Government for some time. Ultimately, in so far as those references to the Tribunal were concerned, we came to certain decisions, which the House knows and which were in full conformity with the amending Act and the wishes of this House. So there is little that need be said about that particular matter. That is over.

But it was pointed out to me only a very few days ago—about four or five days ago—that many of these steps were taken at a time when this House was 12 Noon actually considering, or the Select Committee was considering this amending Bill: and it seemed to me that no such step should have been taken without the knowledge and consent of the House or the Select Committee at that time. I have no doubt myself that there was no question of *mala fides* in the matter, apart from any other reason, if I may say so, because any attempt to take such step could not possibly be kept secret from the House for long. It had to come to the knowledge of the House, the Government and others. So I was convinced of that. But the question did arise in my mind that whether a thing was done carelessly or not it was an error, and a grave error, and an error of this kind is bound to create suspicion in the public mind, and an error of this kind is not a thing which normally should be passed over. Probably the same chain of thought occurred to my honourable friend and he wrote to me the letter that has already been published, offering his resignation. Normally speaking, I would have hesitated a great deal in accepting that resignation, partly because, firstly, I felt that what had happened was an error of judgment—however serious—nevertheless it was an error: secondly, because Government has profitted a great deal by his ability and by his hard work in the very responsible office that he held: thirdly, that in this very session there are certain important measures which he was going to pilot. There is the Nationalization of the Reserve Bank measure: there is the Banking Bill. These are highly important measures and it will not be easy for a new comer to handle them. Nevertheless, in spite of all these considerations, it seemed to me that the very first consideration that I should have—and that I was sure this House would like me to have—was that when any kind of a mistake or error of this kind was committed, we should accept the consequences of that error and try to remedy that in the way we have tried to do so.

We, this House, and even more so the Government live, and ought to live, in the full blaze of publicity. There should be nothing hidden. There are many secrets that the Government have to deal with, of course, and we

[Pandit Jawaharlal Nehru]

shall have secrets of that kind, but otherwise our activities must be completely public, open to public questioning and open to public condemnation. No democratic system can function otherwise satisfactorily. Therefore, when anything occurs that is open to public criticism of this kind, we must frankly face the issue and not try to slur over it or gloss over it.

I should like to congratulate the honourable member on the way he has faced this issue, bravely and frankly, and accepted the fact that he had made a serious error at that time, and has in consequence offered his resignation. I replied to him in the terms which members of the House might have already read, and I have nothing more to add to those terms. It was not technically for me to accept his resignation, because appointments and acceptances of resignations are the business of the Governor General. But I recommended to the Governor General to accept his resignation and I have received from him in writing that he has accepted it.

Now, may I just add one or two words more. As I said in my letter of reply to Mr. Shanmukham Chetty I requested him to hand over charge for the present temporarily to my colleague, Mr. Neogy, the Minister for Commerce. Mr. Neogy, when I requested him to take over charge, was singularly reluctant to do so, partly of course, because he is heavily worked, and it was at my earnest request that he consented to carry on till more permanent arrangements could be made. I think, if I may say so with all respect, that this question, unfortunate as it is, and much as we regret its outcome, resulting in the resignation of a respected and valued colleague, may I say this incident reflects credit in the ultimate analysis on my colleague and on this House.

ELECTIONS TO EMPLOYEES' STATE INSURANCE CORPORATION, COMMITTEE ON PUBLIC ACCOUNTS AND STANDING FINANCE COMMITTEE

Mr. Speaker: I have to inform the Assembly that upto the time fixed for receiving nominations for the Employees' State Insurance Corporation, Committee on Public Accounts and Standing Finance Committee, two nominations in the case of the first and one nomination in the case of each of the second and third were received. As the number of candidates is equal to the number of vacancies in each of these Committees, I declare the following members to be duly elected:

I. *Employees' State Insurance Corporation.*—(1) Shri Ajit Prasad Jain and (2) Shri Khandubhai K. Desai.

II. *Committee on Public Accounts.*—Acharya Jugal Kishore.

III. *Standing Finance Committee.*—Shri B. P. Jhunjhunwala.

CENTRAL SILK BOARD (BILL)

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Sir, I beg to move:

"That the Bill to provide for the development under Central control of the raw silk industry and for that purpose to establish the Central Silk Board, be referred to a Select Committee consisting of Shri K. Hanumanthaiya, Shri Brajeshwar Prasad, Shri H. V. Kamath, Begum Aizaz Rasul, Shri O. V. Alagesan, Prof. Shibban Lal Saksena, Shri Mihir Lal Chattopadhyaya, Shri A. K. Menon, Shri T. A. Ramalingam Chettiar, Dr. P. S. Deshmukh, Mr. R. K. Sidhva, Ch. Ranbir Singh, Srijut Rohini Kumar Chaudhuri, Shri B. A. Khimji, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, I need not say much in commending this motion to the House. This Bill provides for the constitution of a Board representing all interests, regional and otherwise for the promotion of measures for the development of the silk industry in India. The sericultural industry in India, which is an important national asset and occupies a large place in the economy of the states of Kashmir and Mysore and the provinces of Madras and West Bengal comprises of two well defined sections. The first is the production of raw cocoons and the second is the reeling of raw silk from these cocoons and the utilisation of their byproducts. The first of these items is one of the more important cottage industries in the country which offers subsidiary occupation to more than half a million families. From time immemorial the silk industry has contributed much to our country's rural economy. Till recently it was in a flourishing condition and it has been estimated that at one time the annual export of raw silk exceeded £2 million. However, early in this century the position changed and it became necessary to protect the industry from competition from Italy and Japan, particularly the latter country. There have been two Tariff Board enquiries regarding the silk industry in India, the first in 1933 and the second in 1938. A third enquiry will shortly be instituted.

The industry assumed a new importance, particularly on the processing side with the entry of Japan into the second World War. The demand for silk for the manufacture of man-dropping parachutes called for a large expansion of silk manufacture in India, particularly as regards the processing of cocoons. Under this wartime drive the filature basins in the country expanded more than fourfold between 1942 and 1946 and the area under mulberry increased about three times. The achievement of the new parachute silk industry in India during the war period was indeed remarkable. Over 3 million yards of silk fabric satisfying severe international standards required for parachute production were made available to the army and were produced in this country. Thousands of Indian-made man-dropping silk parachutes were used in the farflung theatres of war and must have contributed greatly to its success.

The silk industry was rightly considered important enough for the appointment of a special enquiry committee to make recommendations to the Government of India for its development in the postwar era. The Panel made various recommendations for improvement in quality and increase in production. The Panel recommended that a Central Silk Board should be set up so as to bring together the experience and knowledge of all interests in the various silk-producing parts of the country. A conference of representatives of States, Provinces and other interests was called recently and after discussion with them we decided to take steps for the formation of a Central Silk Board. The experience that we have had with various boards dealing with products like cotton, lac, coffee and rubber shows that such a Board can be of great value to the industry on the one hand and of great assistance to the Government on the other in the formulation of government policy. The Bill which is before the House is based on the unanimous recommendations of this conference. It provides for a Board which will comprise of representatives of the Central Government and the governments of the Provinces and States, which either produce or consume silk and also of representatives of processing industries like the spun silk industry, the twisting industry and the weaving industry. The Board will be largely autonomous in nature subject to the over-riding authority of the Central Government.

Although the matter is more or less non-controversial I thought it might be advisable to refer it to a Select Committee, get its report and place it before the House in the course of this session.

Several suggestions have been made to me regarding some additions to the Board which we have constituted, particularly to include representatives

[Dr. Syama Prasad Mookerjee] .
of the Agricultural Ministry. Those proposals may be considered by the Select Committee.

There is one matter in connection with the work of the Board which might be taken into consideration and that is with regard to finance. We had about 400,000 lbs. of silk from Japan some time ago. It has been decided that this quantity of silk should be sold on Government account through the provincial governments of those areas where silk is mostly produced. It is our hope that we may be able to get by the sale of this silk about 20 or 25 lakhs of rupees. Government will make a profit of this amount and it has been decided that this will be placed at the disposal of the new Silk Board, so that its schemes for development of research and other such far-reaching proposals may be quickly given effect to. In addition to that, the Board will have an income from the cess and Government will have to consider how it will be able to place at the disposal of the Board such other funds which may be required for specific purposes.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. Speaker: The motion does not mention the date by which the Report has to be made by the Select Committee.

The Honourable Dr. Syama Prasad Mookerjee: May I say 'within a week'?

Mr. Speaker: Just as it suits the convenience of the Honourable Minister and the House. I do not think under the Rules it is necessary.

The Honourable Dr. Syama Prasad Mookerjee: Then we may leave it as it is.

Mr. Speaker: Motion moved:

"That the Bill to provide for the development under Central control of the raw silk industry and for that purpose to establish the Central Silk Board, be referred to a Select Committee consisting of Shri K. Hanumanthaiya, Shri Brajeshwar Prasad, Shri H. V. Kamath, Begum Aizaz Rasul, Shri O. V. Alagesan, Prof. Shibban Lal Saksena, Shri Mihir Lal Chattopadhyaya, Shri A. K. Menon, Shri T. A. Ramalingam Chettiar, Dr. P. S. Deshmukh, Mr. R. K. Sidhva, Ch. Ranbir Singh, Sriji Rohini Kumar Chaudhuri, Shri B. A. Khimji, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Srijut Kuladhar Chaliha (Assam: General): Sir, the Bill is not so harmless or so innocuous as it appears. It applies to all the Provinces of India. It also contains a declaration that the development of the raw silk industry will be brought under the control of the Central Government. I find from the Definitions that it is difficult to know whether cottage industries where no machinery is used will be free from trouble or not. The definition of what is 'manufacture' is also not given at all, and this will lead in future to further interference with the cottage industry, the more so in a place like Assam where every householder reels silk. The imposition of a cess will interfere practically with every householder in Assam. The best course for the Government would have been not to levy a cess on raw silk. Probably the Minister for Supply hardly knows that out of 75 lakhs of people about 10 lakhs of families in Assam produce and spin silk. If we are going to levy a cess on every householder who produces about half a lb. or a quarter lb. the interference from the Excise Department will be so much that there will hardly be any woman or child who will be safe from the interference of the Excise staff whom they know only very well. I think there ought to be a certain limit of production and they ought to have said that the limit of production for purposes of the levy should be not less than 10 maunds or so. If the cess is going to be levied it should be on that quantity alone. As it is, under clause 9, the position of raw silk reelers would be very difficult and there will

hardly be any room for persons to continue the work unless the limit is fixed. I think the Honourable Minister would be trespassing into the rights of men and women and every householder in Assam by this sort of legislation. As I find from the functions of the Board, they will have to give statistics, and if it is wrong then there would be some further trouble again.

Then there is another point, namely that if a wrong assessment is made, he or she has to go to the District Magistrate from 50 miles or more for an appeal. It is rather a very difficult process and this arrangement will only give us further trouble; practically it will interfere with the personal liberties of all people.

Then there is another matter. The constitution of the Board is so made that we have very little voice in it in spite of the fact that we are interested in a mass scale there—and every family is interested. Our representation on the Board is only one Member, whereas our interest is almost universal and we ought to have been given more representation on it. The oversight cannot be simply due to inexperience or inability to appreciate facts. I think it has not been properly understood at all as to what part we play in producing silk in our part of the country.

We find under the definitions that clause (j) (iii) includes *muga* and *eri*. In other parts of the country there are certain castes who only reel and spin silk. But in our Province there is no such exclusion. Every family, whether one is a Brahman or comes from the lowest of the low castes, can spin and reel *muga* and silk. As such, my submission is that they ought to have excluded certain varieties and certain quantities from the operation of this Act.

I think in spite of all that has been said it will affect for a long time the small cottage industry. On the contrary it should have been subsidised by the Government rather than that a cess should be imposed upon it. If we compare lac, tea, jute and other industries with this we would be making a great mistake. Those are industries of the capitalists. This is an industry of the smallest of the small people and I therefore think that the imposition of a cess will be a great burden on the very poor people—the poorest of the poor.

I feel that this Bill has many defects and it should be thoroughly examined by people whose representations should have been received beforehand and after that, I think, this should have been placed before the House. I do not think the Assam Government has been consulted at all in this matter and it has not been taken into consideration as to what will be the incidence of this Bill on the poor people. With these remarks I submit that the Minister in charge may go through these objections and see that no cess is levied at least for twenty years before there is a proper development of the silk industry in this country. The industry is mainly confined to cottages. Of course, people who manufacture on a large scale may be exceptions. As I said before, they may levy a cess on 10 or 20 maunds of production. Otherwise it will be unjust and cruel to levy any cess whatever on the people who produce this silk *muga*, *tassar* and other things on a very small scale. I trust the Honourable Minister will take this into consideration and give more representation to the Province of Assam and also have proper representations in other matters.

Mr. Speaker: I should like to invite the attention of the Honourable Minister to the point about time-limit. I find that this Bill has already been published in the Gazette and so it does not matter, so far as this motion goes if the time within which the report is to be submitted is not mentioned. Otherwise there would have been a difficulty.

Shri S. Nijalingappa (Bombay: General): Sir, it is with mixed feelings that we have to look at this Bill. To the extent that a Board will be set up

[Shri S. Nijalingappa]

to encourage the industry it is welcome. (But the way in which production is sought to be controlled is likely to create monopolies, cartels and syndicates. The most offending part of the Bill is the one relating to the levy of cess on reeled silk. I do not know whether the Honourable Minister is aware that this reeling process is purely a cottage industry.

Coming from Mysore I know, as he himself admitted it, that thousands of families are dependent upon this industry. The agriculturist grows the mulberry, prepares cocoons out of the silk worms which he purchases, and then reels in his own home. Thousands of homes produce silk by spinning on the *charkha*. If this cess is to be levied and the agriculturist is expected to give his returns and then these fees and all that, I am sure it will frighten him away from the process of reeling at all. If it may give an analogy, it is like taxing the man who spins and produces yarn, so much so production of silk yarn as such is discouraged and people who have already been starting some centralised industries in this behalf are encouraged, and that our own National Government should do it is certainly not a compliment. Instead of encouraging the cottage industries, the result will be that capitalist industries will be started and will be encouraged.

On two counts this levying of a cess has to be discouraged. In the first place, the industry itself—the process of reeling—will suffer. As a cottage industry it will be adversely affected. In the second place, you cannot expect those poor, illiterate people to prepare those lists; then they have to go to courts of law and all that which again will frighten them. Therefore on both these counts the levying of this cess is very undesirable.

The Select Committee will also have to consider in what way this industry as it exists today will have assistance on a cottage basis without at the same time encouraging centralized industry. Thousands of families can be made to depend on this industry provided silk coming from outside is prevented; except to the extent that it is absolutely necessary, import of silk has to be prevented. If it is at all to be imported, a deterrent duty will have to be levied on it and the funds, if any, used to augment the funds of this Board to encourage the industry, to see to its technical development. The agriculturist knows what quality is and how it is paying.

At the same time I will have to point out that now the rates are fast falling. During the war years many people took to cultivation of mulberry and they earned something. Now the prices are falling and many agriculturists have uprooted mulberry plants and taken to other cultivation. But, Sir, the way in which the subject is approached in the Bill is certainly not satisfactory and I very earnestly hope that the Minister and the Select Committee will see to it that this cess is not levied and no sort of returns are expected from these poor people.

With these observations I wish the Select Committee will go into this thoroughly.

Dr. B. Pattabhi Sitaramayya (Madras: General): My excuse, Sir, for rising on this occasion is that the subject relates to an aspect of industrial life which I really cherish namely cottage industries, and secondly, as a cottage industry silk reeling is not merely an industry of hand-weaving but also of hand-spinning. You know the partiality we have for hand-spinning.

So far as it relates to hand-spinning and so far as it relates to the protection of the hand-spinners and the reelers, my friend has already anticipated all that I might have said, but to me the point of concern is one of constitutional interest. It is generally believed—I think I am right in saying—that when a Bill is referred to a Select Committee the principle of the Bill is accepted. What is the principle of the Bill here? This Bill rests upon three beams: the formation of a Board, the contribution by Government, and

the levying of a cess. If these three are considered, the cardinal principles of the Bill, then the point arises as to whether it is open to the Select Committee to deal with any or all of these points and knock them out. We want the cess to be knocked out (Hear, hear). And unless the Minister in charge of this Bill gives us an assurance that it will be competent for the Select Committee to make such a recommendation if they are so advised, I do not wish to run the risk of its being said that any proposal made by the Select Committee runs counter to the principle of the Bill which has been accepted when the Select Committee is appointed. It is in that view, Sir, that I present my thoughts to the House.

Sir, I really wonder why of all people the Minister in charge of Industry and Supply has thought of this particular method of replenishing the coffers of the Government for spending a little dole upon the poor reelers of Assam and Bangalore and Surat and such other places. After all, you know that every industry relating to handspinning is faced by a formidable competition with imported yarn. From China, Japan, France and other places silk is imported and largely the industry is weaving. In that respect it is analogous to the cotton industry where the yarn is either mill-made or imported, and only hand-weaving is done. Even so, hand-weaving is embarrassed. But if the spinning which we want to lay emphasis upon and which we wish to revive as one of the dying or dead industries—whether that spinning is of wool or cotton or silk—if that is to be discouraged and discounted in this manner, then woe be to that industry. Moreover, it is not so much the money that is collected, as the harassment by officers and the processes of travel and worry that are involved in securing remedies against any undue exercise of the law that really frighten us. I therefore hope that the Honourable Minister will reassure the House that it is open to the Select Committee to make any vital change in this Bill. If that assurance is given the passage of this Bill will be facilitated.

Shri S. V. Krishnamurthy Rao (Mysore State): Mr. Speaker, Sir, nobody can dispute the objects of the Bill, but the methods by which these objects are sought to be achieved under this Bill are certainly objectionable. The most objectionable features of this Bill are: firstly, the imposition of the cess, secondly, the penalties that have been imposed for infringement of the provisions of the Bill, and thirdly, the position that has been given to Mysore in the formation of the Board.

In this connection, I would like to place before the House certain facts and figures against the imposition of the cess. It is admitted that 18 lbs. of cocoons produce one lb. of silk. One pound of cocoons is being sold at Rs. 1/4/-. That would bring the cost of 18 lbs. of cocoons to Rs. 22/8/-. The cost of reeling is Rs. 8 per pound of silk which would bring the total to Rs. 30/8/-. The profit of the reeler is only Rs. 2 per pound. So one pound of raw silk has to be sold in the Indian market at Rs. 33 under the present conditions if he has to make a profit of barely two rupees.

What is the cess which my honourable friend the Minister for Industry and Supply proposes to impose on raw silk. The least that he can impose is one rupee per pound of silk; that would take away 50 per cent. of the profits that the reeler is going to make. I submit that this excise duty will be the last straw on the camel's back; instead of promoting the industry I submit it is going to kill the industry. So, this excise duty has to be abolished.

Now, I do admit that in these days nothing can be given for nothing. Is there a way out? I submit there is a way out if only we can grapple with half a dozen importers either in Bombay or in Calcutta. I am going to give figures for that also. Now, silk consumption in India is computed to be 10 million lbs. and the present production of Indian raw silk is about 2 million lbs. So if we have to meet the needs of the silk consumption we have to

[Shri S. V. Krishnamurthy Rao]

import 8 million lbs. I find that about 1½ million lbs. of raw silk and about 6 million lbs. of silk cloth are imported. Now, the silk which we got from Japan was distributed as we were informed by the Industries Minister to the provinces to be sold at rates which they thought fit. Certainly, it helped the Indian raw silk reeler and the raw silk industry, but the silk that is imported from Italy is being sold at Rs. 15 per lb. in Bombay and if imported silk is to be sold at Rs. 15 per lb. how is the Indian raw silk industry going to compete with the imported silk? My submission therefore is that the price of imported silk must be controlled and in this view I am supported by the Report of the Raw Silk Industries Panel that was appointed by the Government of India. On page 23, this is what they say:

"This Panel are therefore of opinion that no matter at what price the silk is acquired by the Government of India, it should only be released in the Indian market at the prevailing prices of Indian silk."

Now, if only our Government makes up its mind to control the price of this imported silk, there will be no need to impose an additional excise duty and place the raw silk reeler at the mercy of the excise officials, but on the other hand, we will be earning crores of rupees. Suppose, instead of Rs. 15 we sold the imported silk at Rs. 25, that will bring in an additional Rs. 8 crores and the Indian raw silk industry can be given a bonus of about one or two crores of rupees so that they may sell their silk also at Rs. 25. It will give the Indian reeler a profit; it will give him an assurance that the Government is behind him and he can with courage and confidence develop his industry. For this purpose, the Government may appoint a Corporation in which the present import dealers may be given a share. The Indian Government may have 51 per cent. of the shares under its control and the management of this Corporation may be in the hands of the Government of India. Thus, if they can only control the price of imported silk it will give added impetus to the development of the raw silk industry in India. This is my suggestion in the alternative for the abolition of the excise duty as contemplated under Section 9.

Coming to the penalties, this is what they say under clause 14 (c):

"He shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to Rs. 1,000 or with both."

My submission is in a legislation of this kind where the persons affected are mostly rural folk—unintelligent and illiterate—, this penalty is very heavy and I am supported in this view by the Government of Mysore also. My suggestion is that the penalty should be reduced only to fine and not imprisonment. I would be glad if a nominal penalty only is imposed.

Next, Sir, about the position that is given to Mysore in this Board. Under clause (c) the Mysore Government is given three members to be nominated by the Government of Mysore, one of whom shall be a representative of filature interests and one shall be a representative of Sericulture interests. My submission is that the allotment of only three seats to Mysore is very unjust. I am going to give some facts and figures regarding that also. The acreage under mulberry in Mysore is 82,000 acres. Each acre produces about 15 to 20 lbs. of raw silk and it gives employment to nearly 2 lakhs of families in Mysore. The Mysore Government have also, during the war, made very great strides in the development of the raw silk industry. In Mysore during the year 1938-39 only 21,187 acres were under mulberry cultivation. In 1945-46, 78,000 acres were under mulberry cultivation. Whereas in Madras in 1938-39 only 5,720 acres were under mulberry cultivation; in 1945-46, 18,026 acres. In Bengal there was no acreage at all under mulberry cultivation in 1938-39, but in 1939-40 there were 8,893 acres and in 1945-46 there 15,516 acres were under mulberry cultivation. As regards the number of filature basins, in 1939-40 there were 150 filature basins in Mysore and in

1944-45 there were 1,437 filature basins. In Bengal, in 1939-40 there were 100 basins and in 1944-45 1,735 basins. In Madras there were 150 filature basins in 1939-40 and in 1944-45 there were 576 basins. In Jammu there were 155 basins in 1939-40 and in 1944-45 also there were only 155 filature basins. In the same way, in Kashmir there were in 1939-40 736 filature basins and in 1944-45 also there were only the same number. Further, the only spun silk factory in India is today in Mysore, at Channarayana, with three thousand spindles and it is going to be increased by another three thousand spindles. Its production is 1,20,000 lbs. of spun silk and it is utilising 60,00,000 lbs. of silk waste out of a total of about 700 or 8,00 thousand lbs. of silk waste, that is to say, about 80 to 90 per cent. of the silk waste produced in India. Out of a total acreage of 1,30,000 acres of mulberry cultivation, more than 82,000 acres are in Mysore and the State is now spending Rs. 16 lakhs over this industry. In addition, we have established modern silk filatures and there is a Spun Silk Mill which is the only one of its kind in India. Also there is a Silk Conditioning and Testing House on international standards. Besides, there is a well equipped Government Silk Weaving Factory for producing high class silk fabrics. For invigorating foreign races of univoltines and bivoltines, two hill stations in K. R. Hills and Biligiri Rangan Hills have already been started. Silk Worm Diseases Control Act has been passed in 1943. There is a proposal to start a Research Station at a cost of Rs. 11 lakhs for capital and Rs. 2.45 lakhs for recurring expenditure. That scheme is under the consideration of the Mysore Government. A regular Sericultural Training Institute for giving training to young men is also being started in Mysore. With so much of interests in this raw silk industry, my submission is that only three seats in a Board which consists of 17 members is very inadequate for Mysore. Today it produces 60 per cent. of the entire raw silk that is produced in India. My respectful submission to this House is that Mysore should get at least five seats on this Board and at least one out of the five that has been reserved for nomination by the Central Government should go to Mysore. It won't give proportionate representation and I do not demand it also, but at least it will give adequate representation consistent with the interests that Mysore has got in this raw silk industry.

In the body of the Bill also certain amendments have to be made and one of the most important things is regarding the definition of "raw silk" in (j) where in item (v) spun silk is included. My respectful submission is that spun silk cannot be raw silk, because spun silk is only a by-product of the silk industry. It is out of silk waste that spun silk is woven whereas raw silk is a continuous thread. Therefore, the definition will have to be changed. There are a few other points also, which I would hand over to my friend Mr. Hanumanthaiya who is a member of the Select Committee and when the Bill emerges from the Select Committee I do hope that this excise duty will be removed and proper amendments made and a proper place given to Mysore. If the clause imposing the excise duty cannot be removed, my submission is that as suggested by Dr. Pattabhi, the Bill should be withdrawn and a fresh Bill with proper provisions should be brought before the House.

With these few remarks, Sir, I resume my seat.

Shri Vi S. Sarwate (Indore State): Sir, I wish to have certain clarifications. As regards the extent, I find from section 1 part 2 that the Bill extends to the provinces of India. I would want to know whether this includes the States. From the constitution of the Board it seems that since it includes the States, the extension of this legislature must also be extending to the States. If so, that part must be made quite clear. If the States are included, certain legal difficulties may arise, because in the cases of unions recently established they have the freedom of taxation. This means that the board will not be in a position, legally speaking to impose the cess which is contemplated in section 9. This would mean that either the cess cannot be imposed or that the Bill would have to be amended to that extent. I would further point out that the

[Shri V. D. Sarwate]

wording in section 9 is "raw silk produced in India" whereas the extension is only to the provinces. This would mean that the terminology adopted in section 9 is not consistent with that adopted in section 1. I only want this point to be brought to the notice of the House, so that necessary clarifications may be made in the Select Committee.

The Honourable Dr. Syama Prasad Mookerjee: The question be now put.

Mr. Speaker: The question is:

"That the question be now put."

The motion was adopted.

The Honourable Dr. Syama Prasad Mookerjee: Sir, the main criticism which has been made is with regard to the imposition of the cess. Honourable members will see that clause 9 as drafted lays down that Government may levy the cess and fix the rate on the recommendation of the Board. This matter was discussed at the conference which I had convened some time ago and there was a difference of opinion. I quite appreciate that it will not be desirable to levy a cess at least on that section of the industry which is now functioning on cottage industry basis. I am quite prepared, Sir, to have **this matter discussed** when the Select Committee will meet and I am sure we shall be able to modify this particular clause in such a way which will protect the legitimate interests of the *Charkha* and other sections of cottage industry.

So far as the question of the composition of the Board is concerned, demand has been made with very cogent reasons by Mysore that it should be given larger representation. I quite realize Sir, that Mysore produces a large portion of the silk which is now in use in India and for that reason Mysore gets the largest number of representatives—three—larger than any other province in India. If similar demand is made by other provinces like Bihar, with regard to the composition of coal committees or steel committees, on the ground that a large percentage of members of such Committees should go to that province which produces the bulk of the commodity, we might be lauded in difficulty. But here also, I should be quite prepared to discuss the matter and I should like to keep an open mind on the question of representatives of the different interests in the Select Committee. My only request is that we should not make the Board too unwieldy; it must be a business-like board; it might meet three or four times a year, so that in the first formative period we may be able to lay down a policy which will meet the requirements of all interests.

So far as the general question is concerned, the position is, we are producing about 20 lakhs pounds now in India and we are importing about 10 lakhs. Now the price of silk in India is roughly about Rs. 30 per pound and the average price of imported silk is about Rs. 15 per pound. One suggestion has been made that we should have some sort of control over imported silk and artificially raise the Indian price. There are certain limitations beyond which it is not possible for any Government to go; it will not be possible for the silk industry in India to progress by this sort of artificial imposition of very high prices on imported silk which may come to this country. We shall have to think of other means of protecting the silk industry, of seeing that it grows in larger quantities and also that its quality may improve. It is now for the purpose of enabling Government to take suitable action in all these matters that this Bill is being brought forward. And Government will not hesitate to take such reasonable steps as may be required for the purpose of protecting the legitimate interests of silk industry in India.

There was a question that the last speaker asked as to whether this would apply, when passed, to the States. The constitutional position is that this

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legislature is not in a position to legislate for the States. The States concerned will have to pass corresponding legislative measures as soon as this Bill is passed into law by us. I know there will be no hesitation on the part of, at least, those states to come in line with us like Mysore which expect help and co-operation from the Government of India. This is purely a constitutional aspect and has been borne in mind in framing the Bill.

Mr. Speaker: The question is:

"That the Bill to provide for the development under Central control of the raw silk industry and for that purpose to establish the Central Silk Board, be referred to a Select Committee consisting of Shri K. Hanumanthaiya, Shri Brajeshwar Prasad, Shri H. V. Kamath, Begum Aizaz Rasul, Shri O. V. Alagesan, Prof. Shibban Lal Saksena, Shri Mihir Lal Chattopadhyaya, Shri A. K. Menon, Shri T. A. Ramalingam Chettiar, Dr. P. S. Deshmukh, Mr. R. K. Sidhva, Ch. Raubir Singh, Sriji Rohini Kumar Chaudhuri, Shri B. A. Khimji, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

BOMBAY, CALCUTTA, AND MADRAS PORT TRUSTS (CONSTITUTION) (AMENDMENT) BILL

The Honourable Dr. John Matthai (Minister for Railways and Transport): Sir, I move:

"That the Bill to amend the constitutions of the Port Trusts of the major ports of Bombay, Calcutta and Madras, be taken into consideration."

The matter to which this Bill relates is the constitution of Port Trusts of major ports. There are various matters relating to Port Trusts other than the constitution of these bodies which this House at some time would have to consider. That matter is now under the consideration of Government, and I hope at a subsequent stage it will come before the House. At present we are concerned with the question of increased representation for Indian commercial interests on these bodies. As the result of constitutional and political changes and as the result of variation in the relative importance of these interests since the present Acts came into force, Government have come to the conclusion that it is necessary immediately to take up the question of providing increased representation of Indian commercial interests. This is the primary purpose of this Bill. But we have taken advantage of the introduction of this Bill also to provide for more representation of labour interests than we have been able to do so far, which in the present labour situation in the country is a matter of great practical importance. We have taken advantage of the introduction of the Bill also for providing a little more uniformity as between one part and another in the representation of Government interests. As regards the major purpose of this Bill namely increased representation of commercial interests, the House will observe that we are not embodying any definite proposals in the Bill itself. What we propose to do is that the House should entrust Government with power from time to time by notification to provide for adequate representation of Indian commercial interests. That would be a flexible arrangement. From a practical point of view it is a more satisfactory arrangement. The House will find that in the schedule we have provided that the bodies to be represented, and the quantum of representation to be given to these bodies are all matters which would be dealt with by notification from time to time by Government. The matter is a simple one and I commend the Bill for the consideration of the House.

Mr. Speaker: Motion moved:

"That the Bill to amend the constitutions of the Port Trusts of the major ports of Bombay, Calcutta and Madras, be taken into consideration."

Mr. R. K. Sidhva (C.P. and Berar: General): Mr. Speaker, Sir, you will remember that in the first session of this Parliament, namely in the month of November, I moved three Bills for the amendment of the Bombay, Madras and Calcutta Port Trusts Act. After the introduction of these Bills, we have not yet seen the light of these Bills being discussed. That is generally the fate of non-official Bills. I do not know when I will have the opportunity of presenting these Bills for first reading. I am, therefore, glad, Sir, that the Honourable Minister has considered this matter urgent and important and brought the Bill himself so that it has made it easy for me to see that these amendments to the constitutions at least, which are of an urgent nature, will be given effect to. In my Bills, of course, I have touched many other points, as the Honourable Minister himself has stated that the Act requires a thorough overhauling. I will not therefore go into the matter in detail because I am satisfied with the assurance given by him that he is going to bring in amendments of a comprehensive nature for the modification of many of the important sections. For instance, Sir, the Port Trust meetings are always held in camera, with the result, that the important matters that are discussed there are unknown to the public and the members therefore become irresponsible, knowing that their conduct is not being criticised either by the press or by the public. From my experience, I can say that they act in many respects irresponsibly in many matters. Therefore, it is high time that the Honourable Minister will give at least to this matter immediate consideration, and move an amendment that all meetings should be open to the public and the press.

There is another anomaly. Of course that is a very simple one which the Honourable Minister could have corrected in this Bill, that is, with regard to the designation of the members. The members of the Bombay and Madras Port Trusts are called Trustees; but the members of the Calcutta Port Trust are known as Commissioners. There should be uniformity in this matter. I would have preferred that all the members should be called Port Trustees or Commissioners whichever he thinks best. Port Trustees is the general expression used in many of the major ports.

Mr. Speaker: If he is going to the next point, I think it is time to adjourn for lunch. By the way, does he propose to move his amendment for referring this Bill to a Select Committee?

Mr. R. K. Sidhva: No, Sir. I would not press for that.

Mr. Speaker: Professor Shibban Lal Saksena is not here. These two amendments fall through. Discussion on consideration motion may continue at 2.30 P.M.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Mr. R. K. Sidhva: Sir, I was saying that many amendments require to be made in this Act and the Honourable Minister has stated that he is already considering the question of bringing in a comprehensive Bill with the necessary amendments. The present Act was passed sometime in 1879 and there are questions of wharfage, pilotage and demurrage which affect merchants greatly and they have from time to time made representations to the Port Trusts; but nothing tangible has come out of it, in one of the Port Trust matter it was suggested that unless the provisions of the Act are amended nothing could be done in that direction. I therefore suggest that no time should be lost in bringing in a Bill after scrutiny of all the provisions of the Act so that it may fit in with present conditions.

Now coming to the present Bill, while the Act now in force gives the right to commercial bodies to elect representatives themselves—and the names of such bodies are mentioned in the Act itself,—the present Bill deprives those bodies of that right. Although it is stated that the remaining seats shall be filled from commercial interests it is left absolutely to Government to select these commercial representatives as they deem fit. In these progressive days I feel that we should give the right of election to these commercial bodies who should be named in the Bill as they are named in the present Act. It is only proper that this House should be given an opportunity to know what bodies are going to get representation. Today there are many bodies which have been existing for the last half a century, and one does not know what is going to happen to them. On the other hand I feel that while power has been vested in Government—many mushroom associations will be started for the purpose of getting representation. It has been our experience in the past that when the thing is left vague and open new associations with all sorts of credentials are started and they use all their influence to get representation and their names are recognised. From that point of view I would prefer that the legislature should be given power to name the bodies. There are many new commercial bodies which require representation and I see no reason why the legislature should be deprived of the right of discussing the names of the bodies who they think deserve to be represented; I do not know what explanation the Honourable Minister has to offer for taking away that right.

Then turning to page 2 you find from the Schedule that while the Bombay Municipal Corporation now enjoys two seats it is proposed to give them one only. The representatives in the Corporation represent the people of the city and of the province and the Corporation has much to do with these ports. So I do not understand why one seat is sought to be taken away from this body. I suggest—of course it will be discussed on the amendments—that there should be uniformity for all the Corporations of Bombay, Calcutta and Madras, which should be given three seats each or at least two. The present Act gives two seats in Bombay and one each in Madras and Calcutta. I suggest uniformity of representation on all these three bodies for their respective Corporations.

Then, I am glad that one additional seat has been given to labour organisations. At present labour has one seat but that also depends on the whims of Government, and a conflict was going on in certain ports as to whether this labour representative had or had not been properly chosen. I know in certain ports a capitalist was chosen in the name of labour and there was a great deal of agitation on this matter. I am glad that to that extent this Bill makes an improvement.

Then I find that in place of nine nominated members in Bombay there are to be 11 nominated members. So the nominated seats are increased and the elected seats reduced. It may be argued that today it is our Government and there should be no distinction between election and nomination. I do not share that view. Although it is our own Government the people should have a greater right to choose their own representatives. Government may have their own representatives certainly, but not to the extent the present Bill seeks to give them. In place of one military representative the present Bill provides for two, one from the Royal Indian Navy and one from Defence. I do not grudge that but I do not want the elected seats to be reduced. I rather want them to be increased so that the views and grievances of trade and commerce, of the general public and the passengers should be represented. The General Managers of the B.B. and C.I. and G.I.P. Railways are *ex-officio* members, but the passengers also have a great deal to do with these steamers. All these coastal lines carry passengers; they have ventilated heaps of grievances which have a lot to do with the Port Trusts, but these have not been redressed. If the General Managers go on behalf of Government, there are

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recognised Associations on behalf of passengers. For instance, the Passenger Traffic and Relief Association of Bombay is an old recognised Association which should be given representation so that they can express the voice and views of the travelling public. The travelling public brings a large revenue to the steamship companies and these companies have much to do with the Port Trusts and I feel that they also should be given representation by election.

Then Sir, in Bombay, the Export and Import Associations—I mean the merchants representing the export and import trade—contribute something like Rs. 3½ crores to the Port Trust and they are not given representation. They have been representing that they are directly responsible for the working of the Port Trust and they have been giving it very large revenue. It may be argued that commercial interests include Export and Import interests. There are also the textile people, the coal interests and so many other people that come into it. But the export and import interests have so much to do with it, yet they have no voice in its constitution. It would have been better if each member from each Port placed his views and that the Honourable Minister after considering their views had given his decision in this House. That would have been a more equitable way of dealing with the issue rather than that the Honourable Minister should have taken the power to himself and restricted those representations.

Therefore, from that point of view this is a retrograde measure. With all seriousness I must say that it is not a progressive measure. He has cut down the present existing number of seats of the elected members and increased the number of nominated seats. It is now left to the House to decide whether it feels that the power should vest in the Government only. I would request them to consider very seriously the reactions of this viewpoint when it comes up before Government.

Then there is the Andhra Chamber of Commerce in Madras. Recently by an amendment one seat was given to them. It is an important Chamber of Commerce but probably because it is in Andhra, it must have been neglected. Originally it was given to the Madras Chamber of Commerce. Then the Andhra Chamber of Commerce represented and 10 years ago they were given one seat. Later on they represented for two seats. I have seen the correspondence. The Port Authorities agreed that when the next amendment is made, they would be given two seats.

I do not know what their fate is to be. But that is the view I am placing before this House, especially when we know from experience that these are the bodies that really require proper representation.

Now the Honourable Minister may sit, or he may take someone into confidence and discuss the matter and then come to a decision. Of course, I know that the Madras view is always predominant in this House. I do not doubt that Andhra will get their views heard knowing as I do the position in this House so far as South India is concerned. With all that I would have preferred that this matter should have been given consideration.

Then I do feel about the Howrah Municipality. It is very much interconnected with the Calcutta Corporation and Mr. Chatterjee has moved an amendment to that effect. I do not know what the Honourable Minister feels about it. He could make out a case why these bodies require representation. It is not because they are municipalities or such and such an Association but because they place their arguments forcibly, strongly and as they are entitled to. We have the experience of the Montford Reforms. When Montagu came to India and he wanted to see many Associations for the purpose of representation, mushroom Associations started and thousands went to him and claimed representation. That is the danger that I apprehend even in our own free country. The Honourable Minister cannot prevent too many new

associations from tomorrow onwards coming into being and they will bring all sorts of influence from outside. Why should the Minister take upon himself to appoint certain bodies or persons, though he might even consult his Standing Committee or someone else? Instead of being so restrictive, why should he not come before the entire House. After all, we could express our views. We could understand what were his objects. Today, I do not know what are his objects for taking away this right.

If it is not a new innovation that I am suggesting. The right exists at present and it is being taken away. Unless he has a very strong argument against it. I am not prepared to accept that proposition, namely, restricting it to Government because it is our popular Government, assuming that they will do justice, it is not proper to let things remain as they are. If that was the proposition we were to accept, then much of the business before this Legislature should not come before the House. It might go to the Minister, and he might, considering he is a popular Minister at most consult the Standing Committee of his Ministry and pass the laws. But we know that that would never be accepted by any democratic Parliament.

Then I was suggesting, particularly, if the Honourable Minister will kindly accept this proposition, that all the Port Trust meetings should be kept open. If this comes from the Government there will be no objection to its being accepted. I am very keen on this, because I know many things happen in camera—most undesirable things: members feel that the proceedings are not published and they are not given publicity, therefore they act irresponsibly.

A Port Trust is a local body just as a municipality or corporation the Honourable Minister knows that. Up to 15 years ago the Port Trust was a provincial subject. Subjects relating to Port Trusts never came before the Central Legislature. But when the British Parliament introduced provincial autonomy they felt that the members might capture seats and the European interests will not be safeguarded and kept intact. Parliament therefore made a change and transferred this subject from the province to the Centre. That is the genesis of this Act. From the very commencement of the enactment of this Act up to 15 years ago, it was a provincial subject. I therefore feel that this being a local body should be treated on a par with the other local bodies. If the Corporation of Bombay, or Calcutta, or Madras can be a public body in all its doings, and all its business be open to members of the public, I see no reason why the Port Trust proceedings should not be kept open to the public. It may be argued that there may be technical matters and secret matters like in times of war or in case of movements of ships which they would not like to disclose to the public. In such event there is a proviso in the Act whereby a Chairman can delegate to himself powers which were vested in the Board. The last war is a proof of that. In the last war certain provisions of the Act gave certain powers to the Trustees. The Chairman under instruction from the Government of India took those powers to himself and deprived those Trustees of those powers on the ground that they were defence measures and secrecy necessitated that such powers vest in the Chairman. To that extent I am prepared to accept it. There are many other remedies for the purpose of keeping secret the movements in the Ports and therefore, Sir, I see no reason why the meetings should not be thrown open to the public, at least for the press.

Then, Sir, I also feel that the Chairman who is now a nominated member does not fit in with the present condition. The present Bill says that the Chairman should be nominated. The Honourable Minister has also provided in the schedule that he should be nominated. My own view is that at present the Chairman is an administrative officer as well as the head of the Board. That has created many times bitterness between the Chairman and the port trustees.

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I contend that there should be a highly paid chief executive officer whose business should be to look after the administration and the executive work only. He shall merely attend the meetings but shall have no vote. He can participate just as we know it is the case in other institutions. He shall not preside but he might take part in the proceedings and he shall not have the right to vote. I should have expected that change as a result of the change in the constitution which is being made. I hope the Honourable Minister will consider this. Again it may not be said that now we are a free democratic government where nomination or election makes no difference. That argument can never be accepted if it were to come on those lines.

There is only one more point and that is as regards the Deputy Chairman. In some port trusts there is a vice chairman and in some there is none. I would suggest that there should be uniformity. There should be a deputy or vice Chairman in each Port Trusts, so that during the absence of the Chairman there may not be election of a temporary chairman to work in the place of the chairman. Although one Act provides for it I do not see any reason why there should not be an elected vice chairman for all the port trusts.

Having said all this I certainly welcome the measure to the extent it goes.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Shri K. Santhanam (one of the Panel of Chairmen).]

It does not go as far as I wanted. I do not know what is behind the mind of the Honourable Minister when he says that he will himself select the commercial bodies. There are Chambers of Commerce.....

Mr. Chairman: The honourable member has referred to this point more than once.

Mr. R. K. Sidhva: No, Sir, I am referring to European Chambers of Commerce. I have not at all referred to these chambers of commerce—the Bombay Chamber of Commerce, the Madras Chamber of Commerce and the Bengal Chamber of Commerce. Though the name is Chamber of Commerce and ordinarily its constitution does not restrict to one community, viz., the Europeans, it is well known that they have a big majority of European members. There are of course half a dozen or a dozen Indian members but I have never seen an Indian being returned by these European Chambers of Commerce to any Port Trust so far, although there are Indian members in them. Therefore I do not know what is the view of the Honourable Minister in view of the changed conditions. This will also have to be borne in mind. If the Bill had gone to the Select Committee or the House had been given an opportunity they would have discussed, given their opinions, understood the Honourable Minister's view point and probably they would have agreed to what he said and the matter could have been very amicably and satisfactorily settled. With these words, Sir, I commend this Bill to the acceptance of the House with the modifications I have suggested.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Mr. Chairman, I whole heartedly support the scheme of the present Bill and I will make certain observations with reference to the Calcutta Port Trust. The Bill as framed gives certain elasticity to the bodies which will be entitled to elect their representatives to the different Port Trusts. At the present moment under the present Act in Bombay, Madras and Calcutta certain bodies which are entirely bodies of European commercial interests have the largest number of representatives. In Bengal there are 7 members from two associations—the Bengal Chamber of Commerce and the Calcutta Trades Association, which are exclusively European—in which there are practically no Indian members. They have the majority of representatives but Indian commercial interests have only four representatives. In the present scheme of the Act certain bodies have been mentioned and some will be notified from time to time in the Act itself.

That certainly gives room for bodies which go out of action and which do not represent commercial interests perhaps at a future date still having representation but this scheme as in the present Bill whereby Government has been given power from time to time by notification to specify the commercial interests or local bodies which will be entitled to elect members, certainly gives wide elasticity to Government to select such of the commercial bodies which actually represent commercial interests at a particular moment when the notifications are issued. That will certainly obviate the necessity of the Government having to bring forward amending Bills when certain bodies cease to represent active commercial interests. In that respect definitely it is an improvement by keeping it in this form and therefore I do not agree with my honourable friend Mr. Sidhva when he wants certain bodies to be mentioned by name.

So far as the Calcutta Port Trust is concerned I would suggest that the Howrah Municipality should be given at least one representative, either the Chairman *ex-officio* or the municipality should be entitled to elect one member. As you know, on one side is Calcutta and on the other side of the river is the Howrah Municipality which extends throughout the length of Calcutta and the Port Commissioners also have extensive properties which ought to be subject to certain taxes of the Howrah Municipality. At the present moment the Howrah municipality has no representation though it is vitally interested in the Calcutta Port Trust. Therefore I would request the Honourable Minister to take into consideration whether or not they should give at least one member to the Howrah Municipality by way of election.

The present provision will also remove any mushroom associations which might crop up. After all we must trust our own government. If we are to have the same mentality as before and make a distinction between the Government and the public I think that will not be the proper spirit, at least for some time, unless we feel that the Government is going far from public opinion. Therefore I wholeheartedly support the *ex-officio* members named, and make this suggestion that the Howrah Municipality should be given one representative and before the words "commercial interests" I would suggest that the word "Indian" should be added. So long the European commercial interests monopolised this and certainly it is time (*An Honourable Member:* "What about the exclusion of communal commercial interests?") When it will be elastic and Government will have the power to name the commercial bodies which will be entitled to elect members, certainly it will be for the Government to decide as to what policy they are going to follow. If the Government think that no communal bodies should be given representation it would be open to them to exclude the Muslim Chamber of Commerce, and such other chambers of commerce which are exclusively communal. That will be open to the Government and when there is that power I am certain that Government will exercise it with discretion.

Shri S. K. Patil (Bombay: General): Sir, I rise to make a few observations on this Bill. It is not a day too soon that this piece of legislation is coming before the Legislature. For many years there has been a clamour, almost a persistent clamour, that important commercial interests were very inadequately represented on these Port Trusts. I have got personal experience so far as the Bombay Port Trust is concerned and we have been clamouring for the last many years that the Act should be mended. But as the Bill has now come before this House, it is for the first time that we are trying that adequate representation should be given to Indian commercial interests. It is not true that only the Indian commercial interests have to be represented. As the Statement of Objects and Reasons makes it abundantly clear increased representation is to be given to Indian commercial interests but if it is to be suggested by that that any other interest is not to be recognised at all, then naturally we could have that word "Indian" also removed from that. When

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the words "commercial interests" are used I take it that, because of that the power has been retained by the Government to make allocation of these seats as they like considering the respective representative character of those commercial interests. But I take it that the Indian commercial interests are going to have a preponderant voice so far as the constitution of these Port Trust Boards is concerned.

My honourable friend Mr. Sidhva has come out with the usual argument which we have advanced in this Legislature and other Legislatures time and again that there are so many seats which are going to be filled by nomination. I may just illustrate the point by taking the case of my own Port Trust, the Port Trust of Bombay. There two seats have been given to Defence Services, two to representatives of labour chosen by the Central Government—they are labour seats—one to a representative of the Mercantile Marine, then there is the Collector of Customs, the General Manager of the G. I. P. Railway, the General Manager of the B. B. and C. I. Railway, one representative chosen by the Provincial Government and the Municipal Commissioner for the City of Bombay. If you see the scheme of the old Act many of these nominated seats were there before. There is one difference between the old set-up of things and the new set-up of things. In the old set-up a nominated member had to carry out the behests of a government which was not a popular government or a representative government. I am not putting a premium on nomination, but the House must learn that in the new set-up, although this kind of distinction will still be there—no doubt an elected member will always remain an elected member and a nominated member will always remain a nominated member—it does not really become so very obnoxious as it used to be in the old set-up of things. So I am not at all worried that there are ten nominated seats in the Port Trust of Bombay, possibly eleven in the Port Trust of Calcutta and a corresponding number in the Port Trust of Madras. I am merely pointing out to my honourable friend that in the changed circumstances these things are essential. Whether there should have been more elected seats is a different matter. But so far as these ten nominated seats have been given to these particular officers or organisations it is in the fitness of things.

So far as elected interests are concerned, I am in agreement with my honourable friend Mr. Sidhva. As regards the Bombay Port Trust only one seat has been given to the Bombay Municipal Corporation and the allocation of seats representing commercial interests has been entirely left to the Central Government. I think it is a very cautious step that the Honourable Minister for Transport has taken. Now it is very easy to name the commercial interests—and this Legislature has a right to name them and to allocate the seats after naming them. No doubt it sounds very well. But my honourable friend knows that there are ever so many commercial interests—some long established ones. But it would not be proper that you name a few and do not name the others. It becomes a very dangerous proposition to do. So far as Bombay is concerned, there is the old established institution—the Indian Chamber of Commerce which is the oldest institution and by far the best institution that this country has got of that standard. Now, it could easily have been named. You cannot name one or two and not name the others. There are other institutions. There is the Maharashtra Chamber of Commerce, a new institution that is trying to compete with the Indian Merchants' Chamber. There is a Muslim Chamber of Commerce—another new institution. There are other associations—both European and Indian. And some of these commercial institutions are still in formation. It is not that they are very old and established and their membership is continuous. If that were so it would have been a different proposition altogether. Therefore, with regard to the other seats that have been left to the commercial interests I am absolutely certain that the allocation of these seats should be made according to the

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importance of the particular bodies. But surely, as has been pointed out by some honourable member here, although not in a speech but by an interruption that communal institutions have not got to be recognized. Here comes the question of communal interests, namely, that the Muslim Chamber of Commerce has made its claim. The Maharashtra Chamber of Commerce is not a communal body but can be called a provincial body. But there is a body called the Indian Merchants' Chamber which is all-inclusive. Its membership is open to everyone, to Hindus, Muslims, to peoples belonging to various geographical territories and provinces. Why not these bodies merge into the Indian Merchants' Chamber so that it shall be the only body representative of the commercial interests of the City of Bombay? In fact it is so and therefore the Honourable Minister in charge of this Bill has really very cautiously provided that these seats should be reallocated according as the Government thinks fit. For, these Acts are not amended year after year. It is after many years that it has come for amendment. Some of these institutions are mushroom institutions. They are there now and may not be there after five years. Therefore it has been rightly provided by the Government to reallocate these seats from time to time according to the interests of these Indian merchant elements.

Coming to another aspect of the case, namely, that some of the public bodies should have been given more representation, there surely I join hands with my friend Mr. Sidhva and I plead particularly for the Municipal Corporation of the City of Bombay. Under the old Act, for the last many years we have been enjoying one nominated seat. That means, the executive head of our Municipal Corporation is a member of the Port Trust. And there were two elected seats to the Municipal Corporation. In fact we were hoping that in the new set-up of things the Municipal Corporation, representing as it does a population of three and a half millions should come in for an increased representation rather than the reduction of a seat in its representation. That fact was pointed out to the Honourable Minister in charge of the Bill very recently—about a month back. The Bombay Municipal Corporation by a unanimous vote has passed a resolution requesting the Minister in charge that the reallocated representation should remain as it was, namely, two elected seats and that our nominated representation should also be increased by adding one more seat, namely, that along with the Bombay Municipal Commissioner there should be the Special Engineer or the City Engineer of the Bombay Municipality. I shall explain the position. Along with their normal duties there are other responsibilities and duties for the Port Trust which this House must take note of. So far as the Bombay Port Trust is concerned, there are large properties and lands which are to be administered by the Bombay Port Trust. It is not merely the work connected with the marine but it is actually duties of the type which the municipality performs which have got to be performed by this Port Trust. The Port Trust in Bombay is in possession of vast lands. They were given in those good old days and they are still held by them and they have not been requisitioned. They are held by the Port Trust. There are hundreds of houses on the properties of the Port Trust. They are not necessarily used by the Port Trust but they are used for commercial and residential purposes. Therefore this is a small municipality as it were within a large municipality. Although in regard to municipal law the jurisdiction of the Bombay Municipal Corporation holds good, in many other respects, they being the owner—and it is not an individual owning a property but it is a local body owning the property and owning as large a property as the Bombay Port Trust holds—there are many questions in which the Bombay Municipality is very vitally concerned. Therefore we thought that along with the Municipal Commissioner there should be the City Engineer who is the proper authority really so far as engineering problems are concerned. Luckily the Bombay Municipality has got a City Engineer who has not only a national but an

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international reputation so far as marine engineering is concerned. Although he is not a member of the Port Trust he is often consulted by them. Along with his other responsibilities as City Engineer he has a thorough knowledge of marine engineering as well. Therefore it would have been in the fitness of things if instead of one nominated seat which is now given to the Commissioner of the Bombay Municipality as the executive head of that body two had been given, namely, one to the Commissioner of the Corporation and the other to the City Engineer of that Municipality.

So far as elected representation is concerned, our original quota of two should be restored instead of the reduction of one seat. I am told and it is true from the scheme—I could find it after reading the Bill—that the Honourable Minister in charge of the Bill wants to introduce a kind of uniformity in all these things. I am one with him so far as that particular argument is concerned. But so far as the old Acts were concerned the membership in the various ports differed. As it is, here also, the Bombay Port Trust has been given 24 seats, Calcutta 21 and Madras 20. Of course there is nothing like uniformity in that because some cities are more developed so far as port trust activities are concerned while others are not. But so far as representation is concerned an attempt is made that there should be as much uniformity in all these things as possible. If that is the argument I could quite grant that he cannot give something to the City of Bombay which is denied to Madras and Calcutta.

Therefore, I would humbly request this to the Honourable Minister in charge, in connection with the claim of Bombay. This claim is not for the nominated seat, but if he were really generous enough to give us along with the seat for the Commissioner a seat for the City Engineer also, it would be really in the fitness of things because it would be in the interests of the Port Trust itself, more than in the interests of the Corporation, because he is an officer who looks after these interests even now without being a member. If it is not possible, because if a seat is given to the City Engineer of the Bombay Municipality, possibly on the same analogy a seat would have to be given to the Madras and Calcutta Corporations also,—I have no quarrel with him just now. He may think of it and bear these things in mind when the Bill comes up for another amendment in future.

My request is that so far as the elected representation is concerned it would be a grave injustice that a local body of the eminence and type of the Bombay Municipal Corporation should be deprived of a right which it has enjoyed for so many years. Our quota of two should be restored and with that object in view I have moved certain amendments.

So far as the claim of the Howrah Municipality as put forward by the honourable member who just preceded me, is concerned, I think it is also equally correct. I think it would serve the purpose of uniformity also, because if the Bombay Municipality gets two seats as it always had, I see no reason why the Calcutta Municipality and the Howrah Municipality should not have. Howrah is separated by river and I think the Howrah Municipality has more to do with the Port Trust than the Calcutta Municipality. If they are two and we are two, I think we are not taking away from the great principle of uniformity.

Therefore, I beg of him that this very reasonable request that I am making should be accepted and when he comes in for amending the Act again—not immediately—all these other things, namely, the nomination of the Engineers, etc., should be taken in hand.

With these words I indeed welcome this Bill.

Srijut Kuladhar Chaliha (Assam: General): Sir, I hardly find any difference between the old and the new regimes. It seems to me that the Government of Assam is forgotten. (An Honourable Member: "Have you got a Port Trust in Assam?") I shall come to it, whether we have a Port Trust or not.

I say about 40 per cent. of India's total consumption of petrol is supplied to India and it passes through Calcutta Port. About 400 million lbs. of tea is exported from Assam and passes out of the Calcutta Port. Yet, unfortunately like the old habit of not giving us any representation, the present Government has also forgotten us entirely.

There is one representative of the Provincial Government, chosen by the Provincial Government, and that means, of course, West Bengal. He has absolutely forgotten that the entire machinery for the two thousand factories in Assam passes through the Calcutta Port. Yet, this Government which is a popular Government has forgotten very definitely our claims. We have got an Indian Tea Association there. (Shri Suresh Chandra Majumdar: "Is it your point that a part of petrol produced in Assam passes through the Calcutta Port?") A great part of it. It is we that supply to India 40 per cent. of petrol and almost 400 million lbs. of tea—85 per cent. of tea we produce passes through Calcutta. Machinery for about two thousand factories passes through Calcutta Port upwards. Well, I thought Mr. Maitra will have some consideration for us. He forgot; he was very anxious to represent Howrah Municipality and forgot the entire Province of Assam, though of course he has a lot of business there.

In fairness and justice to our Province you ought to have given at least one representation to the Province of Assam. There is the Indian Tea Association which you can leave because it is a European body. But there is an Assam Valley Tea Association which ought to get representation in this body. Otherwise you will be doing us injustice; it is a sheer injustice to forget us because the entire products of Assam like tea, and petrol and the entire machinery required, pass through, at least most of it passes through Calcutta Port.

I submit that to forget Assam in your Bill is rather an omission which can hardly be excusable. Yet these small Bills are so dangerous; if you read them you find that every time and in every place Assam is forgotten, and more so by the Minister for Railways—of course, forget the Railways, I won't say anything about them here. I hope from this time onwards he will not forget Assam. It is rather unfortunate that we are not vocal. We do not know how to talk; our gift of the gab is very small. That is the reason why people from Madras get a better share and people from Bengal still better. We have neither the voice, nor the strength, nor the aspiration. That is why we are forgotten. I hope the Honourable Minister will see that there is one member from Assam; one member from the tea industry should be represented; otherwise there will be great injustice to our Province.

Shri T. T. Krishnamachari (Madras: General): Mr. Chairman, Sir, it seems to me that the Honourable the Minister for Railways has provided a lucky dip from out of which every member of the House wants to take his own share. Actually, things are not quite so easy as all that. I quite agree with some of the speakers who spoke before me that the arrangement of representation of the various interests in the Port Trusts has to be reconsidered. From that point of view, I welcome the measure. But at the same time the emphasis on the quantum of representation for various sectional interests and various bodies seems to me to be rather misplaced. In a body like the Port Trust it is undoubtedly necessary that various sectional interests should be represented so that their claims could be heard, their grievances redressed, and it can always be done by any special interest or any large interest having one member equally as well as it could be done if that body or interest has two or three

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members. So, it is not so much as having two representatives or three representatives for a particular interest as to have one active member to represent that particular interest. If, as is sought to be done in this measure, representation for various commercial and other bodies is widened, I think it is only fair that a large number of interests should be represented rather than have two or three representatives for any particular body unless it be that that body is a composite body having to represent varied and sectional interests. But I think the emphasis, in my view, is rather misplaced and I do hope that when the Honourable Minister arranges the representation of bodies mentioned in the schedule, he will arrange it in such a manner that a number of interests will be represented and no one of them will have more than a single representative.

The second factor that I would like to mention is this,—confined to experience of Madras, perhaps the Bombay Port Trust and the Calcutta Port Trust behave differently,—I have found that commercial interests who want to get in the Port Trust are very anxious for getting elected. It involves often the expenditure of a lot of money; there is a lot rivalry and a lot of canvassing. Ultimately when they get elected they do not attend the meetings of the Board. Something must be done to ensure that they attend the meetings of the Board. Another thing that should be done is that the fees that are paid for attendance at this Board should be something not very attractive. Now I think it is about Rs. 32 and in some cases perhaps a little more. I see that since honourable members of the House have been very active and taken all the Port Trust Acts from the Library, I found only the Madras Act and there the question of fees is left to the particular Provincial Government to decide. I am sure the same power vests in the Minister of the Central Government. If the fee that is to be paid is a nominal fee, just as a taxi fare or something like that, the race for getting a seat on the Port Trust Board will not be so keen and only such of those who are interested to serve their particular interests or their particular community would be eager to come in.

Another fact which I think the Honourable Minister had better note is that patronage for the Port Trust Members as such had better be reduced to the minimum. That, again, is another fact which induces these people to seek the membership of these Port Trusts. If their work is confined to the actual day to day administration of the Port Trusts and to dictating of policies and deciding of questions as and when they arise and they have no hand in the question of appointing their friends or relatives or other people to various jobs, well, then the genuine worker would find a place in these institutions.

Sir, I have noted with considerable care the large number of arguments marshalled by my friend Mr. Sidhva in favour of enumerating in the body of this measure the representation for these various bodies. I find so far as the Madras Port Trust Act is concerned, that there has been a modification in the type of representation in 1941. I am quite aware that some of us were partly responsible for carrying on an intense agitation in the period preceding this particular amendment. Now, we find that that is out of date and that is why I feel that the particular method which the Honourable Minister has chosen of leaving to the government to determine what are the bodies that ought to be represented is perhaps the wisest possible thing in the circumstances.

A friend mentioned a few minutes back that some of these bodies which will now get representation, will arrive at a stage later on when they do not deserve that representation. Several rival bodies come in existence which take away a portion of the importance of the bodies to which representation has been given. Actually, this is a matter which has got to be very carefully considered. A periodical revision say, once in three years, would perhaps ensure that the bodies that are represented in these Port Trust Boards are really live

bodies having definite interests and having members who could contribute to the better working of the Board

One matter about which the Chairman and I had given notice of an amendment, namely, the question of keeping the Europeans out, I have on further consideration found that it would be as unwise to define the racial composition of the Board by confining it to Indians which was intended to counter existing of the Board by confining it to Indians which was intended to counter existing representation on racial lines such as "European" and "Muslim"—which has now got a racial significance—representation. It would perhaps be best, Sir, that the Government do not recognise the racial composition of any particular body and if any particular body allows members to be admitted only on racial or religious grounds and has anything to indicate that it is of a racial character, it would be wise for the Government to deny them all representation. A European Chamber of Commerce as such will have no place, but a Chamber of Commerce which represents particular sectional interests—tea or jute or coffee or any other thing, or hides and skins—they may be granted representation even if it happens that a particular community has got a large share in the business belonging to that particular Chamber. I think it would be a very wholesome principle for the Government to make it clear that they would not recognise racial or communal composition of these Chambers of Commerce and it is with that view in my mind that I do not propose to move my amendment which calls for restriction of representation in these bodies to Indians. I do hope the Honourable Minister would be able to give us an assurance on all these points that I have raised. Otherwise, I feel that the Bill as it is at present drafted is adequate and would undoubtedly serve the purpose for some years to come and when the next amendment is moved, perhaps three or four or five years hence, suitable changes can be made to suit the conditions which then obtain.

Sir, I support the motion.

The Honourable Dr. John Mathai: Sir, my honourable friend Mr. Sidhva has raised a number of points which he said ought to be taken into consideration in determining the scope and framework of this Bill. Most of the points that he has raised are covered by a suggestion with which I introduced this Bill for consideration this morning. All these important matters are matters which necessarily would come up for consideration when we take up a comprehensive re-examination of the constitution and functions of Port Trusts. I will take into account the suggestions which my honourable friend Mr. Sidhva has made.

A question which apparently has given a considerable amount of anxiety to my honourable friend is the fact that the nomination of the bodies to be represented on Port Trusts and the quantum of representation to be given to such bodies have been left in the Bill to be determined by notification; in other words, have been left to be determined at the discretion of the Ministry concerned. The real reason for doing that has been emphasised sufficiently by honourable members who took part in the discussion and I have very little to add to what they have already said on that point. I think it is important in determining the bodies to be represented that there should be a certain amount of elasticity. The fact of the matter is that there are all kinds of bodies being set up from time to time and it is, I think, unwise as many members have pointed out to give too rigid a form to the provisions on this point in the legislation. At the same time, I have considerable sympathy with Mr. Sidhva in the apprehension that he entertains that if the matter is left solely and exclusively in the hands of the executive for the time being, however responsible that executive may be to the legislature, there is a possibility of that discretion being abused. I am well aware of that danger. What I propose to do before issuing any notification is to place the proposals made by the Ministry

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before the Standing Committee of the Legislature and it is only with the approval of the Standing Committee that I would have the notification issued and I can tell the House that if a matter of this kind is placed before the Standing Committee appointed by this House for the Ministry of Transport—and that Standing Committee is representative of every section of opinion in the House—there would not be much danger of the Minister abusing his powers. I am prepared to go further. In order to keep the House in touch with arrangements made in this matter, I am prepared to see that as soon as a notification is approved and issued it will be placed on the table of the House so that the House knows from time to time how this question of representation is being handled by the Ministry concerned. But in view of the great importance of retaining a certain degree of elasticity, I would beg the House not to interfere with the provision in the Bill.

As regards the proportion of representation given to elective interests, it would appear that the nominated representatives are in some cases in a majority, but it must be remembered that the representatives of labour are included in the list of nominated representatives. My idea is in regard to the nomination of labour representatives to act strictly in consultation with registered trade unions representing every section of Port Trust Labour. My honourable friend Mr. Saksena in an amendment, of which he has given notice, has asked that these representatives should be elected by Port Trust employees. If he had been here and moved that amendment, I would not have accepted it, because there are various sections of labour concerned with the Port Trust who are not employed by the Port Trust and it is very important that those schemes of labour also should have a voice in determining their representation. Therefore, it seems to me that the fairest way of determining the representation of labour is for Government to nominate these representatives in consultation with all those registered trade unions which represent labour concerned with the Port Trust whether employed by the Port Trust or not. If labour representatives are taken into account, you will find that the elective representatives would be in a majority. But I am prepared to go further than that. In several amendments which are now before the House there are proposals that the number of elective representatives should be increased. I propose to give favourable consideration on behalf of Government to a number of these amendments and if these amendments are accepted by the House, with these including the labour representatives, there would be a considerable majority of elective representatives.

There have been references made to the representation of municipal corporation. As my honourable friend Mr. S. K. Patil pointed out, the real reason why we decided to reduce the number of members in the Municipal Corporation of Bombay, is that we wanted to have uniformity as between one port trust and another. But I recognise the objections that he has raised against our proposal. When the amendments of which honourable members have given notice, come up for consideration, the general line that I propose to take is this. I think as far as Madras is concerned, in view of its size in relation, the extent to Bombay and Calcutta, Madras, stands in a class apart. But Bombay and Calcutta have important municipalities which would require to be treated on a somewhat different footing. What I propose to do is precisely what my honourable friend, Mr. Patil suggested. I propose to accept the amendment of which notice has been given by my honourable friend Mr. Chattopadhyay. I propose that there should be a representative of the Howrah Municipality in the Calcutta Port Trust. I do that for this reason that Calcutta is different from the other parts in India in that; it is a river port and a river is concerned with both sides of it and therefore, both municipal areas should be taken into account. In the matter of fixing the representation,

we should include the municipalities on both sides of the river. I propose therefore to accept that amendment. Then on the analogy of Calcutta which then would have two municipal representatives, I propose to agree to the amendment of which Mr. Patil has given notice that Bombay should also have two representatives.

Then the question, Sir, of the representation of sectional interests was raised by several honourable speakers. The point is this: It is not merely Chambers of Commerce and recognised commercial associations that ought to be represented but also sectional interests, for example, import trade, export trade, shipping and other interests, should be represented. If we tried to give representation to every sectional interest which puts forward a claim, you will get Port Trusts which would be extremely unwieldy for the sort or purpose for which Port Trusts exist. They are not deliberative or legislative bodies; in the main they are executive bodies and it is necessary therefore, that their numbers should be brought within manageable limits from the executive point of view. What I propose to do regarding sectional interests is this: I am going to ask all commercial bodies which would be represented on these Port Trusts to give me a panel of the sectional interests which they would like to be represented. I would suggest that in sending their representatives to the Port Trusts the number prescribed should be distributed among certain sectional interests contained in the panel for a particular term. When one term is over and another term begins, I would suggest to them that other interests who are on the panel should then come in for representation. That would be a matter for mutual arrangement between us and these commercial bodies.

Sir, the question of the inclusion of non-national interests on the Port Trusts has been raised. I am entirely in agreement with what my honourable friend, Mr. T. T. Krishnamachari said. I am inclined to agree with him that in the stage of political development that we have reached at present, it is not worth while giving all this attention to the question of racial composition on bodies of this kind. It does however raise an important issue with which the House and the country may be faced some day and that issue would be this: How far does the country want non-national corporations, interests or persons to be represented on statutory bodies set up in the country? It raises a fundamental issue. Personally, I would rather wait and see how the future constitution of the country will be determined before introducing any provision involving the exclusion of non-national interests. But from a practical point of view, what is important is that the undue amount of influence which these interests have exercised so far in the administration of Port Trusts ought to go. I will see that under the power which this Bill will confer upon me, Indian commercial interests are given the representation that their importance entitles them to.

I think, Sir, I have covered most of the points that have been raised in the course of the discussion. My honourable friend Mr. T. T. Krishnamachari raised the question of patronage in the hands of trustees, the question of fees and matters of that kind. They are really matters which would have to be considered when a more comprehensive provision of the Port Trust Act is under consideration.

Mr. Chairman: The question is:

"That the Bill to amend the constitutions of the Port Trusts of the major ports of Bombay, Calcutta and Madras, be taken into consideration."

The motion was adopted.

384 CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) [17TH AUGUST 1948]

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Mr. R. K. Sidhva: In view of the Bill not going to the Select Committee and as the Honourable Minister has given an assurance, I do not propose to move any amendments to clause 3.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I move:

"That for clause 3 of the Bill, the following be substituted:

3. Notwithstanding anything contained in any of the enactments mentioned in column 3 of the Schedule to this Act, as they stand before this Act comes into force,—

(a) the first appointments and elections to be made or held under the said enactments as they shall stand after this Act comes into force, shall be made or held, as the case may be, at any time after the passing of this Act, and before this Act comes into force as if this Act was in force at the time; and

(b) the term of office of the Trustees and the Commissioners functioning as such immediately before this Act comes into force shall expire, and the Trustees and Commissioners appointed or elected under clause (a) shall assume office, on the date when this Act comes into force."

Sir, this is a little more than a drafting amendment. The House will be pleased to consider the various points involved in this clause. Under the existing Act, the Act which is sought to be amended, there are Trustees and Commissioners at present functioning. But for these amendments, they would have continued for some time, till there is the next appointment or the next election. It is sought by this Bill to terminate the functions of those Trustees and Commissioners and substitute the newly elected Trustees and Commissioners on a different basis under the present Bill. That is, the new election will take place and the old Trustees and Commissioners will cease to function on a certain date.

In this connection, two dates have got to be remembered. One is that on which the Act is passed and the Bill becomes an Act. It becomes law when it receives the assent of His Excellency the Governor General. That is the date when this Bill becomes an Act. There is another date. Under sub-clause (2) of clause 1, the Act will come into force on a date which is notified by the Government in the Official Gazette. Now, what is proposed in this clause is that the old Trustees and Commissioners would cease to function on the date the Act comes into force. Meanwhile, in anticipation, elections of Trustees and Commissioners will be held under the new Act before it comes into force. There is a little seeming anomaly that elections are held and appointments made under an Act which has yet not come into force. On account of certain defects of drafting in clause (1), the present amendment has been suggested by me. We see that the Act comes into force on the date which is notified for that purpose. But the Act in part really comes into force long before that, because the new elections are to be held under the new Act even before it comes into force. Sub-clause (2) of clause 1 should have been worded somewhat in this way: "Generally the Act will come into force on such date as the Government notifies in this behalf; but for the purpose of the first election under the new amended Act it should be deemed to come into operation on the date it becomes an Act". That has not been done with regard to sub-clause (2), and therefore necessary adjustments have got to be made in clause 3.

So far as clause 3 is concerned, it runs thus:

"The appointments and elections to be made or held under any of the enactments mentioned in the Schedule, as amended hereby may be made or held at any time after the passing of this Act and before this Act comes into force, but the Trustees or Commissioners, as the case may be, so appointed and elected shall not assume office until this Act comes into force, and on the coming into force of this Act, the term of office of the Trustees or Commissioners, as the case may be, then holding office, shall expire."

I beg to submit that the underlying idea has not been fully developed and there are expressions which are very unhappy and give a misleading impression. The House will be pleased to see that on the date when the Act really comes into force, we must have, ready at hand, a body of persons, Trustees or Commissioners already duly elected and appointed. The appointments must be made before, and in anticipation of, the Act coming into force. The clause in the Bill says that elections may be held under the new Act. I beg to submit, it should be, elections shall be held. The word "may" seems to give an option. Suppose the Bill comes into operation on the 1st of November, but on account of the word "may", the new elections may not be held before the 1st of November, and we shall find ourselves in an anomalous position. By virtue of clause 3, the old Trustees or Commissioners will cease to function on that date. Therefore, by virtue of the word "may", elections not having been held, it being optional, there will be no Trustees or Commissioners to take care of these Port Trusts on the particular date. It is therefore necessary that the word "shall" should be introduced so that elections shall be held before the date on which the Act comes into force. That is one effect of the amendment.

The other point is this. So far as the old Acts are concerned, they would run in due course till the next elections would be held. By virtue of the proposed Act which has yet to come into being, we have to hold elections in anticipation. It must therefore be provided that these elections must be held "notwithstanding the provisions of the existing Act". It is for these reasons that I have tried to introduce these words in the amendment.

The first part of the amendment is, that "notwithstanding anything contained in any of the enactments mentioned in column 3", which are going to be amended. In fact, these enactments would stand in the way of a further election before the new Act comes into force. Therefore, it must be provided that "notwithstanding" these enactments, there should be an anticipated election. Part (a) of the clause in the amendment is that the first appointments and elections to be made or held under the said enactments as they shall stand after this Act comes into force.....Though they will be held before the Act comes into force, the first elections will have to be held in anticipation of the Act coming into force. Therefore, the words, "first appointments and elections" seem to be absolutely essential. With regard to the second part of the amendment, (b), it is merely provided that Trustees and the Commissioners who are functioning at present should function till that date. On that date, the Trustees and Commissioners appointed and elected under clause (a) in anticipation should take charge. In these circumstances, I beg to submit that there are some points which have not been provided for in the clause in the Bill: namely, option is given by the use of the word "may" to hold elections or not. I have submitted that there should be no choice, because, they will be facing a gap on the date when the Act comes into force, and therefore, the word, "shall" is absolutely necessary. Then, we must guard ourselves against elections being made under the existing Act.

These are the main reasons for this amendment. I hope the House will consider these points and accept the amendment or something equivalent to it. I have suggested the points and it is not absolutely essential that the

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amendment as it is should be accepted as a whole. But, the points should be considered and if they are acceptable, then, a suitable draft may be adopted, or the draft as it is may be accepted with or without modifications as the Honourable Minister or the House may choose.

With these few words, I suggest that this amendment be accepted.

Mr. Chairman: Amendment moved:

"That for clause 3 of the Bill, the following be substituted:

3. Notwithstanding anything contained in any of the enactments mentioned in column 3 of the Schedule to this Act, as they stand before this Act comes into force,—

- (a) the first appointments and elections to be made or held under the said enactments as they shall stand after this Act comes into force, shall be made or held, as the case may be, at any time after the passing of this Act, and before this Act comes into force as if this Act was in force at the time; and
- (b) the term of office of the Trustees and the Commissioners functioning as such immediately before this Act comes into force shall expire, and the Trustees and Commissioners appointed or elected under clause (a) shall assume office, on the date when this Act comes into force."

The Honourable Dr. John Matthai: Sir, I appreciate my honourable friend's enthusiasm over small matters of this kind; but having given some consideration to this amendment I am bound to say that it is one which serves no purpose at all. I have had this examined by our legal advisers and they are of the view that the formula adopted in the Bill is clearer and more straightforward and is more appropriate for the practical purpose for which it is meant. I may also point out that the formula adopted in the Bill is based word for word on existing provisions in certain Port Trust Acts and they have been found quite workable over a period of years. I do not think there is any reason to apprehend that the present provision will be unworkable and I ask the House to reject the amendment.

Mr. Chairman: The question is:

"That for clause 3 of the Bill, the following be substituted:

3. Notwithstanding anything contained in any of the enactments mentioned in column 3 of the Schedule to this Act, as they stand before this Act comes into force,—

- (a) the first appointments and elections to be made or held under the said enactments as they shall stand after this Act comes into force, shall be made or held, as the case may be, at any time after the passing of this Act, and before Act comes into force as if this Act was in force at the time; and
- (b) the term of office of the Trustees and the Commissioners functioning as such immediately before this Act comes into force shall expire, and the Trustees and Commissioners appointed or elected under clause (a) shall assume office, on the date when this Act comes into force."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Shri S. K. Patil: Sir, I beg to move:

"That in the Schedule to the Bill, in column 4, in sub-section (1) of the proposed section 5 of the Bombay Port Trust Act, 1879, for the word 'twenty-four' the word 'twenty-five' be substituted."

As I have explained, of my three amendments one is the main amendment and the two other amendments are consequential. If one seat is added to the number of elected members from the Bombay Municipal Corporation the

total number of elected members would be raised by one and instead of twenty-four there will be twenty-five members. I shall not say much on this because I understand the Honourable Minister is accepting this amendment.

The Honourable Dr. John Matthai: Sir, I accept this amendment.

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4, in sub-section (1) of the proposed section 5 of the Bombay Port Trust Act, 1879, for the word 'twenty-four' the word 'twenty-five' be substituted."

The motion was adopted.

Shri S. K. Patil: Sir, I beg to move:

"That in the Schedule to the Bill, in column 4, in sub-section (1) of the proposed section 5 of the Bombay Port Trust Act, 1879, for the word 'thirteen' the word 'fourteen' be substituted."

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4, in sub-section (1) of the proposed section 5 of the Bombay Port Trust Act, 1879, for the word 'thirteen' the word 'fourteen' be substituted."

The motion was adopted.

Mr. R. K. Sidhva: Sir, I desire to move my amendment but not in the form in which it stands. While the rest of the section may remain as it stands I only want that in the proposed section 5(2)(b) the words "only those" should be inserted before the word "persons".

Mr. Chairman: That is only one item in a big amendment which seeks to substitute a section for the whole of the proposed section 5. The honourable member cannot now take a single clause out of his amendment and move it.

Mr. R. K. Sidhva: In my original notice that I sent in to the office I only said that the words "only those" should be inserted before the word "persons". But the office has put in the whole section, which is not my fault. When I protested they said this is the proper form.
4 P. M. You may call for the original and see it.

Mr. Chairman: I will take it up later.

Shri S. K. Patil: Sir, I move:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Bombay Port Trust Act, 1879, for the word 'one', occurring in line one, the word 'two' be substituted."

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Bombay Port Trust Act, 1879, for the word 'one', occurring in line one, the word 'two' be substituted."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in the Schedule to the Bill, in column 4, in the proposed section 5 of the Calcutta Port Act, 1890, for the word 'twenty-one', the word 'twenty-four' be substituted."

There is no need to explain the purport of this amendment as the Honourable Minister has agreed himself to raise the figure.

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4, in the proposed section 5 of the Calcutta Port Act, 1890, for the word 'twenty-one', the word 'twenty-four' be substituted."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in the Schedule to the Bill, in column 4, in part (xi) of the proposed section 5 of the Calcutta Port Act, 1890, for the word 'ten', the word 'thirteen' be substituted."

In the previous amendment I moved, I asked for the figure to be raised to "twenty-four" and here I have made a consequential change and increased ten to "thirteen".

The Honourable Dr. John Matthai: I have accepted Mr. T. T. Krishnamachari's amendment that the total should be increased to 24 and I am also accepting his amendment that the number of elected representatives should be 13 instead of 10. I propose also to accept Mr. Chattopadhyay's amendment that the Howrah Municipality should be given a representative. The sum total will be that you will have 13 elected representatives and out of this 13 one would be a representative of Howrah. The total would remain at 24.

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4, in part (xi) of the proposed section 5 of the Calcutta Port Act, 1890, for the word 'ten', the word 'thirteen' be substituted."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Calcutta Port Act, 1890, for the word 'ten' the word 'thirteen' be substituted."

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Calcutta Port Act, 1890, for the word 'ten' the word 'thirteen' be substituted."

The motion was adopted.

Shri Mihir Lal Chattopadhyay (West Bengal: General): Sir, I move:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Calcutta Port Act, 1890, after the word 'Calcutta', the following be inserted:

'one shall be elected by the Howrah Municipality'."

This has been accepted by the Honourable Minister and therefore I need not speak on it in detail. Some members have anticipated this amendment and have put forth forcible arguments in its favour. I am therefore thankful to the Honourable Minister that he has been pleased to accept it.

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Calcutta Port Act, 1890, after the word 'Calcutta', the following be inserted:

'one shall be elected by the Howrah Municipality'."

The motion was adopted.

Shri T. T. Krishnamachari: May I have your permission to move amendments 10 and 11 together in an amended form.

Mr. Chairman: Yes.

Shri T. T. Krishnamachari: Sir, I move:

"That in the Schedule to the Bill, in column 4,—

(i) in the proposed amendment to section 7 of the Madras Port Trust Act, 1905, for the word 'twenty', the word 'twenty-one' be substituted; and

(ii) in the proposed section 8 of the Madras Port Trust Act, 1905,—

(a) in part (i) of sub-section (1), for the word 'ten' the word 'eleven' be substituted; and

(b) in sub-section (2), for the word 'ten' the word 'eleven' be substituted."

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4,—

(i) in the proposed amendment to section 7 of the Madras Port Trust Act, 1905, for the word 'twenty', the word 'twenty-one' be substituted; and

(ii) in the proposed section 8 of the Madras Port Trust Act, 1905,—

(a) in part (i) of sub-section (1), for the word 'ten' the word 'eleven' be substituted; and

(b) in sub-section (2), for the word 'ten' the word 'eleven' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Bombay Port Trust Act, 1879, the figure '6' be omitted."

The amendment at page 2 of the Bill relates to sub-section (1) of Section 6. Therefore the figure "6" at the commencement is unnecessary. We are going to substitute sub-section (1) by another sub-section (1) and therefore this figure '6' is out of place.

The Honourable Dr. John Matthai: I accept it.

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Bombay Port Trust Act, 1879, the figure '6' be omitted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Bombay Port Trust Act, 1879, after the word 'notification' where it occurs for the first time, the words 'in the Official Gazette', be inserted."

The passage where the amendment is sought to be introduced is that "the Government may from time to time by notification specify". I submit that the notification must be in the Official Gazette. That is the usual way for publishing notifications in connection with Acts. As the sub-clause stands, there may be notifications which may not be in the Official Gazette. That is why I want to specify it.

The Honourable Dr. John Matthai: Sir, I accept it.

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Bombay Port Trust Act, 1879, after the word 'notification' where it occurs for the first time, the words 'in the Official Gazette', be inserted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Calcutta Port Act, 1890, the figure '6' be omitted."

The Honourable Dr. John Matthai: Sir, I accept it.

Mr. Chairman: The question is:

"That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Calcutta Port Act, 1890, the figure '5' be omitted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

(i) "That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Calcutta Port Act, 1890, after the word 'notification', where it occurs for the first time, the words 'in the Official Gazette' be inserted."

(ii) "That in the Schedule to the Bill, in column 4, in sub-section (2) of the proposed section 8 of the Madras Port Trust Act, 1905, after the word 'notification', where it occurs for the first time, the words 'in the Official Gazette' be inserted."

Mr. Chairman: The question is:

(i) "That in the Schedule to the Bill, in column 4, in the proposed sub-section (1) of section 6 of the Calcutta Port Act, 1890, after the word 'notification', where it occurs for the first time, the words 'in the Official Gazette' be inserted."

(ii) "That in the Schedule to the Bill, in column 4, in sub-section (2) of the proposed section 8 of the Madras Port Trust Act, 1905, after the word 'notification', where it occurs for the first time, the words 'in the Official Gazette' be inserted."

The motion was adopted.

Mr. Chairman: The question is:

"That the Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Schedule, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. John Matthai: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Chairman: Motion moved:

"That the Bill, as amended, be passed."

Mr. R. K. Sidhva: Sir, after having made my observations at the first reading, I am glad that the Honourable Minister has given us an assurance on the matter of selecting the various local bodies and interests for the purpose of constituting the various boards of the Port Trust.

I would request you, Sir, to draw the attention of the Honourable the Speaker to the fact that his office has actually bungled in not putting my amendment in the shape and manner in which I sent it to them. I had no other alternative but to submit to what you have said and could not move the amendment that was given notice of originally. I would request you to tell the Honourable the Speaker to find out whose mistake it was and why they have put in the amendment in the manner they liked. We expect the office to assist the members and improve things if they are not properly put in.....

Mr. Chairman: The honourable member knows that these amendments have been in his hands for the last four or five days and if there has been any slip he might easily have pointed it out to the office and had it corrected.

Mr. R. K. Sidhva: I pointed out to the office and they said that this was on the contrary better than in the manner in which I put it. I have been repeatedly telling you that I put the words exactly as I have sent. They have

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put in the whole paragraph and this has prevented me from moving the amendment. Whatever that may be.....

Mr. Chairman: I have got a copy of the actual amendment sent by the honourable member. I think he can take it up with the Speaker privately but I do not think that the office has done any injustice to the honourable member.

Mr. R. K. Sidhva: I am very clear as to what I said. I have got a copy. I do not want to stress that point further.

What I want to state now is this. Referring to the proposed section 5(2)(b) which states: "two representatives of labour chosen by the Central Government after consultation with the registered trade unions; if any, composed of persons employed in the port". I wanted the words "only those" to be added for this reason. As the Honourable Minister rightly stated in answer to one of the members the unions in the port are not labourers employed by the Port Trust only. There are stevedors and dubashes who employ labour. Their interests also should be safeguarded. From my experience I have seen in the past in one of the Port Trusts that a labourer who was employed in a factory was brought in when the question of the representation was being discussed for a seat in the Port Trust. To pass a resolution in the Port Trust a large number of them were brought there to make up the majority for a particular candidate to be recommended to the Central Government for being represented on their Port Trust Board. I, therefore, wanted that only those labourers who are actually employed in the Port Trust areas shall be allowed representation, and I am very glad that the Honourable Minister has stated that he will bear in mind that not only the Port Trust labour unions but the interests of the unions of labourers who work in the port employed by the stevedors and dubashes are also to be considered. From that point of view while I admit that election is preferable to nomination, in this matter I know the labour unions are so many and there are various interests involved that it would not be good to give them the elected franchise just now and therefore the proposition that has now been passed is perfectly all right. The word "only" not having been now inserted due to the difficulty, I hope the Honourable Minister will bear in mind that only those actually working in the Port Trust areas shall be considered for their representation and none else.

It was stated by one of the honourable members, I think it was Mr. T. T. Krishnamachari, that the members on the Port Trust Board do not take interest. (Shri T. T. Krishnamachari: "I said that about Madras.") It may be in Madras but in all the Port Trusts the fees are definitely fixed by the Port Trustees. In the Bombay Act there is a definite clause that no member shall leave the meeting until the proceedings are terminated. In the other Acts there is a lacuna. It is left to the Central Government to fix the fees. The Bombay Act says that every trustee other than the Chairman attending a meeting at which there is a quorum and business is conducted shall be entitled to a fee of Rs. 30 and it definitely lays down that no trustee shall be entitled to the payment unless he remains till the end of the proceedings. I have seen a similar provision in Karachi Port Trust Act where no member can leave the meeting before the proceedings are completed. I would therefore tell the Honourable Minister that when he brings in the new comprehensive Bill he may kindly see that this kind of clause is inserted that no member can attend a meeting for two minutes, take the cheque, put it in his pocket and go home. It was for this reason that this provision was made in this Act.

[Mr. R. K. Sidhva]

I do not want to go to other matters about the nominated seats referred to by my honourable friend Mr. Patil. I never minimized the importance of nomination under the existing circumstances. Probably he was not present throughout my speech. He probably caught the last bit of my speech and he said that I was opposed to it. If I was opposed to it I would not have recommended all the seats which the Honourable Minister has stated. I did so because I know these interests are absolutely necessary now from the Government point of view. But I do feel also that the elected number should be increased. If you do not make any distinction between the nominated member, even under the existing circumstances, and the elected member, I do not know what my friend Mr. Patil means. In regard to the one elected seat from the Corporation, why did he not allow it also to be left to the Honourable Minister and why was he anxious that it should be increased to two seats and embodied in this Act? He knew very well. If he felt that there was no distinction between the nominated seats and the elected seats he could have equally left all the seats to be filled by Government and they could have done what they thought best. Even under the existing circumstances, while we realize the difference between nomination by the previous government and that by the present government, still I believe that the elected members who are absolutely responsible to their bodies are quite distinct from the nominated members who are the nominees of the Government of the present day who may be with us, there is no doubt. But there is a certain distinction. I would therefore appeal to the Honourable Minister—now the number has been increased though not to the satisfaction that I would have desired—that in the elected number that we have now sanctioned he may kindly see that all the necessary interests are fully provided for and that their interests are fully safeguarded.

Shri S. K. Patil: Just one word of explanation. My honourable friend has asked why I did not leave it to the Honourable Minister and why I moved an amendment here. The amendment had to be moved because the Honourable Minister has mentioned in the elected list that one seat shall be elected by the Corporation. Had he not mentioned it and kept all the fourteen seats to be filled by the Central Government I would have certainly appealed to his good sense. The amendment became necessary because it had been specifically stated in the Bill itself.

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

INDIAN RAILWAYS (SECOND AMENDMENT) BILL

The Honourable Dr. John Matthai (Minister for Railways and Transport): I move:

"That the Bill further to amend the Indian Railways Act, 1890 (Second Amendment), be taken into consideration."

This Bill refers to two matters. One is the constitution and organisation of a Railway Rates Tribunal and the other is the question of setting up Claims Commissioners for dealing with claims arising out of accidents to trains.

With regard to the first of these matters, the Railway Rates Tribunal, I made a reference to this matter in the speech I made on the Interim Railway Budget last November. And I said it was the intention of Government that there should be an independent judicial body with mandatory and not merely

advisory jurisdiction to deal with questions arising in respect of freight rates. At that time my hope was that the necessary arrangements would be completed by April 1948. But various difficulties have come in the way and our legal advisers also said that a statutory authority of this kind could not be set up except by legislation. It has therefore been necessary to adopt the relatively slow process of legislation in regard to this matter instead of an executive process which at an earlier stage I had intended to adopt. As regards the composition of the Tribunal which we are proposing, it is to consist of three members, all of whom would be persons with judicial experience or qualifications and they would be assisted in their investigations by assessors who would partly represent people of experience in trade and industry and partly people of experience in railway administration and finance. It is our intention that where questions of important principle or policy are involved in any matter that comes before a Tribunal, the investigation should be done by a full bench of the Tribunal. But where it is a routine matter dealing more or less with day to day matters, the investigation could be left to a single judge, assisted again by assessors, both having industrial and commercial experience, and railway experience.

The scope of the matters which would be considered by the Tribunal may be briefly summarized as follows: The complaints that they would be authorized to investigate would be complaints relating to undue preference or to unreasonable rates. If any rate is charged which implies undue preference or is considered by the interests concerned unreasonable, then it would be a legitimate complaint to go before the Tribunal for investigation. We are providing in the Bill that no increase in existing class rates, schedule rates or terminal rates should be introduced by the Railway Administration themselves. Questions of increases in the matter of these rates would be determined only by the Tribunal subject to the provision that the Tribunal cannot examine these matters relating to increases unless they have been initiated by the Central Government. The one important class of railway rates which would be left outside the scope of the Tribunal is rates relating to passenger and coaching traffic, unless of course these matters are specifically referred to the Tribunal by the Central Government. These roughly are the proposals regarding the composition and functions of this Tribunal. There is no appeal from their decision. As I said, their decision would be final.

The other matter with which the Bill deals is the setting up of Claims Commissioners. As I told the House the other day in answer to a question, I have been seriously perturbed at the delay that takes place in the settlement and disposal of claims arising out of accidents to passengers. And in view of the accidents that have recently taken place on some of our Railways, it has occurred to me that it was time that the House considered speeding up the procedure by means of which claims could be disposed of in respect of accidents. The proposal briefly is that we should set up Commissioners specifically for the purpose of dealing with these claims. The Claims Commissioners would adopt a summary procedure, I take it somewhat on the lines of the Small Causes Courts. There is also a provision that if in any case the disposal of these claims takes an undue amount of time, it would be open to a Claims Commissioner to make an interim payment up to 50 per cent. of the amount claimed.

These, Sir, briefly are the main matters for the House to consider in respect of this Bill. Several honourable members have proposed that the matters which this Bill covers are matters of sufficient importance to be considered by a Select Committee before it is accepted for consideration by the House. On thinking it over, I think there is a great deal of force in the suggestion that this matter should first be considered by a Select Committee. I want, therefore

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[Dr. John Matthai]

to say—it would probably save time if I said so at this stage—that I am prepared to accept the motion for referring this motion to a Select Committee, provided the Committee is instructed to send up its report at a very early date.

Mr. Chairman: Motion moved:

“That the Bill further to amend the Indian Railways Act, 1890 (Second Amendment), be taken into consideration.”

I understand there is a motion for reference to Select Committee.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I beg to move:

“That the Bill be referred to a Select Committee consisting of The Honourable Dr. John Matthai, Shri K. Santhanam, Prof. Shibban Lal Saksena, Pandit Hirday Nath Kunzru, Shri Moturi Satyanarayana, Pandit Thakur Das Bhargava, Shri S. K. Patil, Shri Biswanath Das, Dr. Bakshi Tek Chand, Dr. V. Subramaniam, Prof. N. G. Ranga, and the Mover, with instructions to report on or before the 24th August, 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Sir, I do not want to take up the time of the House except to refer to one or two matters and show the importance of establishing this Rates Tribunal.

Sir, the Acworth Committee, as early as 1920-21, recommended in paragraph 156 of its report the constitution of such a Tribunal. They say,—

“We have discussed with very many witnesses, representing not only the Indian public, but the railway companies, what the authority to control rates should be. We have found a unanimous readiness on both sides to accept the constitution of a new Tribunal, practically identical with that recommended for the same duties by the Rates Advisory Committee constituted under the English Ministry of Transport Act, 1910, and accepted as satisfactory both by the railway companies and by representative organisations of the traders in England. We recommend the establishment of a Rates Tribunal.....”

But they recommended that as regards the composition of the Tribunal there may be three members with the following qualification: “.....an experienced lawyer as chairman.....”, that is copied in the present Bill, but as regards the two lay members they suggested that:

“.....One of them may represent the railways and the other the commercial interests, with power, in any case deemed of sufficient importance, to add two additional members, one on each side.”

Those qualifications have not been prescribed here and I do not find that they are expected to be even members who practise the profession of law or versed in law. No qualifications have been set out so far as they are concerned. There are two panels which are expected to be brought into existence—one to be nominated by the Railway Board and the other by the various interests and industries. They are to act as assessors in the matter of fixing what the proportion of rates and fares are in an advisory capacity. Therefore it is proper that the Select Committee will impose certain qualifications instead of leaving it nebulously.

Mr. Chairman: May I point out to the honourable member that clause 34(2) says that both the chairman and member must be qualified for appointment as a High Court judge?

Shri M. Ananthasayanam Ayyangar: Yes, I am sorry. It requires a lawyer to be a member of the Tribunal. But though I am a lawyer myself, I do not want all lawyers to sit there. I want a judge of a high rank or with legal experience, but the other two must be persons who know the business. The other day I thought I had known much of income-tax law. Generally I had

some cases here and there and I had read the income-tax law from the beginning to end; it came up for amendment three or four times on the floor of this House; we read it and forget afterwards. I cannot pretend the same knowledge of it as one who practises it constantly. Likewise persons who know must be associated. It is not purely an academic matter to be decided between one section and another section. We want persons who know the trade. Hitherto there are nearly 22,000 rates and fares. On these rates, on the availability of wagons and on their transport, depends the growth of our industry. These persons must know the bottle-necks; how it will seriously affect what kind of industry; how quickly the material could be transported from one place to another; when goods are taken from one place to another, how quickly to return the empties. These are factors to be taken into consideration and only persons who know the business must be there to assist the judge who holds the scales between them. I would still think that in the Select Committee a modification may be made not accepting all these people as lawyers. Experience either as railwaymen or as industrialists ought not to be ignored.

As regards rates, so far as increases above the present level are concerned, it is only on reference by the authority asking for an increase that an increase could be done. I find from a casual reading of the Bill that it does not seem open to the Tribunal to reduce the fares in any particular case. They are not allowed the power to reduce any fares or rates. They can say, “This class of fares does not suit a particular kind of commodity”, or they can fix from station to station rates in a particular case. That also must be taken into consideration by the Select Committee.

Then as regards the method prescribed for disposing of compensation cases expeditiously by the appointment of Commissioners, this is also a step in the right direction. Compensation is being paid to the tune of two to three crores a year. That is a waste and a damage. The cases are not disposed of properly and in case of accidents it is necessary that compensation must be given as early as possible. Therefore, that is also right.

The various clauses that have been introduced are not of course absolutely carefully worded and some of them are capable of improvement. I am sure the Select Committee will take all this into consideration and prepare a Bill which is more suited and which will improve the condition of Railways and give an impetus to the very languishing industries in our country.

Mr. Chairman: Amendment moved:—

“That the Bill be referred to a Select Committee consisting of The Honourable Dr. John Matthai, Shri K. Santhanam, Prof. Shibban Lal Saksena, Pandit Hirday Nath Kunzru, Shri Moturi Satyanarayana, Pandit Thakur Das Bhargava, Shri S. K. Patil, Shri Biswanath Das, Dr. Bakshi Tek Chand, Dr. V. Subramaniam, Prof. N. G. Ranga, and the Mover, with instructions to report on or before the 24th August, 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Dr. P. S. Deshmukh (C. P. and Berar: General): Sir, I am very happy that the amendment has been accepted by the Honourable Minister and the Bill is going to be referred to a Select Committee. It is also very satisfactory that the demand of the House has been met at so early a date and a Bill of this nature is coming forward for the constitution of a Tribunal the need for which had been long felt and often emphasised by the members of this House.

Mr. Ananthasayanam Ayyangar, Sir, who spoke before me dwelt on the composition of this Tribunal. I have only one point to make and that is that in all the provisions proposed for the formation and constitution of the Tribunal, there is a very glaring omission. While the All-India Federation of Chambers of Trade and Commerce are to frame one Panel and the Railways another, I do not find the mainstay of India, namely, the grower and the producer, figur-

[Dr. P. S. Deshmukh]

ing anywhere. It is absolutely undeniable that their interests are more vitally concerned in this transaction of transport of goods than anybody else's. After all, the trade prospers and merchants live only on the exploitation of the grower and the producer. But while a Panel of 60 persons is proposed to be formed by the Federation of Chambers of Trade and Industry, the case of the growers and the producers has gone by default. After all, trade and industry is not always at one with the producers and their interests are not always common or identical. In fact they are often divergent. I would therefore suggest to the members of the Select Committee that they should plead on behalf of the millions of people who produce, whose interests are very vitally affected and with whom it is a matter of life and death in many instances. For instance, I have bothered the Honourable Minister many times in regard to the availability of wagons for onion, oranges, vegetables and other things. There is also the question of rates which may be charged in which the growers and producers must have a say. So not only are the commercial people interested but there are also the vital interests of the growers which ought to be considered and looked into. I hope suitable provision will be made by which some representation would be given to these millions of people on whose products and productivity the whole of India lives and prospers.

चौधरी रनवीर सिंह: अध्यक्ष महोदय मैं डाक्टर देशमुख के सुझाव से मुत्तफिक हूं। पिछली मर्तबा हमारी एग्रीकल्चर स्टैंडिंग कमेटी (Agriculture Standing Committee) में डाक्टर साहिब ने बताया था कि एक तरफ तो यहां दिल्ली में आरेंजेज (oranges) बिल्कुल नहीं मिलती दूसरी तरफ नागपुर में आठ रुपये में एक वैगन (wagon) आरेंजेज (oranges) नीलाम कर दी थी क्योंकि भेजने के लिये वैगन नहीं मिले और वह सड़ गई और तबाह हो गई। पिछले सेशन (session) में मैंने कई दफा मंत्री महोदय से गुड़ के बारे में प्रार्थना की। यू० पी० और पंजाब के कुछ हिस्से में जो कि गुड़ पैदा करता है गुड़ की कीमत चार और छः रुपये तक गरी। इसको मुकाबले में बम्बई में ५० और ४० रुपये तक गुड़ की कीमत बढ़ी। इसी तरह चन्द दिन हुए गोकुलभाई भट्ट ने आपसे यह बात कही थी कि बीकानेर के अन्दर चने सड़ रहे हैं। बीकानेर तो दूर है, हिसार के अन्दर चने का भाव एग्रीकल्चरिस्ट (Agriculturist) को सिर्फ छः रुपये की मन मिलता है, लेकिन आप बद्रास में चले जाइये वहां चना आपको २० रुपये में भी नहीं मिलता। इसी तरह जो और चीजें किसान पैदा करता है उनकी उसको ठीक कीमत इसलिये नहीं मिलती क्योंकि ट्रांसपोर्ट (Transport) की डिफिकल्टीज (difficulties) हैं। और ऐसी हालत में जब कि यह सरकार अपने को किसानों की और प्रोलेटेरियट (proletariate) की सरकार कहती है, किसानों का, पैदा करने वालों का कोई नुमायन्दा ऐसे ट्रीब्यूनल (Tribunal) में न होना, मैं समझता हूं उनके साथ अन्याय होगा। और मैं मंत्री महोदय से पुरजोर अपील करता हूं कि हविस अन्याय को दूर करने की कोशिश करें।

(English translation of the above speech)

Ch. Ranbir Singh (East Punjab: General): Mr. Chairman, Sir, I support the suggestions made by Dr. Deshmukh. In the last meeting of the Standing Committee for the Ministry of Agriculture, the Doctor told us that on the one hand oranges were not available in Delhi and on the other a wagon of oranges was auctioned in Nagpur for Rs. 8, because wagons for transport were not available and there oranges were rotting. During the last session on many occasions, I drew the attention of the Honourable Minister to 'Gur'. In certain parts of U.P. and East Punjab which produce 'Gur', the price of this commodity fell down to Rs. 4 and Rs. 6; and whereas in Bombay it rose upto Rs. 40 and 50. The other day Shri Gokulbhai Bhatt mentioned that grams were rotting in Bikaner. Bikaner is a distant place. Even in Hissar, the agriculturist is paid for the gram at Rs. 6 per maund; but if you go to Madras, you cannot get gram even at Rs. 20 per maund. Thus the agriculturist is unable to secure reasonable price for the other commodities product by him because of transport difficulties. Under such circumstances I feel that this Government which acclaims to be the Government for the agriculturists and the proletariat, would be perpetrating injustice on the agriculturists and the producers by ignoring the appointment of their representative on such a Tribunal. I would, therefore, strongly appeal to the Honourable Minister that he should take steps to remove this injustice.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I welcome the principles of this Bill as well as the motion for reference to Select Committee. There are two principles involved in the Bill. One is the creation of Rates Tribunal and the other is the Tribunal to deal with accidents. Both these are great improvements and I am glad they have been accepted by the Government in view of the wishes expressed in the House.

As the Bill is going to the Select Committee, I have to make some suggestions for consideration. Certain sections of the original Act, namely, 26 to 40, were repealed by the Adaptation of India Order, 1937. There was therefore a gap from 26 to 40. They related to certain traffic facilities. Now, Sir, certain other sections of the Act, namely, 41 to 45 relate to other subjects, but it is proposed in the Bill that they should be re-numbered as 26 to 33 just to fill the gap once occupied by other provisions. As the clauses deal with entirely different subjects, it is not proper to re-number the sections to fill up places occupied by other entirely different sections not analogous to those of the present. In these circumstances, the Select Committee should be pleased to consider whether the sections which are proposed to be re-numbered as other sections are really analogous to them or whether they deal with entirely different subjects. In fact, in amending an Act it is not the usual practice to fill up gaps by entirely different sections. That will lead to considerable confusion and those who have to make a study without adequate knowledge may fall into the error that they may consider certain sections which are removed to a different place by a kind of interpolation as if they were originally there. I submit this is a consideration which the Select Committee should keep in mind. When an Act is entirely recast it is of course the custom to re-number the sections serially, but when amendments are made to an existing Act, it is not the custom. This is all I have to suggest for the consideration of the Select Committee.

Shri Prabhudayal Himatsingka (West Bengal: General): Mr. Chairman, Sir, I support the Bill in so far as it tries to provide machinery for expeditious decision of rates and for payment of compensation. But, Sir, at the present moment there is another important question to which I would like to invite the attention of the Honourable Minister. In cases of loss of goods and partial loss of consignments from one station to another, the consignees put forward claims, and I can say from my own personal knowledge that those claims are not being attended to in time and in many cases no response is received from

[Shri Prabhu Dayal Himatsigka]

the Department. As a result, you will be surprised that whereas 10 suits used to be instituted before 1947 against the Secretary of State as was then necessary, you will find at least 200 suits at the present moment.

The number of suits against the Government must have increased in the present instance to the extent of twenty times and that is a matter which should receive the serious attention of the Honourable Minister, because that means so much loss of money for payment to the parties who succeed in their litigation. In most cases as soon as a suit is filed, the Railways try to compromise the case. I do not see any reason, Sir, why some method should not be found and if possible incorporated in the Bill whereby such claims also may be expeditiously dealt with and where the claim is correct some method provided for making adjustments. The number of suits will indicate how these things have been dealt with and how Government is being mulcted with costs.

Pandit Hirday Nath Kunzru (U.P.: General): Mr. Chairman, the Bill before us deals with a very important subject. Some of the points which require examination have been mentioned by other speakers. I shall draw the attention of the House to some clauses which in my opinion are of a vital character. The Honourable the Transport Minister in a speech which was of exemplary brevity considering the importance of the subject explained the constitution of the Tribunal. I should not therefore deal with that point now. I shall ask the House to consider clauses 41 and 42 which broadly speaking deal with the matters which come before the Railway Rates Tribunal and the powers of the Tribunal and it would be found on a reference to clause 41 that complaints can be brought before the Tribunal for almost with regard either to matters where it is alleged that undue preference is being shown to any trade or any body or in respect of rates which are regarded as unreasonable, because they are too heavy or because unjustifiable conditions are attached. The Tribunal can also hear complaints regarding the refusal of the railway authorities to quote a new station to station rate or to grant an alternative owner's risk rate. You will thus see, Sir, that there is nothing relating to rates which cannot come before the Rates Tribunal. This Tribunal will have the power on the application of the Central Government to increase the level of the class rates. We have to consider two important things. One is that there is nothing relating to the rating system which is outside the Tribunal's purview and the other is that no increase can be made in the rates without the sanction of the Tribunal. I am not certain, but it seems to me that the Railway Board or the Transport Ministry will have the power to decrease the class rates. If I am mistaken on that point, I am sure that the Honourable the Transport Minister will correct me.

I should like to draw the attention of the House to clause 46 also, which deals with alterations and cancellation of station to station rate. It is clear from this that except in regard to station rate quoted by a railway administration in pursuance of the Tribunal's decision it will have the power to alter the station to station rate as it considers fit. I have drawn the attention of the House to these matters in order to show how comprehensive the powers of the Tribunal will be. The question therefore arises whether it is desirable that such large powers should be made over to a Tribunal, however competent it may be. Government have great responsibilities to perform. They may be compelled because of reasons beyond their control to find new sources of revenue. What are the new sources which they can look forward? They can either raise the goods rates or roughly speaking the passenger fares. The passenger fares and the charges made for other coaching traffic generally will not be under the control of the Tribunal. Questions relating to these matters can be referred to the Tribunal by the Central Government, but the Tribunal can have no initiative in this matter and no complaints can be brought before the Tribunal which relate to these matters. In the first place when Government are in

search of more money, it is quite possible that finding that one road is blocked, they may seek the easier method of raising passenger fares and coaching charges in order to solve their difficulties.

Again, Sir, Government may be compelled to increase the railway earnings in a number of ways, including the reclassification of goods rates because of the increase in the wages of labour or the Adjudicator's award or for certain other reasons. Is it right that in a matter of such vast importance they should part with all control; the responsibilities will be theirs; the obligation to fulfill them will be theirs; but the power to carry out their responsibilities will not be theirs; they will have to depend on the sanction of an outside body in order to increase the rates to the extent to which the burdens which the railway have to shoulder might render necessary. Now it may be said here, Sir, that as a Tribunal will consist of men with legal qualifications—I mean qualified to be Judges of a High Court—there is no reason why we should shrink even in important matters, even in matters of vital importance to the railways from abiding by their decision.

Mr. Chairman: Will the honourable member take more time?

Pandit Hirday Nath Kunzru: I will require more time.

Mr. Chairman: In that case he may continue his speech tomorrow.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Wednesday the 18th August, 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES.
(PART II - PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Wednesday, 18th August, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-48 A. M.

BANKING COMPANIES BILL

EXTENSION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): May I make a formal motion? I beg to move:

"That the time appointed for the presentation of the report of the Select Committee on the Bill to consolidate and amend the law relating to banking companies be extended up to Wednesday, the 25th of August 1948."

I understand two meetings of the Select Committee were held but further meetings could not be held due to circumstances of which we are aware. I therefore hope that the House will grant this extension of time.

Mr. Speaker: Motion moved:

"That the time appointed for the presentation of the report of the Select Committee on the Bill to consolidate and amend the law relating to banking companies be extended up to Wednesday, the 25th of August 1948."

Shri M. Ananthasayanam Ayyangar (Madras: General): In this connection, Sir, I would like to make a suggestion to the House and to the Government also. Many of us who are members of the various Select Committees have been feeling that the time at our disposal is very short and we have not been able to do any justice. As a matter of fact, various Committees overlap. Therefore, many of the members of the Committee on the Banking Bill thought in consultation with the Chairman himself that Saturday and Sunday may be left free. There should be no work on Saturdays at all.

The Honourable Shri K. C. Neogy: There is no work even now on Saturday,

Shri M. Ananthasayanam Ayyangar: In addition, Friday also may be allowed free, so that on Fridays and Saturdays the Select Committees may have their sittings and expedite the work.

The Honourable Shri K. C. Neogy: No, no.

Shri M. Ananthasayanam Ayyangar: This is the suggestion that was made and it is a suggestion well worth considering, because without the Select Committee going into the matter, no work can be done; Bills cannot be placed before the Assembly and the work of the Assembly cannot be done. So this is as good work outside the Assembly as it is inside the Assembly for its purposes.

Shri H. V. Kamath (C. P. and Berar: General): May I submit, Sir, that it is not a wholesome practice to have many members—or at least some members—common to many Committees and that this should be dispensed with as far as possible, because then the work overlaps, Committee meetings clash and it is difficult for two or three meetings to be held at the same time with some common members to have to attend all of them. That is the real difficulty.

Mr. Speaker: The suggestion, I think, comes to this, that the House should not sit on Fridays and Saturdays. (Mr. R. K. Sidhva: "No, Sir.") That is what the suggestion of Mr. Ayyangar comes to. Of course, personally, I would be guided by the wishes of the House, but I was just going to make the remarks which Mr. Kamath has made. It is for the House to consider as to whether they should have such a large number of members on each Select Committee. I think the number is 13, 14 or sometimes even 15, although the quorum is only five. While, therefore, for effective work the minimum number of members is fixed at five, I do not see why the number of members of the Select Committee should be as much as 15 and in some cases up to 20.

Prof. N. G. Ranga (Madras: General): It is not that which causes delay. It is the Chairman.

Mr. Speaker: Whatever it be, if it is possible to reduce that number and to see that the same members are not repeated in the Committees, I believe we shall be able to do the work more economically, but it is for the House to decide. I shall be entirely in the hands of the House. My own reaction, however, was that the better remedy would be to reduce the number and not to have overlapping names.

Shri M. Ananthasayanam Ayyangar: But the real difficulty, Sir, is that the Chairman is the same. The Law Minister is the *ex officio* Chairman of all the Committees and he finds it difficult.

Mr. Speaker: But the Law Minister is not always busy in the House and the meetings of the Committee can as well be conducted outside, even within the hours in which the House is sitting, if a few members only are members of the Committee.

Shri H. V. Kamath: But, Sir, the Chairman, the Law Minister, does not always attend personally. He sends deputies.

Dr. B. Pattabhi Sitaramayya (Madras: General): The object of fixing the strength of the Committee at 15 is to enable five people to come. You cannot have a tumbler of water from a well which contains only a tumbler, but you can get a tumbler of water from a well which contains a bucket full. Similarly, you cannot get five people out of a Committee of five or six. Therefore, it is that 15 members are fixed and generally we find that only seven or eight attend the meeting at the maximum.

Mr. Speaker: That is hardly doing credit to the members concerned who are on the Select Committee. However, that is a different matter. I was considering the other aspect, namely, that if we were not to sit even for one day, are we not enforcing idleness on a large number of members of this Assembly for one whole day in the week? That point should also be considered. I quite agree that the work of the Select Committee should be done properly and efficiently and if it is done properly and efficiently the time of the House would be saved; but at the same time, this is also an aspect which

strikes me as very important. However, we need not discuss it at this stage. The members may discuss and whatever their views are, if there is a general unanimity of opinion, I shall be entirely in the hands of the House.

The question is:

"That the time appointed for the presentation of the report of the Select Committee on the Bill to consolidate and amend the law relating to banking companies be extended up to Wednesday, the 25th of August 1948."

The motion was adopted.

CANTONMENTS (AMENDMENT) BILL

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I beg to move for leave to introduce a Bill further to amend the Cantonments Act, 1924.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Cantonments Act, 1924."

The motion was adopted.

The Honourable Sardar Baldev Singh: Sir, I introduce the Bill.

INDIAN RAILWAYS (SECOND AMENDMENT) BILL—concl'd.

Mr. Speaker: We shall now proceed with the further consideration of the following motion moved yesterday by the Honourable Dr. John Matthai, namely,

"That the Bill further to amend the Indian Railways Act, 1890 (Second Amendment), be taken into consideration."

Pandit Kunzru. He was speaking yesterday.

Pandit Hirday Nath Kunzru (U. P.: General): Mr. Speaker, I dealt yesterday with the functions and powers of the Rates Tribunal and showed how wide the powers of the Tribunal were. I pointed out that the power of the Government would be confined practically to the reduction of the rates, and while the responsibilities of the Government might increase considerably in the future they would have to depend for the funds required on the permission of the Rates Tribunal at least in so far as the increase in the rates goes. I then went on to say that finding that they could not meet their obligations by increasing the rates they might be tempted to increase the passenger fares and coaching charges. I then dealt with the undesirability of divesting the Government completely of all power of increasing the rates in any case, however heavy their commitments might be.

Sir, I can understand the anxiety of my honourable friend the Minister of Transport to assure trade and industry that the Railways do not want to impose any unnecessary burden on them. There the complaint in the past has been that the rates tribunal was advisory and it therefore rested with the Government whether its recommendations were to be given effect to or not. The Government even reserved to themselves the power of not referring a complaint to the advisory rates tribunal. It seems to me that it is necessary in view of the past history of this question and the dissatisfaction that exists

[Pandit Hirday Nath Kunzru.]

in business circles to create a statutory body which will be able to deal authoritatively with such complaints as businessmen may have to make with regard to the terms laid down by the railway for the carriage of goods. But the question is whether the Precise powers proposed to be conferred on the rates tribunal in the Bill should be vested in it.

Sir, the Railway Department is not the only department whose policy is affecting the businessmen in this country; there are other departments whose actions, if not singly, at least taken in the aggregate affect businessmen more, I mean Finance, Industry and Commerce Departments. I am not aware, Sir, that any of these Departments has appointed a tribunal whose business it is to decide whether the measures proposed by the Government are sound or not. Take for instance, the Finance Department. There is an Income-tax Tribunal. But this tribunal does not decide whether the Income-tax rates are to be raised or not. It decides that certain cases falling under the Income-tax law and its judgments can be appealed against in certain cases. The decisions of the rates tribunal will be final and it will enjoy much greater power than the Income-tax Tribunal does in the field of Income-tax and no Finance Minister would ask any income-tax tribunal to say whether the scheme proposed by or the enhancements which it considered proper would be such as would be equitable in the circumstances concerned and would not impose an undue burden either on private individuals or on trade and industry.

Take again, Sir, the policy of the Government with regard to the development of industries. There too the decision of the Government is not subject to the approval of any outside body. I do not therefore see any reason why

12 No Government should in the case of rates alone part with all the power and make the rates tribunal the final arbiter in the matter. I have already said, Sir, that there ought to be a statutory body to deal with the complaints of businessmen, but I think that the Government should in an appropriate way reserve to themselves the power of seeing that they derive sufficient revenue to meet their obligations. Sir, there is a body known as the Transport Tribunal in England, which is vested with all the powers which Government propose to confer on the rates tribunals in this country, but there is one very important difference between the view taken of the latter to which I have referred in the two countries. The powers of the Transport Tribunal in England are very comprehensive, but they are subject to an over-riding provision which is contained in section 85 of the British Transport Act, 1947, which came into force only on the 1st January 1948. The section, Sir, reads as follows:

"Neither the Commission, that is the British Transport Commission nor the Transport Tribunal shall do anything in the exercise of their respective powers as respects charges and the submission, confirmation and alteration of charges, which in their opinion will prevent the Commission from discharging the Commission's general duty to secure that their revenue is not less than sufficient for making provision for the meeting of charges properly chargeable to revenue taking one year with another or which in their opinion will prevent the Commission from giving effect to any direction of the Minister under any provision of this Act."

That is the British Transport Act. The extract which I have just quoted shows that the British Government in appointing the Transport Tribunal took good care to see that they had the power to fulfil their over-riding responsibilities and they accordingly, broadly speaking, made it incumbent not merely on the Transport Commission, but also on the Transport Tribunal to bear in mind the instructions given to the Commission by the Transport Minister and the need of securing the revenues required to meet such charges as are likely to be debitable against the railway revenues. It may be said here that as the tribunal will consist of qualified and able men, we need have no fear with regard to their judgment and if in any case, they come to an adverse decision,

we should rather revise our own views than try to force them on the tribunal. The matter is not quite so simple as this. When the Government propose, owing to the increased or increasing responsibilities to raise the rates as a whole, that is, raise not any particular class rate in relation to other class rates or the rate on a commodity, but the rates as a whole, the Commission, so far as I can judge, might call upon the Government to show that the railway administration is being carried on with due diligence and care, and if they are not satisfied on this point, they might refuse to give effect to the proposal of the Government. It is undoubtedly desirable that there should be some authority which will have the power of reviewing the administration of the railways. But, should it be this House or the Rates Tribunal? I submit, Sir, that it is the duty and privilege of this House to consider how any Government department is discharging the functions entrusted to it, and to call it to book if in its opinion, the department concerned is found to have failed in the discharge of its duties. So long as there is a democratic legislature, it seems to me, that it is, to put it mildly, undesirable to make any Committee or Commission the judge of the efficiency or the economy of the railway administration. The matter, Sir, is a very important one and I think that it will receive the attention of the Select Committee.

Before I sit down, I should like to refer to one other matter, which, in my opinion, needs to be considered more carefully than apparently it has so far been. Under clause 41 (c) complaints can be laid before the Rates Tribunal relating to the levy of unreasonable charges including terminal charges. Sir, terminal charges, which were of varying amounts in the past, are to be standardised. The Government, I understand, have re-classified the rates. Classification is based on a continuous mileage. In other words, it is telescopic. It is going to be put into force from the 1st of October 1948. One of the results of this new classification would be to standardise the terminal charges. So long as the charges are varying, it would have been possible to fix a relation between the charges levied and the services rendered by the railways. But, as soon as these charges are standardised, there will obviously cease to be a direct relation between the charges and the services rendered by the railways. Section 46 of the Indian Railways Act, 1890, which is going to be repealed laid down how disputes regarding the unreasonableness of terminal charges might be decided. As I have already said, that section is going to be repealed. In spite of the standardisation of the terminal charges, the Tribunal has been allowed to decide whether they are reasonable or not. Under section 46 as it was, the charges were to be related to the services. This correspondence cannot as I have already said, exist in the future. I do not therefore see why section 41 (c) should contain any reference to the terminal charges. I am prepared to grant, Sir, that I have not fully understood the purpose of the Transport Ministry in having drafted this section 41 (c) in its present form. I shall therefore listen with great interest to what my honourable friend the Transport Minister may have to say on this point, should he condescend to deal with it now. But the matter requires attention not merely in the opinion of an uninstructed man like myself, but also in the opinion of men who have been connected all their life with railway administration.

There are other points too to which the attention of the House may be called; but I do not think it is necessary for me to say more in order to point out how important the matters are and how necessary it is therefore that a Select Committee should be appointed to scrutinise the Bill.

With these words, I support the motion of my honourable friend Mr. Ananthasayanam Ayyangar for the appointment of a Select Committee, which, I understand, has already been accepted by the Honourable the Transport Minister.

Shri K. Santhanam (Madras: General): Sir, I would not have intervened in this debate had not two major questions of policy been raised. The previous speaker has certainly raised a most fundamental issue. Is a tribunal of the type contemplated in the Bill a proper or desirable medium for settling large issues of policy? I think it is a right question that he has raised and to a large extent I agree with him. It is the business of the Ministry, helped by the scrutiny of this legislature, to frame all issues of policy. A tribunal can come in only to scrutinise the administration of that policy and to ensure that it is fairly administered among the various interests concerned. Therefore I agree with him that clause 42 as has been drafted in this Bill is rather too wide. I agree with him that the general power to increase class rates as a whole should be vested in the Ministry, that if the Ministry raises one class rate leaving others alone it should be a proper subject to come before the Tribunal. There are so many rates, station rates and other rates, that it is obviously impossible for any Ministry to deal with them and the matter has to be left to the several administrations. And when a matter is to be left to several administrative authorities it is but right that an independent tribunal should be there to say whether these changes are made impartially or discriminatively. Therefore I think some limitation of clause 42 is needed and I am sure it will be scrutinised by the Select Committee.

The other point to which I should like to refer is the composition of this tribunal. I may inform the House that the Railway Board originally put forward a composition somewhat similar to that indicated by my honourable friend Mr. Ayyangar. But the Standing Finance Committee after great consideration turned that proposal down and advocated the present proposal. The original proposal was that the tribunal should consist of one judge, one member representing railway interests and one member representing commercial interests. In the opinion of the Standing Finance Committee for Railways this was considered undesirable because the final decision should be taken by disinterested persons and not persons who are habitually or traditionally more or less committed to any particular view. Another very important reason which weighed with the Standing Finance Committee was that in a composition of that type all the three members will have to be present at all cases, whether the complaints are about major questions of policy or about minor details. We thought that in the case of minor details each member of the tribunal should be able to sit as a separate bench and dispose of the cases. Therefore for all minor points there will be three courts while for major questions of policy the whole bench will sit as a full bench and decide. Again, if the representative of commercial or railway interests were ill or absent the entire work will be held up. It was also felt that in the case of commercial interests they vary enormously. A man acquainted with the jute trade may not be a competent person to advise on matters relating to the textile or other trade. Therefore the Standing Finance Committee thought that to provide a wide panel of railway interests as well as commercial interests and to associate suitable members from this panel for each case according to the necessities of that particular case is a much better procedure, leaving the final decision to people who have been trained to arrive at decisions after a dispassionate consideration of all relevant factors. There should be assessors technically competent to deal with all the facts of the case and to advise the judges as to how they should be appreciated. But for coming to a final decision I suggest that it is only the trained judge who can come to it without any prepossessions, who can go only on the evidence before him and come to a proper judgment. For all these reasons it was considered by the Standing Finance Committee that a tribunal consisting only of judges duly assisted by competent advisers will be a proper medium and the most effective way of dealing with complaints.

Shri M. Ananthasayanam Ayyangar (Madras: General): Is there any provision in this Bill that in place of the tribunal sitting as a whole consisting of all the three members, it is open to any member to act on behalf of the tribunal and have a sitting?

Shri K. Santhanam: There is a provision. I think the tribunal will sit together and decide which are major questions of policy and which are minor questions. When once they assort these cases they will divide into three benches on minor questions and decide them.

Shri M. Ananthasayanam Ayyangar: I do not find any provision here for any one of them sitting as a separate bench; all three must sit together.

Shri K. Santhanam: Clause 43 contains that provision. All these clauses will of course go for scrutiny to the Select Committee. But the provision is there. For these reasons the Standing Finance Committee decided that a tribunal of the type contemplated in the Bill should be set up; all other matters will go for the scrutiny of the Select Committee, and I need not take up any more time of the House. It is certainly necessary that this should go to Select Committee, and I support the motion.

Shri B. Das (Orissa: General): Sir, it is gratifying that very shortly we will have a rates tribunal. The past history of our agitation about a rates tribunal is as old as the Acworth Committee. We have been clamouring for a rates tribunal and they had a Rates Advisory Committee which functioned indifferently throughout and perhaps it has lapsed. I am not very much enamoured of the lawyer element presiding over every tribunal that this House will create. On another occasion when the Income-Tax Tribunal was under discussion I pointed out that there should be no lawyer or High Court Judge on that tribunal. It is our misfortune—but ten or twelve years hence the House will not have a preponderating influence of legal talents—that the respect which the British Raj brought to the people for justice gave India nothing, but they maintained a balance of justice. And the educated people of our country, being all lawyers, began to trot out before the public that justice can be delivered only by a High Court Judge or one who is fit to be a High Court Judge. What does the ordinary lawyer know about the rates structure of the railways? What can he do? The main function of the Rates Tribunal is in section 42 where it will fix the rates structure of this country. So why should there be a High Court judge? My lawyer friend, Mr. Naziruddin Ahmad does not agree. But I voice the opinion of those who are not lawyers and who feel that we are as honest and as judicial minded and as fair-minded as the honourable lawyer friend thinks he can be! This loyal worship of the High Court judges should be dropped in future legislation brought before this House.

I am glad that my honourable friend, Mr. Ayyangar had moved for reference of the Bill to Select Committee and that my honourable friend, Dr. Matthai accepted it. I do not know who are the members of the Select Committee. I do hope the House is seeing to it that as business men they think of the benefit to the country and not merely creating tribunals for benefit of one or two High Court judges and for the benefit of the lawyer elements who are bound to appear on one side or the other and waste Government money and also the taxpayer's money.

As regards the appointment of High Court judges I do warn the Government that they should be very careful in future. High Courts are being multiplied with the creation of new provinces and the merging of States into so many provinces and there will be so many more High Court judges. But have they got the necessary acumen, knowledge, and understanding to know the functions of a Rates Tribunal? So Government should be very careful

in future when it chooses the types of High Court judges that will sit on a tribunal like the Rates Tribunal.

[Shri B. Das.]

As for lawyers appearing before the Rates Tribunal in commercial cases I would suggest no lawyers should be allowed to appear because the assessors are there to advise and even act. As it is in the draft Bill, it does not leave the assessors any power of finality. This is an old prejudice of the Colonial Government that is dead now in India. It always wanted arbitrary powers to judge us. I would like the assessors to be given a little more definite power so that the Judges are influenced thereby, and if the assessors are there the lawyer element should be debarred so that that element may not waste public time and money in appearing before the Rates Tribunal.

The Rates Tribunal does not start with the blessings of fortune. It starts in the unfortunate position that the members thereof will find that they have got a heavy flat rate to contend with in the rates structure of India, be it for passenger rates or goods rates. There was a time when the former Government developed telescopic rates not to help Indian trade, commerce and industry, but to help British imported goods and British industry situated outside India. I pity the members of the Rates Tribunal, whoever they may be because they will find themselves in that economic position that compelled my honourable friend, the Railway Minister to raise the rates to the highest permissible maxima that he could be permitted. As my friend Mr. Santhanam has said, it is of course for the House to set the future policy of the Rates structure of India. At the same time the Rates Tribunal should be allowed a certain freedom which will be defined in the rules that the Government of India in the Railway Ministry should draft so that they could examine whether before the next Railway Budget is introduced, the rates are for the benefit of commerce and industry in India and not for the benefit of foreign trade.

I now deal with that aspect of the Bill that touches on Claims Commissioners. I do hope they will not be mere ornaments but that they will do what is contemplated of them to do. It is hoped that they will soon settle claims due to railway accidents and that they will do so sympathetically and in the national spirit. In the past our experiences have been very bad. In the past those unfortunate deads have been spirited away to the boilers in the railway factories.

I am talking of the past. It has nothing to do with my honourable and esteemed friend, Dr. Matthai. I am talking of the past that he has inherited. The dead or half injured in a Railway accident have been burnt in railway engines and in railway workshops' boilers. Their names have not been traced and thousands have become orphans and widows. The dependants are starving still because a foreign Government denied them those compensations that they should have got. I hope lawyers will not preponderate there too! The Claims Commissioners will establish justice with humanity and will settle up such claims so that no harassed dependants suffer as they have suffered under the Britishers in the past.

With these few observations, I support the motion for reference to Select Committee.

Mr. Frank Anthony (C.P. and Berar: General): It is only a little while ago that I began to study this Bill and my first impression, particularly with regard to the proposal for Claims Commissioners, was not a happy one. In spite of what my friend, Mr. Das has just had to say about lawyers and the unnecessary waste of time in the proceedings and the harassment to claimants, I feel that this provision has the potentialities of a great deal of mischief. Obviously under the proposed provisions these Claims Commissioners will be appointed by the Central Government. They will be nothing if they will not

be executive officers! As such they will dance inevitably to the tune of the Executive.

I feel, Sir, that in an independent India this provision is an unhealthy and retrograde step. The settlement of claims for personal injury for example, are claims which must be adjudicated upon by a judicial body. We are seeking today definitely to separate executive from judicial functions. In that alone, this particular provision, I submit, is retrograde, because judicial functions are now being sought to be placed within the competence of executive, and perhaps junior executive officers. Even the potential mischief of this provision could be limited if section 82(h) relating to appeal and revision was altered. On the other hand the provision with regard to interim payments, if it is decided to keep Commissioners, is salutary, because where widows are involved, they may need money and if there is some interim settlement, it may be of help. I may be inclined to accept this provision for Claims Commissioners provided this provision with regard to appeal and revision is done away with. I am not at all satisfied with this provision which gives an aggrieved person the right of appeal only to the Central Government. The Central Government in this place presumably will be represented by the Railway Minister, and my own experience of the Central Railway administration is a most unhappy one. I am afraid the railway administration is nurtured in the tradition of putting its rubber stamp on anything. If a Claims Commissioner arbitrarily, or because he thinks he ought to find favour, gives a decision, I fear that the Railway Minister, because he thinks that the Claims Commissioner is one of his own men, will endorse his decision.

In this particular instance I do not know how it can be managed, whether the appeal or the revision can still lie to one of the regular courts. If that is done, any possibility of mischief, in the fact that these commissioners are executive officers, can be largely limited. Sir, that is all I have to say.

The Honourable Dr. John Matthai (Minister for Railways and Transport): Sir, most of the matters which have been raised in the course of the discussion are matters which I think might appropriately be left over for consideration by the Select Committee to whom this Bill is being referred. But certain matters of a fundamental character have been raised, to which I would like to make a brief reference before the Bill is remitted to the Select Committee.

The most important point which has been raised in the course of the discussion is the point which my honourable friend Pandit Kunzru raised and that is whether the Bill is not conferring upon the tribunal powers in excess of what they should be given consistently with the public interest. This is a point which has given me a great deal of anxiety. On a review of all the considerations bearing upon this problem I ultimately decided that, at any rate, in the Bill which I place before the House I would give the tribunal the final voice in the determination of the extent to which freight rates should be increased, and divest myself of any power in regard to that matter, except for such influence as I can bring to bear upon that tribunal through a proper presentation of my case on behalf of the Ministry of Railways. It is a matter on which it is reasonable to expect that there would be wide differences of opinion. I decided to take this step because as a student of railway rates policy and administration in the past and as a result of my own experience as Minister in charge of Railways I have come to the conclusion that the railways have a good deal to gain and possibly little to lose if they could in matters affecting the increase of freight rates secure the support of some authority, which would be accepted as a disinterested authority in this matter.

My honourable friend Pandit Kunzru raised the perfectly legitimate point "Would you do this with regard to proposals which may be put forward by the

[Dr. John Matthai].

Finance Minister in the matter of taxation, would you do it in regard to proposals of a similar kind which may be put forward by other Ministries of the Government?" It is a legitimate point to raise. My reply to that question is that there is all the difference in the world between the railways as a department of the Government and other departments. The fact of the matter is that the railways are a business concern, from whatever point of view you look at it and the question which the House has to consider is this. When you determine the prices which a business concern engaged in an essential form of public utility service and placed in a monopolistic position is going to charge, is it right that Government as the sovereign body in the country acting in the capacity of manager should have the final voice in its determination? The way I look at it—and I am perfectly willing to listen to the other side of the case when it is presented in the Select Committee—is this. Here is a big nationalised concern whose activities affect every aspect of the national economy. We raise our freight rates we lower our freight rates and every increase and every reduction are bound to have its repercussions on the national economy. Now is it altogether right, is it in the public interest that I should reserve to myself the final authority in regard to that matter? As I try to visualise the situation as it will arise when the Tribunal is seized of a particular matter referred to it and the way in which it will function, it would be somewhat as follows: If it is a really competent body composed of people who have been in the habit of weighing evidence and coming to disinterested conclusions, in matters that come before it for consideration it would have to take two essential factors into account. One is, what is going to be the reaction of these particular proposals upon the national economy, upon trade, industry and agriculture. That would be one consideration which they would in the nature of things have to take into account. The other consideration is: Would this particular business concern run by Government be able to maintain its solvency, if the proposal put forward by them was not accepted? I cannot imagine that a Tribunal of the kind that we are setting up would not take into account both these considerations in arriving at a settlement of the issues placed before it. I have every confidence that as far as the railway's case is concerned, if I put up a proposal for an increase in freight rates I can convince a competent body of that kind. If I fail—I am looking at it purely as a business proposition—if I am unable to satisfy a Tribunal of that kind I would come back and re-examine my proposals. When I say the Tribunal has to take into account whether its decision will affect the solvency of the railways, what I mean by solvency is, they would have to consider whether without an increase in freight rates the railways would be able to meet their working expenses, their overhead charges, their interest charges, their depreciation and a reasonable allocation to reserve. If the Tribunal applies its mind to this question, as it inevitably must, because it is very relevant to the whole issue, and if they come to the decision that the proposal that I have made is not essential for that purpose, then it seems to me, as a responsible Minister it is my duty to re-examine the basis on which I made my original proposals.

It occurred to me as I was listening to my honourable friend Pandit Kunzru that what was troubling him, especially in view of the analogy which he drew between the railways and other departments of Government, was not the financial solvency of the railways as a business concern but whether, if Government decided that the railways should be used in a particular emergency for a contribution to the general revenues of the country, in the interests of public finance that might not be a consideration which the Tribunal would take into account.

It is a perfectly legitimate question to consider. But it raises, as the House will realise, an issue of very great importance. It is ultimately for this House to decide what line to take with regard to a matter of such fundamental importance. As I say, I keep an open mind on that question, and I am prepared to have the matter examined over again by the Select Committee. My own reaction to the whole problem is this. Suppose without an increase in the freight rates, that is to say, on the basis of the existing freight rates, I am able to meet my working expenses, overhead charges, interest charges, depreciation and a reasonable allocation of reserve—and over and above that, as a result perhaps of increase in the quantum of traffic what I receive is more than the interests of the railways require—then it would be a legitimate thing for the House to demand that a certain portion of it should be allocated to general revenues. But if on the existing rates you are not able to provide for a contribution to general revenues, then is it right to consider an increase in freight rates in order to make that contribution possible? It raises the fundamental issue, namely, are you going to regard a nationalised transport industry as a legitimate source of revenue for general purposes? That is the question with which we shall be faced. I do not want on behalf of Government to commit myself on this question because the House will have opportunities at one time or another to consider it. The position in countries where nationalisation has been adopted on a large scale such as Russia is that in fixing the prices of products manufactured by such industries they make a certain addition as a contribution to general revenues. Probably we shall be faced with that situation ourselves. If we are to adopt nationalisation on a large scale, the question whether we shall get all the revenue we want from private enterprise is a problem which is bound to face us. It is a legitimate thing for nationalised industries to fix prices at a level which would not merely cover their normal expenditure but would provide a contribution to revenues. But the question arises, whether, there are not certain categories of industries—essential public utilities—which shall be left out when charges are made simply for the purpose of adding to general revenues. Would you be justified in raising school fees in state schools in order that, that may render the revenue position of government better? Would you do that in regard to hospitals? Now, in regard to railway service, is there any fundamental distinction between it and other essential public utility services? As far as I can see, for a long time to come, in view of the great need for industrialisation in this country, it is in the public interest that the rates we charge for railway transport should be kept at as low a level as possible, consistently with the financial solvency of the railways. That is entirely a personal view. But as I say, I am prepared to keep an open mind on this question. If the Select Committee and the House consider that we ought to proceed on other lines, if they think that Government should be invested with larger powers in these matters I shall have no objection, in fact it would make my path easier. What I have done is to choose the path of greater resistance. I had a particular reason for doing so, apart from the general considerations to which I have referred. It is easy for an organisation like the Indian railways, brought up under traditions which have not altogether been of a wholesome character to solve its financial difficulties by increasing freight rates rather than, by enforcing economies. It would therefore have a restraining influence upon the railway organisation to be committed to this position that they cannot increase freight rates unless their proposals are accepted by an independent judicial body.

My honourable friend referred to the question of terminal charges. That is rather a minor matter and I should be prepared to explain to him the position when the matter comes up before the Select Committee.

[Dr. John Matthai]

Another important matter of a fundamental character was raised regarding the composition of the Tribunal. As my honourable friend Mr. Santhanam pointed out in the original proposal that was placed before the Standing Finance Committee our idea was that the Tribunal should be composed of a person of judicial or legal experience as Chairman with two members representing railway experience and business experience respectively. But the Standing Finance Committee held strongly that the composition of the Tribunal should be on the lines indicated here. Personally I was impressed with the arguments advanced by the Standing Finance Committee and in the end I decided to accept the recommendation of the Standing Finance Committee, and I took the responsibility of asking the Cabinet to accept it. It is in that form it has come here and I cannot improve on the arguments which my honourable friend Mr. Santhanam has already advanced in favour of this proposal.

There is one more point to which I would like to refer before I sit down. I think it was my honourable friend Mr. Himatsingka who said yesterday that if we were going to adopt a procedure for expediting the disposal of claims arising from accidents we might also consider the question of expediting the disposal of claims arising in respect of goods. Well, there is a fundamental difference between the two. The claims which arise in regard to theft or loss of goods are based on the assumption that the Railways' responsibility is the responsibility of a bailee. The railway incurs liability only if it is shown that the railway has failed to exercise the sort of reasonable care which a person of ordinary prudence would be expected to exercise. That is a matter which would require careful investigation. A procedure of this kind would be unworkable as far as goods claims are concerned. If you have to decide whether the railways have exercised reasonable care or not, you would not be able to do so without further examination.

My reply to the point raised by my honourable friend Mr. Frank Anthony is also that if you are going to take claims arising from accidents to court their disposal would take a longer time than they do now. My anxiety has been, considering the large number of cases that I have come across recently, that there must be some kind of procedure by which it would be possible to settle the claims of people whose needs are very great, particularly of those who have lost the bread-winners of the family, in the shortest possible time.

Mr. Speaker: I shall put the amendment to the House.

Shri M. Ananthasayanam Ayyangar: There is a slight alteration to my amendment. With your permission and with the leave of the House I would like to add the name of Dr. Punjabrao Deshmukh in the list of members of the Select Committee. As you may remember, he said yesterday that agricultural interests should be represented. I have consulted the Honourable Minister about it and I understand he has no objection.

Mr. Speaker: That name has to be added?

Shri M. Ananthasayanam Ayyangar: Yes, Sir.

Mr. Speaker: That makes the number thirteen!

The Honourable Dr. John Matthai: Suggest another name!

Shri M. Ananthasayanam Ayyangar: For another name I would suggest that of Chaudhari Ranbir Singh.

Dr. B. Pattabhi Sitaramayya (Madras: General): A secular State believing in the inauspiciousness of thirteen?

Mr. Speaker: I have no objection to these names. Has the Honourable Minister any objection?

The Honourable Dr. John Matthai: I have no objection.

Mr. Speaker: The question is:

"That the Bill be referred to a Select Committee consisting of The Honourable Dr. John Matthai, Shri K. Santhanam, Prof. Shibban Lal Saksena, Pandit Hirday Nath Kunzru, Shri Moturi Satyanarayana, Pandit Thakur Das Bhargava, Shri S. K. Patil, Shri Biswanath Das, Dr. Bakshi Tek Chand, Dr. V. Subramaniam, Prof. N. G. Ranga, Dr. P. S. Deshmukh, Ch. Ranbir Singh, and the Mover, with instructions to report on or before the 24th August, 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

Mr. Speaker: Before we adjourn, I have to state that a request has been made to me—and I understand it is supported substantially by the House—that the House may not sit tomorrow as it is the day for *Raksha Bandhan*. In deference to the wishes of the House, I accept it and the House shall not sit tomorrow.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

CONTINUANCE OF LEGAL PROCEEDINGS BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I move:

"That the Bill to provide for the continuance of certain legal proceedings by or against the Secretary of State, be taken into consideration."

I think it would be desirable in order to enable the House to know exactly why this measure has been brought forth to detail to the House as briefly as may be possible the circumstances that are lying behind this Bill. As the House is aware, before the 15th August 1947 there existed an entity or a legal corporation called "The Secretary of State" which was by law entitled to sue in respect of any right or liability arising out of what was known as "The Government of India". On the 15th August 1947, that entity came to an end or rather, was brought to an end by the Indian Independence Act. The Indian Independence Act, however, recognised that while the entity known as "The Secretary of State" was brought to an end, and had to be brought to an end, there were certain proceedings which were pending in courts of law in the name of the Secretary of State in Council and consequently, the Independence Act, Section 15, sub-clause (2), gave power to the Governor-General to provide by order that these suits and proceedings shall be continued in the name of some other entity. Accordingly, the Governor-General issued an order under the provisions of the Indian Independence Act making provisions for the continuance of the proceedings that were then pending against the Secretary of State. The order is known as the Indian Independence (Rights, Property and Liabilities) Order, 1947, and was issued on the 14th of August 1947. Article 12(3) of that order made provision specifically for the continuance of the legal proceedings. Unfortunately, in the hurry of the moment, what happened was that this Article 12(3) only provided for the continuance of those suits where the suits involved the liability of undivided India or a part thereof. It failed to make any provision with respect to the right which the Secretary of State may have to continue proceedings against any party against which the right was claimed. It is to meet this defect in the Act that the present Bill has been brought forth. It is said that there are some suits pending in courts

[Dr. B. R. Ambedkar]

in India where what is involved is not the liability of the Secretary of State but the right. One such case is mentioned in the Statement of Objects and Reasons. It is pending in Bihar. But the Government of India has also been told that there are some other similar cases where a question of right as distinguished from liability is involved. In order to meet this difficulty, the Government of India had already issued an Ordinance on the 20th May 1948 to make provision for the continuance of the proceedings in which the rights of the Secretary of State were involved and what this Bill does is to convert the Ordinance into law. I do not think any further explanation is necessary. As Honourable Members will see, this is a very simple measure, a necessary one, and I believe, non-contentious. I commend this measure to the House.

Mr. Speaker: The question is:

"That the Bill to provide for the continuance of certain legal proceedings by or against the Secretary of State, be taken into consideration."

Shri Prabhu Dayal Himatsingka (West Bengal: General): Mr. Speaker, I have one point to make about this Bill, Sir.

Mr. Speaker: I am afraid the honourable member is a bit too late. I have put the motion to the House.

Shri Prabhu Dayal Himatsingka: I did not know that you were putting it to the vote. Just for the consideration of the Honourable Minister I wish to make one point.

Mr. Speaker: I think the honourable member may raise that question when we come to the clause by clause stage.

The motion was adopted.

Mr. Speaker: Clause by clause discussion now. What particular clause did the honourable member refer to?

Shri Prabhu Dayal Himatsingka: Clause 3, Sir.

Mr. Speaker: Yes, I propose to put all the Clauses together as there are no amendments.

Shri Prabhu Dayal Himatsingka: Shall I make my submission and then it will be for the Honourable Minister to see? We find from the statement made by the Honourable Minister that this Bill is being introduced to provide for the continuation of certain rights that might be subsisting in the Secretary of State and for which suits may be pending in certain courts. So far as the liabilities of the Secretary of State are concerned, that has been provided for in the Indian Independence (Rights, Property and Liabilities) Order, 1947, but this Bill is intended to deal with rights only. Therefore, I cannot follow why in clause 3(b) (ii) it is said:

"(ii) if the right in question was that of the former Province of Bengal or the Punjab, be continued by or against the Province of West Bengal or East Punjab, as the case may be;"

If it is a question of right, there cannot be a proceeding against the Province of Bengal. It must be by the Province of Bengal. The word "against" can only be possible if there is a question of liability of the province, and so far as the Independence Act is concerned, it has been provided therein, as far as I know,—I have not got it here—that in the case of liabilities of undivided Bengal they have been cast on East Bengal (Pakistan) because that is the major portion and the liabilities for the Punjab have been cast on West Punjab. Therefore, "against" West Bengal or "against" East Punjab should not be there, because it is only a case of providing for certain

rights of the Secretary of State. That is my only submission in this connection.

The Honourable Dr. B. R. Ambedkar: I have not quite followed.

Shri Prabhu Dayal Himatsingka: The position is this. There cannot be a suit against a province in connection with certain rights that the Government had. It can only be a suit by the province or by the Government.

Mr. Naziruddin Ahmad (West Bengal: Muslim): With regard to clause 3, last line and one word before, "be continued by or against that province" should, I submit, be brought out separately. The introduction begins at the beginning of the clause "Any legal proceedings, which immediately before the appointed day..." As it is printed, it seems to be appertaining to part (iii) of sub-clause (b) only. Therefore in order to obviate all misunderstanding at the time of printing this should be separated and printed so as to show that it governs all the sub-clauses.

Mr. Speaker: That seems to be the position even now. I have not followed. That may be done at the time of printing.

Shri M. Ananthasayanam Ayyangar (Madras: General): As I understand my honourable friend in the Statement of Objects and Reasons both rights and liabilities are referred to, but here the right alone is referred. So liability may be added. That is all that is necessary. I am reading the Statement of Objects and Reasons: "Section 15(2) of the Indian Independence Act, 1947, provides *inter alia* that any legal proceedings by or against the Secretary of State in respect of any right or liability of the undivided India or any part thereof,....." I think by some inadvertence the word "liability" is not used here whereas in clause 3(b), it is said: "were in respect of any right of India or any part of India, shall.....". So, if we add the words "or liability" after the word "right" wherever it occurs, that will satisfy the needs.

Shrimati G. Durgabai (Madras: General): If only the word "right" is mentioned, the word "against" may be deleted.

Mr. Speaker: What part is he referring to?

Shri M. Ananthasayanam Ayyangar: I am referring to Section 3, clause (b) which reads as follows: "Any legal proceedings which immediately before the appointed day,—(b) were in respect of any right of India or any part of India, shall, (i) if the right in question was that of the Governor General in Council, be continued by or against the Dominion of India;". If there is a right in the Dominion of India there is no suit against the Dominion of India; it is a liability. Therefore "be" is all right. If a suit by the Dominion of India is by virtue of a right, a suit against the Dominion of India is by virtue of a liability. Now this will be clear on a reference to line 3 in the Statement of Objects and Reasons where both rights and liabilities are contemplated. If there is a right of suit it will be by the Dominion of India and if there is a liability it will be against the Dominion of India. Therefore in clause 3(b), in parts (i), (ii) and (iii), after the word "right" the words "or liability" may be added.

Mr. Speaker: I am not very clear about that. It seems there is some confusion. The honourable member will refer to the Statement of Objects and Reasons where the words "right or liability" occur in line 3, before statement as to the *locus* in the provisions of the Indian Independence (Rights, Property and Liabilities) Order. But, later on, at page 2 it is stated: "This Article does not cover proceedings in respect of any right of the undivided

[Mr. Speaker.]

India". So far as liabilities are concerned, the matter is covered. Looking to the Statement of Objects and Reasons this particular Bill, appears to have been brought only for the purposes of curing this defect in respect of rights of the undivided India and if that is taken into consideration, the language does not seem to go against that purpose. I do not know what the object of the draftsman was.

The Honourable Dr. B. R. Ambedkar: I think the word as it stands is perfectly right. As I stated we are dealing only with "right". The question of liability has already been provided for. Now, why the word "right" is there? Why it should be there will be clear if my honourable friends will bear in mind two points. We are dealing with legal proceedings. We are not dealing with suits only, which means that legal proceedings may also include an appeal. Suppose for instance, there is a suit disposed of. The Secretary of State wants an appeal to be made or filed. This appeal may be based upon some right which he may claim. Secondly even if a suit is filed against the Secretary of State, the defence of the Secretary of State may involve a right, which vests in him. Therefore my submission is that the word "right" is there and ought to be there.

Mr. Speaker: That seems to be the correct position. The point seems to be that even in respect of rights, there may be proceedings against the Secretary of State. Then, it need not necessarily be "by". There is one other point which I believe Mr. Naziruddin Ahmad has made out and that will be borne in mind at the time of printing. It is a question more or less of printing.

Shri K. Santhanam (Madras: General): Sir, with reference to "liability", the suit can be continued, against the Secretary of State or the Government of India and no Bill is needed to continue those legal proceedings. It is where legal proceedings cannot be instituted or continued because of the right of the Government of India that the operation of the present Bill comes in. Therefore, I do not think the defence is quite convincing.

Mr. Speaker: The honourable member goes to the root of the whole thing. This Bill is merely for the purposes of procedure. I think the "right" is there not for the purpose of establishing the right. If the right is there, then the difficulty arises about enforcing that right through legal proceedings. Therefore, the Bill becomes a necessity. The other point will be one for the printer and we shall invite attention to that point later on.

The question is:

"That clauses 2 to 5 stand part of the Bill."

The motion was adopted.

Clauses 2 to 5 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

DISPLACED PERSONS (INSTITUTION OF SUITS) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I move:

"That the Bill to make certain special provisions for the institution of suits by displaced persons, be taken into consideration."

Sir the Government of India some time ago received various representations from persons interested in what are called evacuees, who have come out from Pakistan to India, to the effect that they find it extremely difficult to have their claims adjudicated by courts in India. Now, there are several cases which have to be considered in giving relief to these evacuees. Obviously, there are two cases which one can think of. One is a case where the cause of action has arisen in Pakistan, the plaintiff has come over to India and the defendant is still in Pakistan. Then, we have a second case, namely, that as before, the cause of action has arisen in Pakistan, the plaintiff has come over to India, and the defendant is residing in India. The Department considered whether it was possible to bring forth any measure in order to give relief to the plaintiffs who are evacuees in both those cases.

It is obvious that unless certain conditions are satisfied, it is not possible to give relief to an evacuee plaintiff who has come over to India, but the defendant against whom he has a claim is in Pakistan. The reason why it is not possible to give relief in a case like this is because it would be almost impossible to execute a judgment or decree given by our courts against a defendant who was not present before the court and who is a resident of Pakistan. Unless and until the Government of India and the Government of Pakistan agree to issue notifications under section 44-A of the Civil procedure Code, agreeing mutually that the decrees given by the courts of one dominion will be executed by the other dominion, such a decree would be a fruitless thing and of no value.

The case which I said is of the second type stands on a different footing. Because, on the assumption that the defendant against whom the plaintiff wants to sue is a resident of India, it would be perfectly possible for the Government of India by law to make a provision that such a plaintiff may be entitled to sue because the defendant is within the territory of India, subject to the jurisdiction of the courts of India, and can therefore be made to accept the decree passed by the court. The Bill, as introduced, makes provision for the second case. Its requirements are that the plaintiff must be a displaced person, the defendant must not be a displaced person, but the defendant must be a resident in India. The purpose why this is done is because, it is represented that the evacuees who are staying in India today, on account of their poverty and their pecuniary condition cannot proceed from the place where they are staying to the place where the defendant is staying and sue him there as required by the Civil Procedure Code. In order to grant relief to the plaintiff, the Bill provides that the plaintiff, contrary to the provisions of Section 20 of the Civil Procedure Code, may file a suit against the defendant who is residing in India, in the place where the plaintiff resides. That is all that the Bill as it stands does. The Bill also makes certain amendments in the law of limitation.

It has been suggested by members of the legislature who are acquainted with the conditions of the evacuees, that there are certain other cases, which also require to be provided. I have examined those cases and I feel that there is sufficient justification for introducing certain amendments to meet these cases. I shall do so when you will take the Bill clause by clause. For the moment, this is the purpose of the Bill namely to permit the evacuee plaintiffs to file suits, contrary to the provisions of section 20 of the Code of Civil Procedure, in the place where they reside and not in the place where the defendants reside.

Mr. Speaker: The question is:

"That the Bill to make certain special provisions for the institution of suits by displaced persons, be taken into consideration."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

The Honourable Dr. B. R. Ambedkar: With your permission, Sir, I move the following amendment:

"That for clause 3 of the Bill, the following be substituted:

3. Institution of suits by displaced persons.—(1) Notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (V of 1908) or in any other law relating to the local limits of the jurisdiction of Courts or in any agreement to the contrary, a displaced person may institute a suit in a court within whose jurisdiction he or the defendant or any of the defendants, where there are more than one, actually and voluntarily resides, or carries on business, or personally works for gain if—

- (i) the defendant, or where there are more than one, each of the defendants, actually and voluntarily resides, or carries on business, or personally works for gain in India, and is not a displaced person;
- (ii) the cause of action wholly or in part arises or has arisen, in a place now situate within the territories of Pakistan;
- (iii) the court in which the suit is instituted is otherwise competent to try it; and
- (iv) the suit does not relate to immovable property.

(2) Any suit instituted by a displaced person after the 15th day of August 1947, which if this Act had come into force on that day, would have been validly instituted in pursuance of sub-section (1) of this section shall, unless such suit has been finally disposed of before the commencement of this Act, be deemed to have been validly instituted and be disposed of accordingly."

Sir, the new amendment deals with two cases, which have been brought to my notice. The first is that in certain cases where the cause of action would arise in Pakistan, an agreement had been made, or is usually made, between the plaintiff and the defendant that the suit shall be filed in Lahore or in some court now situated within the Dominion of Pakistan. It is obvious that if such an agreement between the plaintiff and the defendant were to continue to have the effect which it would have if there had not been partition, it is quite clear that it would not be possible for a displaced person to file a suit against a defendant, although according to the main provisions of the Bill, the defendant is residing in India and is not a displaced person. Therefore I think it is desirable that the provision of such an agreement should be nullified in order that the plaintiff should obtain the benefit of the law which we are now making.

The second thing is this. It is rather surprising but I am told it is a fact that although there was no such provision in any part of the Civil Procedure Code some displaced persons who had come to India had filed suits against defendants in India although those suits were contrary to the provisions of section 20 of the Civil Procedure Code. It is said this was no doubt done in ignorance, but that ignorance should now be condoned and the Act should be given retrospective effect so that suits filed before the passing of this Act should also be deemed to have been validly filed. Our intention being to give as ample relief to displaced persons as we possibly can and in view of the introduction of these two new provisions in the amending clause that I

am submitting to the House I hope the House will not find any difficulty in accepting this new clause.

Mr. Speaker: Amendment moved:

"That for clause 3 of the Bill, the following be substituted:

3. Institution of suits by displaced persons.—(1) Notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (V of 1908) or in any other law relating to the local limits of the jurisdiction of Courts or in any agreement to the contrary, a displaced person may institute a suit in a court within whose jurisdiction he or the defendant or any of the defendants, where there are more than one, actually and voluntarily resides, or carries on business, or personally works for gain if—

- (i) the defendant, or where there are more than one, each of the defendants, actually and voluntarily resides, or carries on business, or personally works for gain in India, and is not a displaced person;
- (ii) the cause of action wholly or in part arises or has arisen, in a place now situate within the territories of Pakistan;
- (iii) the court in which the suit is instituted is otherwise competent to try it; and
- (iv) the suit does not relate to immovable property.

(2) Any suit instituted by a displaced person after the 15th day of August 1947, which if this Act had come into force on that day, would have been validly instituted in pursuance of sub-section (1) of this section shall, unless such suit has been finally disposed of before the commencement of this Act, be deemed to have been validly instituted and be disposed of accordingly."

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, the right that is conferred in this Bill is an exceptional right. Normally when a suit is to be filed it is not left to the choice of the plaintiff to file it wherever he likes. It depends on two considerations: (a) where the defendant resides, and (b) where the cause of action wholly or in part arises. Neither of these two conditions may be satisfied by a plaintiff who is a refugee. If the cause of action has arisen in Pakistan he cannot go and file a suit there. As for the defendant's place of residence it may be anywhere right down to Cape Comorin and he will have to run about and find the place. Therefore it is an enabling measure and I am sure its operation will be only for a temporary period. I do not, however, find any limitation of time or period during which this will be in operation. I realise that some latitude should be given to persons who have come away from Pakistan to enable them to file suits wherever they are. They may be transferred, they may be settled in Madras or West Bengal. The cause of action may have arisen elsewhere in Pakistan and a suit may be filed against a resident of Bihar in a Bengal court. But how long is this to be allowed? Should it be indefinitely or as long as the cause of action lasts? Supposing there is a period of ten years; he may file a suit in ten years. Why should he wait and not seek the place where the defendant resides and then proceed against him? The Honourable Minister has to satisfy us that unlimited time should be provided. We can give this privilege only according to circumstances for a short period of time, i.e., one or two years as the case may be.

Secondly, this Bill consists of two portions: first, the forum or place where the suit is filed; that is covered by clause 3. Secondly, even if he was not able to file a suit within the prescribed time, time is allowed notwithstanding Limitation Act, section 3, to cover the intermediate period. There are many such provisions in the Limitation Act where by fraud a man has been kept away from the knowledge of the fraud of the defendant. These are exceptional circumstances. This I agree is an exceptional circumstance where such limitation ought not to be strictly enforced against a plaintiff on account of the adverse circumstances in which he had to flee from his place. But even with respect to that there must be a limitation in point of time.

[Shri M. Ananthasayanam Ayyangar]

No doubt power may be given to the court to find out whether there is sufficient justification or not about the period. But if the Honourable Minister feels that this is too vague a concession which sometimes is likely to be abused, a limit of time has to be imposed,—a year or two within which everything must settle down.

Sir, I am extremely glad that the Honourable Minister has thought it proper to bring this Bill which is a very necessary measure to help the refugees for whom various other steps are being taken by Government.

Shrimati G. Durgabai (Madras: General): Sir, with regard to the point about limitation it is clear from clause 4 that the normal period of limitation is in operation, and only in exceptional cases is that period waived. "When the plaintiff satisfies the Court that he was unable to institute the suit within such period owing to causes connected with his being a displaced person"—it is only then that he is given some kind of relief. Otherwise, as I read the clause, the normal period of limitation is to be followed.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I find that my amendments in list No. 1 have been incorporated in this amendment. With regard to this I have two suggestions to make. The word "Court" has been spelt in two places with small letters. Somehow or other the Law Ministry has a poor idea of Courts and want to belittle their importance. I think in the Civil Procedure and Criminal Procedure Codes and other Acts the word "Court" always begins with a capital letter. I think it is rather a slip of the pen.

I would suggest that one word should be introduced in part (i) of sub-clause (1) for "the defendant, or where there are more than one" I should say "..... more than one defendant". That should make the sense complete. Otherwise there would be a gap. As it is, it is intelligible, but it is the custom to fill up such gaps and not to leave them as if it is in correspondence between one friend to another.

These are the two suggestions I have to make. This is by way of amendment because this has been circulated here. I therefore, beg to move:

"That in the proposed amendment to clause 3, in part (i) of sub-clause (1) after the words 'more than one', the word 'defendant' be inserted."

That is the short notice amendment which I beg to move.

Mr. Speaker: It does not appear to be strictly necessary.

Mr. Naziruddin Ahmad: That is a matter for the House to consider.

Mr. Speaker: I may remind the honourable member that, that expression also occurs in the preamble part of the clause. There also the same amendment will be necessary. Is he then particular that I should put it to the House?

Mr. Naziruddin Ahmad: I would ask the Honourable Minister to consider it.

The Honourable Dr. B. R. Ambedkar: I do not think it is necessary.

Mr. Naziruddin Ahmad: Then I do not press it.

Mr. Speaker: There are a couple of points on which I believe some clarification is necessary. Perhaps the position is not clear to me.

In part (i) sub-clause (1) of the amendment it is provided that ".....where there are more than one, each of the defendants, actually and voluntarily resides.....", then only he can file a suit. In the main clause it is enough if any one of the defendants resides in India.

From the opening part of sub-clause (1) the idea seems to be that—

".....a displaced person may institute a suit in a court within whose jurisdiction he or the defendant or any of the defendants, where there are more than one, actually and voluntarily resides, or carries on business, or personally works for gain.....".

But in part (i) thereof in the proposed amendment, the word used is "each".

The Honourable Dr. B. R. Ambedkar: In the revised list, it is "any".

Mr. Speaker: So I put it as "any" and not as "each".

Shri M. Ananthasayanam Ayyangar: It has been taken verbatim from Section 20 of the Code of Civil Procedure. The word "each" is all right.

Mr. Speaker: Perhaps the honourable member did not follow my difficulty. But that has now been cleared by the Law Minister. When I put the amendment, I shall use the word "any" instead of "each".

I now go to sub-clause (2) of the proposed clause 3 which says:

".....unless such suit has been finally disposed of....."

What happens if a suit is decided before this Act comes into force and the period of limitation for appeal has not expired? The person against whom a case is decided may or may not have filed an appeal.

The Honourable Dr. B. R. Ambedkar: This does include an appeal.

Mr. Speaker: Then what is the meaning of the words "finally disposed of"?

The Honourable Dr. B. R. Ambedkar: It has resulted in a decree, or order, or dismissal.

Mr. Speaker: My point was that a final disposal of a suit may be in an appeal, and therefore the word "finally" created a difficulty in my mind.

The Honourable Dr. B. R. Ambedkar: Well, if that is so, Government has no objection if "suit" includes "appeal".

Mr. Speaker: But the "suit" would include an "appeal", and it is desirable that even at the appeal stage, it should not be contended that the suit was not properly instituted. Will this section cover that contingency?

The difficulty I was feeling was that a suit is disposed of by the first Court and an appeal is not filed actually before the date this Act begins: then what will be the position if the person wants to file an appeal within the period of limitation but after the Act comes into force.

Shri M. Ananthasayanam Ayyangar: A suit does not include an appeal under the Civil Procedure Code. Execution no doubt has been held to be a continuity. So far as a suit is concerned it must be filed within the period under the Limitation Act. Of course, there is a provision to say that 'I was prevented by a certain cause'. Now, so far as "each" is concerned, does your copy say "each" or "any"?

Mr. Speaker: That has been disposed of. I am referring to sub-clause (2).

Shri M. Ananthasayanam Ayyangar: I am coming back to part (i) with your permission, because you are trying to change "each" to "any". "each" is used in the Civil Procedure Code as at present, and "each of the defendants" is the expression used in respect of which no controversy has arisen. There is no need to correct "each" to "any". My submission is that it is unnecessary.

The Honourable Dr. B. R. Ambedkar: I think Mr. Ayyangar has forgotten that there is a proviso which says that a suit may be filed with the permission of the Court. We are dispensing with the permission of the Court. That is why the word "any" is necessary.

Mr. Speaker: Let us be clear. I could not understand the implication of the word "finally", unless the implication was that an appeal is a continuation of a suit.

The Honourable Dr. B. R. Ambedkar: Provided an appeal is filed! A suit, ordinarily, according to the definition in the Civil Procedure Code, does not include an appeal. Therefore once a suit is dismissed or decreed, it is a final disposal of the suit.

Mr. Speaker: Even when an appeal is filed! It would perhaps be that an appeal would be barred; if the appeal was not filed before this Act came into force. That was my difficulty, as the words in the clause are "unless such suit has been finally disposed of before the commencement of this Act..." There is the right of appeal. It has not been actually exercised by the filing of the appeal.

The Honourable Dr. B. R. Ambedkar: But the period is there!

Mr. Speaker: What happens to such a suit? Is my difficulty clear to the Honourable Minister?

Shri K. Santhanam: The appeal will be barred as it is!

Mr. Speaker: That is how it appears to me. In other cases it will not be. The appeal will include the suit in this particular section.

The Honourable Dr. B. R. Ambedkar: I think, Sir, the difficulty that you have pointed out can be resolved by adding an explanation to sub-clause (2) in some such words as the following: "A suit shall not be deemed to have been finally disposed of if the period prescribed for an appeal from any decision on the suit has not expired before the commencement of this Act."

Mr. Speaker: I was just thinking in a different way. If the words "unless such suit has been finally disposed of before the commencement of this Act" are deleted, the effect will be the same without having an explanation. The matter would then refer to the original institution of suits. The right of appeal would be there. Whatever it may be, if the Honourable Minister thinks that the position is clear, we might proceed or we might postpone the consideration of the Bill to another day.

Dr. Bakhshi Tek Chand (East Punjab: General): I think the suggestion made from the Chair is the proper solution and should be adopted. There may be three possible cases, first, if the suit has been decided by the first court and the period of appeal has expired and no appeal could be filed, the suit has been finally disposed of and there is an end of the matter. Then there is the second class of cases in which a suit has been decided by the trial court and an appeal has been filed within the period of limitation. The appeal is pending and the matter is again *sub judice*. Therefore we cannot say that the suit has been finally disposed of. The third and intermediate class of cases is where the suit has been disposed of by the trial court and the period of limitation has not yet expired on the date on which the Act comes into force. What is to be done in such a case? In that case if we allow these words to remain a great deal of difficulty would arise and various interpretations may be put by different courts. If you omit these words then that class of cases would be saved. My submission is that the words "unless such suit has been finally disposed of before the commencement of this Act" should be deleted.

Mr. Speaker: The matter requires some consideration and if the honourable member is agreeable I am prepared to put off this matter till day after tomorrow.

The Honourable Dr. B. R. Ambedkar: The suggestion which you, Sir, have been pleased to make is good enough. After all there is no question of principle involved. We are interested to see that these persons get the utmost benefit out of this. That is the point. That purpose would be served by dropping the words as suggested by you.

Shri M. Ananthasayanam Ayyangar: What will happen if the words "unless such suit has been finally disposed of before the commencement of this Act" are removed? There are two classes of cases, one pending and the other disposed of. With respect of the disposed of suits would they not like to take advantage of this provision? If on account of a suit having been filed later without the help of this Act the suit is dismissed, could the person not request that the suit must be restored or reviewed? If the suit is pending the man can take advantage of this provision. You are giving retrospective effect. A suit has been disposed of in the sense that it ended in an appeal or dismissal. If it is a case of dismissal would it be possible for a person to come up and say let me get back to the original position?

Mr. Naziruddin Ahmad: Otherwise there will be no relief.

Shri M. Ananthasayanam Ayyangar: A judge may on account of excess of work dispose of a case until the Act is passed, in which case the person concerned is saved. There may be the case of another judge who disposed of a suit quickly by dismissing it, in which case the man goes to the wall. They are all displaced persons on account of various calamities. Why do you create a difference between one person and another. Give relief to all those persons who have suffered. There will be no harm if this matter is postponed till day after tomorrow: meanwhile we can come to an agreement.

Dr. Bakhshi Tek Chand: I do not think there will be many cases of the type which Mr. Ayyangar has in view. Most of the suits are still pending and if there are any suits which have been disposed of during the period they will fall under one or other of the categories which I mentioned. All those cases will be met. What actually happened in Pakistan and India in the partition was that up till February all suits against persons who were displaced were under departmental orders issued by the High Courts of Lahore and East Punjab kept pending until the end of February 1948. After February if any suit has been dismissed in most cases an appeal has been filed. The best thing would be to omit these words. I do not think any hardship will actually arise in any case. It is a measure which applies to a limited class of cases.

Mr. Speaker: It is now purely in the hands of the Honourable the Law Minister.

The Honourable Dr. B. R. Ambedkar: I agree with Dr. Bakhshi Tek Chand that it will not cause any difficulty.

Mr. Naziruddin Ahmad: The dropping of this will leave out a class of persons who will be equally aggrieved. After the period of limitation and without the advantage of any extension of limitation his suit is dismissed. He is entitled equally to our sympathy. The man who takes care to come quickly to court, loses whereas the man who is tardy enough to wait till this Act is passed, gets our protection. If we proceed on any principle, the man who has instituted a suit earlier, and whose suit has been dismissed on the ground of limitation, is also equally entitled to our sympathy. If the suit is dismissed he should get all the benefits that we are extending to the man whose suit is still pending. That class of persons should not be excluded but should rather be included. The draft should be changed suitably. The exclusion of the words suggested would save a certain class of persons, but the other class of persons mentioned by my honourable friend Mr. Ananthasayanam Ayyangar should also be included in the benefit and there is no reason why the question of hardship should not in their case be taken into consideration.

[Mr. Naziruddin Ahmad]

After all, these persons are displaced persons. They are helpless and the law tries to help them. The fact that it is on account of miscalculation of timing that he has lost his case should not make him lose our sympathy.

Mr. Speaker: Shall we postpone the matter?

The Honourable Dr. B. R. Ambedkar: I do not mind.

Mr. Speaker: Though the arguments of the two honourable members who just spoke do not appeal to me, there is no harm in postponing further discussion on this. Let us postpone consideration of the whole Bill rather than this particular clause. This matter will stand adjourned till day after tomorrow as the House is not meeting tomorrow. In the meanwhile, this aspect may be considered and proper amendments may be moved, if at all they are deemed to be necessary.

INDIAN REGISTRATION (AMENDMENT) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I move:

"That the Bill further to amend the Indian Registration Act, 1908, be taken into consideration."

Sir, this Bill makes two changes in the Indian Registration Act. One is to amend Section 88 and the other is to amend Section 17. Section 88 exempts certain government officials from appearing before the Registrar of Documents to admit the execution of their signatures on the documents. The section as it stands, specifies certain officers by their designations. It does not exempt other officers, nor does it give general powers to Government to notify which officers may be exempted. It is felt that besides giving general exemption to certain officers they should also be given a general power to exempt such officers as they think fit. This amendment is primarily brought on the ground that the attendance of officers before the Registrar for the purpose of admitting their signature causes certain amount of inconvenience to the officers which inconvenience could be easily avoided. That is the purpose of section 88.

The amendment to Section 17 refers to a different matter altogether. As the honourable House will remember, Section 17 of the Registration Act specifies certain documents which are compulsorily registrable. They must be registered. Otherwise they have no effect, nor can they be admitted in evidence in a court of law. In making certain documents compulsorily registrable, sub-section (2) of section 17 exempts certain documents from the operation of section 17. A vesting order passed by the Government under the Charitable Endowments Act of 1890 is not included in the exempted documents which are specified in sub-section (2) of section 17. It is felt that this order, vesting the property belonging to a charitable endowment, on the application of the trustees administering that trust, in the treasurer appointed under the Charitable Endowments Act ought really to be exempted, because strictly speaking it is not a document which creates any right in property or anything of the kind. Therefore such a document ought to be exempted.

The question whether an order passed by the Provincial Government under the Charitable Endowments Act, 1890, vesting the property in the treasurer is a document which falls within the purview of sub-clause (b) of clause (1) of section 17, has been a matter of controversy. There has been a difference of opinion. This difference of opinion arose as early as 1912 in a case in Bombay. As a measure of caution there, this document was treated as one which was compulsorily registrable. All the same, many people have felt that this document should not be treated as a document which is compulsorily registrable. It is to give effect to this opinion that this Bill seeks to amend Section 17 and the amendment specifically mentions the vesting order passed by a Provincial

Government under the Charitable Endowments Act as one of the documents which are exempted under sub-section (2) of section 17.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Registration Act, 1908, be taken into consideration."

The motion was adopted.

Mr. Speaker: We shall now take the Bill clause by clause.

The question is:

"That clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

Mr. Speaker: With regard to clause 5 I find a number of amendments by Mr. Naziruddin Ahmad. I take it that the attention of the Draftsman is to be invited. Is there any substantial one which he wishes to move?

Mr. Naziruddin Ahmad (West Bengal: Muslim): Yes. With regard to list No. 1, the attention of the draftsman is to be invited to amendment No. 2. With regard to amendments 1 to 3 in list No. 2 they relate to the same thing in different places. I shall move the other three amendments. Sir, I beg to move:

(i) "That in clause 5 of the Bill, in part (a) of sub-section (1) of the proposed section 88 of the Indian Registration Act, 1908, for the word 'Government', the words 'the Provincial Government' be substituted;"

(ii) "That in clause 5 of the Bill, in sub-section (2) of the proposed section 88 of the Indian Registration Act, 1908, for the word 'Government', the words 'the Provincial Government' be substituted;" and

(iii) That in clause 5 of the Bill, in sub-section (3) of the proposed section 88 of the Indian Registration Act, 1908, for the word 'Government', wherever it occurs, the words 'the Provincial Government' be substituted."

Sir, the clause deals with Provincial Governments and I think that it should be made absolutely clear. There is one passage in this clause where the Provincial Government is mentioned, namely Section 88, sub-section (1), part (d), at the end—"in that behalf by the Provincial Government". The words "Provincial Government" have been used in this context. So I believe that the officers of the Provincial Governments alone are considered. If we do not use the words "Provincial Government" and if we leave it as any officer of the Government, the result would be that officers of all Governments, Provincial and Central, would be meant whereas the Central Government is not at all contemplated in the amendment.

Shri M. Ananthasayanam Ayyangar (Madras: General): The Central Government is not a Government—is it?

Mr. Naziruddin Ahmad: The Central Government is certainly a Government. But here in the context we are concerned with the Provincial Governments only. That is absolutely clear from the purpose of the amendment. In fact, the Punjab Government made a representation that their officers should be exempt from appearance at the registration office. If the Central Government is also meant, then of course the word "Provincial" would be unnecessary. But there is the difficulty that in sub-section (1) at the end of part (d), the words "Provincial Government" have been used. This indicates that we are concerned only with the Provincial Government. If the Central Government is also to be included, then the words "Provincial Government" which are already in the text should be deleted, or if these words are to be retained, suitable consequential amendments should also be made in the four places suggested in my amendments.

The Honourable Dr. B. R. Ambedkar: The word "Government" includes both Central and Provincial Governments. It is the intention that it should include both.

Mr. Naziruddin Ahmad: Then, Sir, may I ask one question? There is the expression "Provincial Government". Should that be deleted?

Mr. Speaker: No. The honourable member does not seem to have followed the scheme of the legislation. The Provincial Governments are being given definite power to exempt persons they like, by a notification to that effect in the Official Gazette. That seems to be the position where the words "Provincial Government" are used.

The Honourable Dr. B. R. Ambedkar: Yes, Sir.

Mr. Speaker: So, I think the honourable member does not wish to press his amendments?

Mr. Naziruddin Ahmad: All right, Sir. I do not wish to press my amendments.

Mr. Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

INDIAN MATRIMONIAL CAUSES (WAR MARRIAGES) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I beg to move:

"That the Bill to confer upon Courts temporary jurisdiction in certain matrimonial causes, be taken into consideration."

Sir, this is a very small measure. It deals with the cases of Indian women professing the Christian religion who happened to marry foreigners who came to India during the period of the war, and whose husbands have since departed or left India and have practically no intention of returning to this country. This conduct on the part of the husbands is obviously tantamount to what is called desertion which entitles the Indian women who married them to divorce. Unfortunately, however, owing to the provisions contained in the Indian Divorce Act, it is not possible for our Courts in India to grant them divorce although the cause of action is present. The reason is that according to the provisions contained in the Indian Divorce Act, it is necessary that both parties to the marriage must have been domiciled in India at the time when the petition for divorce is filed. Obviously, that condition cannot be fulfilled in these cases. Consequently this Bill seeks to change that rule and to provide that notwithstanding the fact that the husband is not domiciled in India, the woman who has married him shall be entitled to obtain a decree of divorce in the Indian Courts. This is limited for a short period. I may say that

this Bill is a mere replica of an Act passed in Great Britain for similar purposes, and I do not think it raises any controversial question at all.

Shri M. Ananthasayanam Ayyangar (Madras: General): Under definitions, in clause 2 (c) the period is limited.

The Honourable Dr. B. R. Ambedkar: Yes. And the marriage must have taken place within that period.

Mr. Speaker: The question is:

"That the Bill to confer upon Courts temporary jurisdiction in certain matrimonial causes, be taken into consideration."

The motion was adopted.

Shri K. Santhanam (Madras: General): Sir, even today suppose a Christian lady marries somebody who comes here as a tourist and goes away, what is the remedy? She will be in the same position as ladies who married during the war. So, I want to know why special legislation is necessary.

Shri K. Hanumanthaiya (Mysore State): I want to know another point. Sir, how many such ladies are there who have been put to this difficulty?

Mr. Speaker: I think that those questions do not really arise out of this Bill at all. There may be one or there may be a million.

I will take the Bill clause by clause. I find our friend Mr. Naziruddin Ahmad has given notice of some amendments.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I am too late. Or rather, the Bill has been taken up too early rather unexpectedly.

Mr. Speaker: No, it is there on the agenda, and in the circumstances I shall be going against what I have declared very often here that unless the House is substantially agreed to, I would not permit an amendment not received in time. So there is no question of any amendments being moved now.

Mr. Naziruddin Ahmad: Sir, I shall make one or two suggestions for the acceptance of the House.

Mr. Speaker: I shall put the clauses to the House and then the honourable member may make suggestions without referring to his amendments. We will take up clauses 2 to 7.

Mr. Naziruddin Ahmad: Sir, I wish to draw the attention of the House to Clause 4. In line 3 of Clause 4, there is the passage, "any proceedings for divorce or for nullity of marriage". Should it not be, "for 'the' nullity of marriage"? I am not very clear about it myself; I ask the House and the Honourable Minister to consider it. The same passage appears once again in the Proviso to Clause 4.

In telegraphic correspondence or in friendly correspondence such sort of expression is very much to be tolerated but in a legislative enactment I think the word 'the' is called for. But it is a matter for the House to consider.

Shri M. Ananthasayanam Ayyangar: I have got one or two doubts. You will see that in Clause 2(b), "marriage" includes a purported marriage which was void *ab initio*, and 'husband' and 'wife' shall be construed accordingly. If there is no marriage, why should there be a divorce? They are not husband and wife in law, though if an American came here and married during this period some girl who unwittingly entered into a marriage alliance with him and became his wife, because she is a domicile and our own national, we must relieve her. But there is no question of his coming here, and even if she were to marry without a divorce, he is not going to charge her with defamation. No doubt, to give her a legal divorce this legislation is quite necessary. But why should we help, and what is the difficulty with respect to a case where really there is no marriage, there is no husband and wife. They must

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have just gone to a cinema and talked leisurely. So there is really no marriage. Further, I do not find a similar definition in the Divorce Act. This is a new definition. I do not know what class of people the Honourable Minister intends to relieve by this definition of marriage.

Then, as regards clause 6, is it reciprocal? There may be many persons from England who might have likewise taken away some girls unwittingly and what about their difficulty? Therefore, are we having a similar measure in England? I would like a reciprocal measure, provided they are showing similar concessions to our people there. Otherwise, let us not be too generous in these matters.

These are the two points on which I would like to have some elucidation.

The Honourable Dr. B. R. Ambedkar: With regard to the second point, namely, whether the provision contained in clause 6 of the Bill is reciprocal to anything done by the English law, my answer is in the affirmative. In fact, this Bill merely follows the recent Act passed by the British Parliament conferring similar powers. They have also given recognition to divorce and nullities that may be decreed by our courts of law.

With regard to the question of the definition of marriage in clause 2(b), the point is this, that where a marriage is void or voidable, it cannot be treated to have been finally dissolved unless there is a decree of the court. Decree of nullity means that the marriage was really void but the court must pronounce upon it as being void, the reason being that marriage creates status and a status cannot be dissolved automatically by parties voluntarily and of their own act. Divorce means that the marriage is valid, but that certain circumstances have supervened, which entitles one party to obtain release from the marital bond by which it was bound to the other party. Therefore, it is for that reason that we have included this: "purported marriage which was void....." For legal purposes it is a marriage unless it has been dissolved by a court. That is the difference between a decree of nullity and a decree of divorce.

Shri M. Ananthasayanam Ayyangar: How does it not, then, find a place in the Indian Divorce Act, which is the Main Act and this is supposed to be supplementary to it. This definition of marriage is not there.

Mr. Speaker: One can imagine the object. I do not know what the Honourable Minister has in view, but I may just put it to the honourable member: There is a "purported" marriage. The husband is somewhere else. No other person will be willing to marry that woman unless she gets a decree from the court. She has to go to court even in the case of a "purported" marriage and I believe such cases do require consideration. That is what I imagine is the object. I do not know.

The Honourable Dr. B. R. Ambedkar: *indicated assent.*

Mr. Speaker: So, the question is:

"That clauses 2 to 7 stand part of the Bill."

The motion was adopted.

Clauses 2 to 7 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That the Bill be passed."

Mr. Speaker: Motion moved:

"That the Bill be passed."

Shri M. Ananthasayanam Ayyangar: Sir, I only want to say one word. I am only submitting to my honourable lady member friends here—they have always been under the impression that I am one of the conservatives in India—I want to tell them that I wholeheartedly support this measure which is intended to help such women who have unwittingly entered into marriage alliances.

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

CENSUS BILL

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I beg to move:

"That the Bill to provide for certain matters in connection with the taking of census, be taken into consideration."

As the House is aware, census has, up to now, been a periodical operation and at the end of every ten years a Census Act is passed to enable census to be taken in a particular year. This is an attempt to put a small piece of legislation on the Statute Book as a permanent measure.

There was a time when census was apt to be regarded as a mere formality yielding certain statistics—not very accurately prepared, obtained indifferently but tabulated very carefully. Now, this kind of census has caused immense injury on occasions when very important constitutional changes take place. As the House is aware, in the last constitutional changes we had to rely upon this census which was very imperfectly prepared. Even portions of India were partitioned, relying on the census which was very inaccurate. Experience has shown that occasions arise very often when we have to rely upon census figures, which, if not accurately prepared, lead to a result other than what is desired. As the world is progressing towards a scientific appreciation of an important operation of this nature, we think it is necessary to have a proper census prepared and for that purpose we should not rely upon periodical enumeration or operation of this nature, but we should have some kind of permanent process of enumeration and checks and counter-checks introduced, by which a correct census—a more or less accurate census—may be prepared and kept ready. For this purpose this is an attempt to put in a permanent piece of legislation on the Statute Book.

There is also another aspect of the census, which is very important. It is obvious that the census operation must largely centre round the house list. It is proposed to prepare the house lists in advance of the main census operation. The provinces have agreed to cooperate in this business. It is intended to keep these house lists up to date, so that except for the floating population there will be an estimate of population annually available to us. At present we base such annual estimates on the figures of the vital statistics which on account of their imperfections are not a safe guide. For the maintenance of these house lists alone, it would be necessary to have permanent legislation and I have explained to the House why we consider this permanent legislation necessary.

Now, in all essentials this legislation follows the previous pattern. As stated in the Statement of Objects and Reasons, the only material change is

[Sardar Vallabhbhai Patel]

in the enhancement of the penalty or fine, in the making of an abetment of census offence punishable and in the provisions relating to the tampering of records and making it compulsory for persons nominated as Census Officers to serve in the capacity directed. As regards the first point, experience indicates that the penalty hitherto prescribed has not been sufficiently deterrent.

As regards the first point the Superintendents of Census operations are unanimous that the punishment is not as deterrent as it ought be. We also hope that such enhanced punishment would check sectional and communal rivalries which have come to light in the last few census operations. That rivalry was due to political considerations, but it may be that occasions may arise in future where inflated figures may be given by one group or the other and for that a sufficient check is found to be necessary.

The second point, namely the provisions relating to abetment needs no elaborate justification. As regards the third point, hitherto offences have been confined to the enumeration side. We propose to extend it to the other sides of the census operation also. We also want to make it obligatory on a person nominated as Census Officer to serve in that capacity. Experience has indicated that this provision is also necessary for the efficiency and orderly progress of the census operation.

Sir, I hope I have given sufficient indication of the justification of this measure and I now move.

Mr. Speaker: Motion moved:

"That the Bill to provide for certain matters in connection with the taking of census be taken into consideration."

Shri M. Ananthasayanam Ayyangar (Madras: General): Mr. Speaker, Sir, I want the scope of this Bill to be extended to States also. It must be an All India census. By special instrument of accession they can accede and give the power to the Central Government to take the census. That will steer clear of some of the difficulties. Though some communities are not able to multiply as quickly as other communities, the census is taken advantage of for bringing into existence a large number of children. That is unfortunately what happened in Bengal and other places some time ago. Very great care is necessary in this respect. All loop-holes must be avoided so that no minority community may get a larger number of seats. Of course the majority community is already there in divided India. All those who try to increase their number by merely census operations should be punished.

Hitherto census has been taken every ten years and an Act is passed. I welcome this measure, in that it is a permanent measure in the Statute Book instead of being for small periods of time or for smaller areas of operation. That is of vital importance. This measure was suggested long ago by some of the Census Officers who were in charge of the census operation. I am glad, Sir, that the Honourable Minister has chosen to bring forward this wholesome measure in this session. During the time of ancient kings census of cattle in different villages in Jamabhandi time and all similar census were being taken and collected. Provision may also be made on a rough and ready basis and directions may be given to have census during the interval and a final census once in ten years as has taken place hitherto. I welcome this measure; there are no controversial things here and the language has been carefully drafted except here and there, which may require some modifications. I support the motion for the consideration of the House.

[At this state Mr. Speaker vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava one of the Panel of Chairmen].

Mr. Chairman: The question is:

"That the Bill to provide for certain matters in connection with the taking of census, be taken into consideration."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

"That after clause 1 of the Bill, the following new clause be inserted:

'1A. *Interpretation.*—In this Act, all references to the Provinces of India shall be construed as including reference to the Acceding States to which this Act for the time being extends, and in relation to any such Acceding State, all references to the Provincial Government shall be construed as references to the Government of that Acceding State.'

Shri K. Santhanam (Madras: General): Sir, I think the wording is a little defective; there should be a positive provision that it applies to the Acceding States.

Shri M. Ananthasayanam Ayyangar: That will come later.

Mr. Chairman: The question is:

"That after clause 1 of the Bill, the following new clause be inserted:

'1A. *Interpretation.*—In this Act, all references to the Provinces of India shall be construed as including reference to the Acceding States to which this Act for the time being extends, and in relation to any such Acceding State, all references to the Provincial Government shall be construed as references to the Government of that Acceding State.'

The motion was adopted.

New Clause 1A was added to the Bill.

Mr. Naziruddin Ahmad (West Bengal: Muslim): There is only one amendment in clause 2; I do not wish to move it, but the draftsman's attention should be drawn.

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

"That in clause 2 of the Bill, for the words 'in all or any of the Provinces or in any parts thereof', the following be substituted:

'in the whole or any part of the territories to which this Act extends'."

Mr. Chairman: The question is:

"That in clause 2 of the Bill, for the words 'in all or any of the Provinces or in any parts thereof', the following be substituted:

'in the whole or any part of the territories to which this Act extends'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Shri M. Thirumala Rao (Madras: General): In giving the main purpose for introducing this Bill, the Honourable Minister has given us the very defective nature of the census operations that are being carried out in India and how we have recently suffered on account of the defect in our census operations. Sir, we know that the Department has retained the services of Mr. M. W. M. Yeatts, I.C.S., who was supposed to be an expert in census operations for a long time. What I want, Sir, is that we should have a permanent Department of statisticians to see that accurate figures of the population, growth and decline is maintained in the records of the Government of India.

[Shri M. Thirumala Rao]

We must see that if Mr. Yeatts is an expert which he is claimed to be, he must train certain officers and statisticians and people who are well versed in this work. We know how in 1941 public bodies boycotted the census and for what cause, is well known. The Census should not be a periodical operation only; but it should be a regular operation from year to year, noting down how the trend of population is getting on in this country, with regard to its economic and public health and other activities. This is intimately connected with the development of the nation and what progress the country is making under the various progressive schemes that a national Government is expected to undertake. I therefore suggest that a department of statistics for the census should be maintained, with an expert at the head of the department, and with an army of officers that would be able effectively to deal with the large population of our country. I have to make this suggestion in connection with this clause.

The Honourable Sardar Vallabhbhai Patel: Sir, the post of the Census Commissioner has been specially created for this purpose. Mr. Yeatts the present Census Commissioner is an expert; he was going; we have kept him here. In all important posts requiring special knowledge or expert knowledge, we make it a condition that an officer, who is not an Indian, should, during the period of his stay, train an Indian officer so as to enable him to take his place when he goes. All these arrangements have been made.

Mr. Chairman: The question is:

"That clauses 3 to 5 stand part of the Bill."

The motion was adopted.

Clauses 3 to 5 were added to the Bill.

Shri K. Santhanam: Sir, I move:

"That after part (b) of clause 6 of the Bill, the following new part be inserted:

'(c) all officers and members of staff of any factory, firm or establishment'."

Sir, the purpose of my amendment is obvious. It seeks to extend the scope of the Bill to people who could be enrolled for the purpose of the census operations.

The Honourable Sardar Vallabhbhai Patel: I have no objection to add this.

Mr. Chairman: The question is:

"That after part (b) of clause 6 of the Bill, the following new part be inserted:

'(c) all officers and members of staff of any factory, firm or establishment'."

The motion was adopted.

Shri M. Ananthasayanam Ayyangar: Sir, I believe some consequential changes may be necessary in the later portion of the clause. In this case, the words, in respect of persons in the factory, firm or establishment will have to be added. These persons are called upon to give such assistance as shall be specified in the order towards the taking of census of the persons who are at the time on the lands of such owners, occupiers, tenure-holders and assignees, or in such factories or establishments. Possibly, this would follow as a consequence.

Mr. Chairman: Some consequential changes seem to be necessary.

Shri K. Santhanam: Here, I am referring to the members. These people will be summoned. In remote villages, the owners and occupiers of lands, tenure-holders and others are summoned. Here, as individuals, these people will be called upon.

Shri M. Ananthasayanam Ayyangar: For what purpose? The manager is asked to give information about those persons who are employed in the factory. As it stands, the clause runs:

"(a) all owners and occupiers of land, tenure-holders, and farmers and assignees, etc."

The land owner is asked about the persons who are on the lands of the land owner. So far as the District Boards and Municipal Boards are concerned, the duty is imposed on them to give information in regard to persons in their employ. Now, we add a new category, factory, firm or establishment. There is no corresponding provision for that in the later operative portion. Both the categories of land owners and members of District and Municipal boards are repeated here. The new category does not find a corresponding place in the last portion, which is the operative portion.

Shri K. Santhanam: How is the second category repeated? It is only to give such assistance.

Shri M. Ananthasayanam Ayyangar: For the areas for which local authorities are established. Therefore, both the clauses are once again referred to in the operative portion. You have added a third category in the earlier portion and omitted to bring them again in the latter portion. If you can kindly pass it over. I shall suggest a suitable amendment.

Mr. Chairman: Consistently with what you have added, we should have something like: "in the premises of such factory, firm or establishment."

Shri K. Santhanam: The word "occupiers" will also cover factories and establishments.

Shri M. Ananthasayanam Ayyangar: That would mean census of all persons on the lands as occupiers. You must add the word "factory or other establishment."

Mr. Chairman: I would suggest that the words "in the premises of such factory, firm or establishment" may be added after the word "assignees".

Shri M. Ananthasayanam Ayyangar: Shall I move it formally, Sir. I beg to move; Sir, with your leave:

"That in clause 6 of the Bill after the word 'assignees' occurring in line twelve the words 'or in the premises of factories, firms and other establishments' be inserted."

Mr. Chairman: The question is:

"That in clause 6 of the Bill after the word 'assignees' occurring in line twelve the words 'or in the premises of factories, firms and other establishments' be inserted."

The motion was adopted.

Mr. Chairman: The question is

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Shri M. Thirumala Rao: Sir, I have a few remarks with regard to this clause. I think the proviso is not very helpful to the purpose of the Bill. The proviso reads:

"Provided that no person shall be bound to state the name of any female member of his household, and no woman shall be bound to state the name of her husband....."

I think a stage has come when we should dispense with this kind of superstition when a woman will not be willing to utter the name of her husband or a husband will not be willing to utter the name of the wife. There is also the danger of the *purdah* system coming into this; a large number of people may be kept in *purdah* and then it may be said that they cannot be seen and identified. But the enumerator has to take down certain names of people who are inside the *purdah*. That sort of evasion or mischief has to be effectively dealt with in this Bill and there is no provision for that. This proviso will

[Shri M. Tirumala Rao]

not allow an accurate enumeration to be made and I suggest that it may be deleted.

Shri M. Ananthasayanam Ayyangar: Sir, I am sorry I have to differ from my honourable friend. I do not know if this census is another social reform measure. (*An Honourable Member:* 'It is.') No, it has come into existence for a different statistical purpose altogether. There is a custom of refusing to give the wife's or husband's name. But still there are others from whom these names can be got. I am sure the Honourable Minister with his vigilance will surely appoint a number of lady enumerators and census officers who will get into the households and before whom there will be absolutely no *purdah*. If the husband or wife refuses to utter the names, there are other people like sons or sisters and a number of people who will give these names. Let us not in a round-about manner try to do away with *purdah* but bring in a definite measure for that purpose if necessary.

Mr. Naziruddin Ahmad: Sir, I submit that in one sense the proviso is unnecessary. In fact women come to court and they are required to state their husband's name. The usual device is that some one mentions a name and asks the woman whether that is her husband's name and she answers in the affirmative. That is how things have been managed for a long time. But perhaps the Draftsman thinks that some overzealous officer may command a woman to give her husband's name. This is a safeguard against that; and there are penalty clauses under which if any one refuses or fails to answer questions he will be punishable under the law. So in order to prevent an unjust prosecution this proviso has been added.

Dr. B. Pattabhi Sitaramayya (Madras: General): Sir, I am afraid there is a misunderstanding. "No 'person' shall be bound to state the name of any female member of his household". The word 'person' here is supposed to mean a male person. You may sympathise with a man if he does not give the name of his wife but why should he not give his mother's name and his sister's name and his niece's name? This is meaningless and the clause must go. If you sympathise with the prevailing practice or custom, only the latter portion may remain and the former portion may be limited only to husband and wife. I remember a case which was narrated to me from East Bengal. There was some census and a man gave the names of 27 members. When the police went there and he was compelled to produce ration cards he could produce only four cards. The mistakes are there but how are you going to cover them. If you do not allow a person to mention the name of any woman in the household how are you going to get the names at all?

The Honourable Sardar Vallabhbhai Patel: Sir, this clause only provides a safeguard, as my honourable friend there stated, against a penalty which ought not to be imposed when a woman refuses to give the name of her husband or the husband refuses to give the name of the wife, as according to custom it may be forbidden. Also there are some people who would not disclose the name of the female members of the house, but other people in the family would give their names. These are people who are prevented by custom from taking the name of their son's wife. This clause provides a safeguard against penalty in such cases. But this clause is to be read with the fact that the census operators will work this with common sense and will not find any difficulty in ascertaining the names. They will ascertain the names from neighbours, if not from the house itself, but the object of this is to prevent an unduly harsh imposition of the penalty. Therefore I think the clause should be retained.

Shri Basanta Kumar Das (West Bengal: General): Sir, I beg to move:

"That after the existing proviso to sub-clause (2) of clause 7 of the Bill, the following new proviso be added:

'Provided further that no person shall be bound to state the name of the caste to which he or she belongs'."

In Bengal during the 1941 census there was a large number of people who refrained from mentioning their castes and only mentioned their religion. I think there should not be any compulsion in this matter and no penalty should be imposed if a person does not like to mention his caste. Sir, I move.

Mr. Chairman: Amendment moved:

"That after the existing proviso to sub-clause (2) of clause 7 of the Bill, the following new proviso be added:

'Provided further that no person shall be bound to state the name of the caste to which he or she belongs'."

Dr. P. S. Deshmukh (C. P. and Berar: General): Sir, I rise to oppose this amendment because it is thoroughly unconstitutional. We are going to have a constitution and unless we radically change it we are not going to do away with the reservation that has been given to the scheduled castes. These castes are definitely enumerated in the Schedule. If it is not possible for the Census Officer to know the caste of a particular person the population of the scheduled castes will remain unascertained and it will thus cause much harm to their interests as well as lead to confusion among the rest of the people.

Secondly, as has been now pointed out by Government, this is not the sort of thing that is going to help us very much. Though we are anxious that caste should disappear it cannot be done by rules or regulations or by such means as these. So I suggest that the amendment should be withdrawn. Nor do I agree that the caste disputes and caste distinctions were the work of the British Government; that is an incorrect, and unfounded if not a mischievous suggestion. These distinctions were deliberately created for the oppression and exploitation of the masses who were by design to be kept perpetually ignorant and disputes arose and revolts took place because of the unbearable tyranny of a small highly educated section of the people. There are incontrovertible and glaring facts and figures to show the unjust and unfair way in which these people behaved, which alone have accentuated these caste distinctions, and not the propaganda of the British Government. It should be known that in an advanced place like Poona a member of the backward community was not allowed to start a school for girls of backward communities and he was stoned when he tried to do it. We have also the instance of the Madras High Court declaring Shivaji a *Sudra*. In my own province 3 per cent. of the people whose population is 5 lakhs have as many as 415 gazetted posts while the scheduled castes who number 30 lakhs have only 3. The Malis are 12 lakhs in population but have only 5 and Marathas and Kuabis numbering 20 lakhs have 12 posts only. If such state of affairs still exists I claim Sir that it is too early to expect that people will agree to the abolition of caste only on paper. After having exploited the people in the name of caste these very people now wish to continue their exploitation in the name of no-caste. Census operations are very important and for all people they serve as an excellent index to ascertain the progress they have made from time to time. If India is to progress, the progress must be all sided. It should be incumbent upon us to see that every section of the Indian population shares the advancement and only then we shall be able to claim that India has advanced. There is no doubt that the advancement of India is lop-sided and those at the top are exploiting the situation. That is why complaints are made against all Congress Governments in the provinces; and so long as this situation is not remedied, we are guilty of permitting things which are neither just nor fair. There is therefore no point in my friend's amendment and I hope he will withdraw it.

Shri Suresh Chandra Majumdar (West Bengal: General): Would you deny the freedom not to mention any caste to one who did not believe in the caste system?

Mr. Chairman: Order, order.

Shrimati G. Durgabai (Madras: General): Sir, I stand to support the honourable mover of this amendment. I was simply surprised to find the previous speaker supporting and encouraging this caste system. The House is aware that we are going to have a secular State. We have many a time declared and announced that we are going to build such a state, where religion, caste or creed will have no place.

The Honourable Sardar Vallabhbhai Patel: Also sex!

Shrimati G. Durgabai: Therefore it is really surprising to find that the honourable member is pleading for retaining this caste which has really created much mischief in the past, and if retained is going to create still more. Therefore I heartily support the honourable the mover of this amendment and I urge that the amendment may be accepted by the Honourable the Minister in charge of the Bill.

Shrimati Renuka Ray (West Bengal: General): Listening to my honourable friend, Dr. Deshmukh, I was simply shocked at the argument that he advanced in favour of retaining the caste system. He has given examples of how badly different people belonging to the Scheduled Castes have been treated, and yet his one thought was to perpetuate the system as long as possible. I strongly support this amendment.

I think the time has come that not only this amendment should go through, but I do not think there is any reason why anyone should mention his caste at all in the census report. We have often said, and particularly a Government, which represents the Congress, has always held that it does not believe in any of these distinctions between castes. If we now bring a column for enumerating caste into the census, then we perpetuate such differences. If there are people who are backward, certainly we shall make arrangements for them, and I think that my honourable friend, Dr. Deshmukh, knows that that can be done in other ways than by perpetuating this caste system in our census or otherwise. If anyone is backward, whatever be his caste or community, it is for us to see to it that he gets the requisite education and training so that he can be a citizen on an equal basis with all others. So there is no reason to retain this caste distinction in the census and I hope the Honourable the Home Minister will at least accept this amendment, which is in itself but a half measure.

Sardar Hukam Singh (East Punjab: Sikh): I also rise to support this amendment and I make special reference to the Sikh community. They believe in no caste. As soon as a Sikh is baptized, he loses any caste that he may have had previous to that. If you stick to the present law as proposed to be passed, there will be a very large number of Sikhs who will refuse to give their caste and then you will have prosecutions in large numbers. So I appeal to the House to adopt this amendment.

Shri Mahavir Tyagi (U. P.: General): I rise to support this amendment. In fact it is too mild. It only says that the State will not force a person to mention his caste, which means that the State does not want the population to be caste conscious as the British made us so far. I do not say that this caste system was initially started by the British. It existed. But the mischief the British Government did was that they made us caste conscious every time.

Whenever a man had to be identified, caste was an essential part of the identification, as if we could not be located or distinguished without caste. In every other country there is no caste system and there people are recognised by giving their names, their father's name, their profession and other such particulars. Here we have been given to understand that caste forms the first part of our identity. In fact the amendment should have been that the caste column from the census registers should have been taken out altogether. That would have been a better thing. Caste does not help us in any way in a census. It is really the will of this House that caste must go for ever but this amendment is a very mild amendment. Suppose there is an individual with scruples like myself or others who do not want to give out their castes. Well, according to this Bill one will be forced to say that he belongs to such and such a caste. So, it is only that pressure that the amendment has attempted to lift. Therefore, I submit that this amendment is very innocent. In fact it should have gone further. I support this amendment and wish that the whole House—as I know the whole House is of this view—will support it and pass it.

One word more, if you do not mind Sir!

My friend raised one objection, which was to some extent relevant and also it had some weight behind it, namely, that the Scheduled Caste people would especially suffer. Well, a solution can be found out for them. They can mention themselves as belonging to the Scheduled Castes. Let them not go into greater details of castes, sub-castes and deputy sub-castes! We can do away with that difficulty by making a column whether one belongs to a Scheduled Caste or otherwise.

Dr. P. S. Deshmukh: May I answer that point?

Mr. Chairman: There is no right of answer.

Shri Satis Chandra Samanta (West Bengal: General): I wholeheartedly support the amendment. My friend, Dr. Deshmukh has opposed it but I think at heart he supports it. During the last session he supported inter-caste marriage and he gave as an example that he himself had married a lady who did not belong to his caste. He at heart supports the amendment. But the difficulty he is facing is that if every one writes Hindu what will be the fate of the scheduled castes. The amendment which has been moved has given an opportunity for this also. The scheduled caste people may write that they are scheduled caste Hindus and other Hindus who do not belong to any caste system they might write simply Hindus. Then the opposition of my honourable friend will be resolved. Sir, I wholeheartedly support the amendment.

Shri L. Krishnaswami Bharathi (Madras: General): Sir, I rise to support the amendment. The amendment only seeks to discourage the perpetuation of the caste system. If somebody refuses to mention his caste according to the present Bill he is liable to be punished. All that the amendment seeks to do is this: People who do not believe in the perpetuation of the caste system should be permitted to say that they have no caste. Incidentally I might mention that Mahatma Gandhi wrote two articles years ago entitled, "Caste must go" and his dream was that there must be a 'casteless and classless society'. He expressed his dream in two inimitable words—"casteless and classless". All that the amendment seeks to do is to perpetuate that idea that we shall not be caste-conscious so that there may be the ultimate realisation of the object of Mahatma Gandhi, 'a casteless and classless society'. Therefore let us not be obliged to say to which caste we belonged. As a matter of interest I might mention that those people who do not want to give their caste in South India have started a great movement. More than 35,000 people in South India have signed that they shall not mention their caste. I can say that they are prepared even to face all the penalties for refusing to mention their caste. It is a great movement. Caste-consciousness like communalism is another kind of poison. Everywhere we have these

[Shri L. Krishnaswami Bharathi]

caste associations for purposes of election. There is the All-India Reddy Sangham, the All-India Nadar Sangham, etc. This is another kind of communalism. This is a simple amendment which I hope the Honourable the Home Minister will accept.

Shrimati Ammu Swaminadhan (Madras: General): Sir, I also rise to support the amendment. I would like to say that the amendment does not go far enough. I feel that there should be a rule that caste should not be mentioned anywhere in India on any paper that we sign and I hope that the time will not be long before a law is brought about that anyone who has the name of caste after his or her name should be made to remove that particular part which indicates caste. As long as we keep up these caste names and as long as we speak about caste in the House, and elsewhere the caste distinctions will remain. The only way to forget it and to have a casteless society is to forget all about caste and we can do that only if we do away with the names which indicate a person's caste. I hope the Honourable the Home Minister will think about this also and later on bring in some kind of law which will make us all use only our names and nothing to indicate which community or caste we belong to. Sir I heartily welcome the amendment moved by my honourable friend and I hope the Honourable the Home Minister will allow it to go through.

Shri Upendra Nath Barman (West Bengal: General): Mr. Chairman, I do not oppose the amendment that has been tabled but in view of the trend of the discussions and the expression of opinions I think it my duty to make a few observations regarding this census affair. Nobody would be more happy than the scheduled castes or other backward communities about this elimination of castes but for the fact that there are causes that lead them to ask for reservations, facilities for education and other facilities for the amelioration of their condition. I welcome the day when my honourable friends will take positive steps to eliminate this caste system and this blot on our society. But so long as they do not move in the right direction they should not think that by eliminating caste from the census they are doing everything. The other castes cannot take it in that light. My humble submission is that nobody should be forced to disclose his caste against his will but at the same time I would ask the Government to look into the fundamentals that have been adopted by the draft constitution. So long as there are reservations, allotment of seats and Government itself thinks it necessary that certain facilities should be given to certain communities to ameliorate their condition, this census operation must be as scientific and accurate as possible. Otherwise it would be meaningless and will have no value. With these observations I support the amendment but again ask the Government to see to it that their promises in the draft constitution are not negated, by left hand method.

Shri H. V. Kamath (C. P. and Berar: General): Sir, I would like to say a few words.

Mr. Chairman: I think the House has had sufficient discussion on the amendment.

Shri Satya Narayan Sinha (Bihar: General): Sir, the question be put.

Mr. Chairman: I shall put it to the House.

The question is:

"That the question be put."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: Sir, I wish to say a few words with regard to this amendment. I have a good deal of sympathy for the sentiments expressed by the mover as well as those who spoke in support of

this amendment. But I am afraid that if the amendment is passed it will defeat the purpose for which the mover as well as the supporters of the amendment have taken so much pains. In the amendment they have mentioned the word "caste" and thereby given legal recognition to the existence of caste in India; therefore instead of abolishing castes they recognise that there are castes in India. What they want to do is to abolish all caste and that purpose is not served by this amendment.

The amendment is a permissive measure which says that no man shall be compelled to mention his caste. That purpose can be served by a rule or instruction that a man who refuses to give his caste may not be prosecuted or punished. As regards the wider object for which the mover has moved his amendment, although I have considerable sympathy for the sentiments expressed by the supporters of the amendment, I would suggest that no reforms of this nature can be brought about by back-door methods. Let us have a resolution on that subject and have it debated in a full House. The other day my friend Mr. Diwakar brought in a resolution more or less embodying this principle and the House accepted my suggestion that the Government will appoint a committee to consider this question and see how far we can give effect to this sentiment. In the Bill which I have introduced there is no place for caste, creed or anything of the kind. By the amendment you introduce the caste in the Bill and you thereby defeat the purpose of the amendment. Therefore I suggest that this question, if it is to be decided as you desire, should be discussed on a separate Resolution as a question of policy for the abolition of caste. If the House accepts the policy then the officer in charge of the census will not take down that point at all. It is therefore not necessary to have this amendment at all which defeats the very purpose it has in view.

Mr. Chairman: Does the honourable the mover of the amendment desire that his amendment should be put to the House?

Shri Basanta Kumar Das: May I know if anybody who does not disclose his caste will be penalised?

The Honourable Sardar Vallabhbhai Patel: If you do not want a recognition of the caste it is better to have it discussed by a separate Resolution.

Shri Basanta Kumar Das: I was asking whether anyone who does not disclose his caste will be penalised. He should not be penalised if he does not disclose it.

The Honourable Sardar Vallabhbhai Patel: This can be done by means of instructions.

Mr. Chairman: In view of the discussion does the mover of the amendment wish to press his amendment?

Shri Basanta Kumar Das: I would like to withdraw it.

Shri Mahavir Tyagi: On a point of information, will the Honourable the Deputy Prime Minister be pleased to convey to the House his intention that he would do away with the column of "Caste" in the Rules?

The Honourable Sardar Vallabhbhai Patel: If you pass a Resolution for the abolition of caste, so far as the Government are concerned they will issue the necessary instructions.

Mr. Chairman: Has the honourable member the leave of the House to withdraw his amendment?

Some Honourable Members: No.

Shri L. Krishnaswami Bharathi: On a point of order, Sir. The leave has to be unanimous. When leave is asked for withdrawing a motion, the leave has to be unanimous. When there is even one dissentient voice the motion has to be put to the House.

Mr. Chairman: If you so desire I shall put the amendment to vote.

The question is:

"That after the existing proviso to sub-clause (2) of clause 7 of the Bill, the following new proviso be added:

'Provided further that no person shall be bound to state the name of the caste to which he or she belongs'."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clauses 8 and 9 were added to the Bill.

Shri K. Santhanam: I beg to move:

"That to sub-clause (1) of clause 10 of the Bill, the following be added at the end:

'and in case of a conviction under part (b) or (c) shall also be punishable with imprisonment which may extend to six months'."

Sir, clause (b) says:

"any census-officer who intentionally puts any offensive or improper question or knowingly makes any false return or without the previous sanction of the Central Government or the Provincial Government, discloses any information which he has received by means of, or for the purposes of, a census return";

and then clause (c) says:

"any sorter, compiler or other member of the census staff who removes, secretes, damages or destroys any census document or deals with any census document in a manner likely to falsify or impair the tabulations of census results."

These are grave offences by officials and a prosecution is to be taken only with the previous sanction of the Provincial Government or of an authority authorised by the Provincial Government in this behalf. The punishment prescribed is not sufficient. I have increased it by adding imprisonment for six months. This is necessary in view of the grave nature of the offences.

The Honourable Sardar Vallabhbhai Patel: I have no objection to accept the amendment.

Mr. Chairman: The question is:

"That to sub-clause (1) of clause 10 of the Bill, the following be added at the end:

'and in case of a conviction under part (b) or (c) shall also be punishable with imprisonment which may extend to six months'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Mr. Nazimuddin Ahmad: I beg to move:

"That for clause 11 of the Bill, the following be substituted:

'11. No court shall take cognizance of any offence under this Act except with the previous sanction of the Provincial Government or of an authority empowered in this behalf by the Provincial Government'."

Sir, this is the usual way in which this provision is expressed in the Criminal Procedure Code and in other Acts. The original clause which is sought to be amended, says:

"No prosecution under this Act shall be instituted except with the previous sanction of the Provincial Government or of an authority authorised in this behalf by the Provincial Government."

It says that no prosecution shall be 'instituted' etc. But, suppose somebody institutes a prosecution. What will happen? The amendment says that "no Court shall take cognizance of any offence under this Act except with the previous sanction of the Provincial Government etc." So, even if there is no sanction, the Court is prevented from taking cognizance of it.

I find in another Bill which is also pending before this House the same draftsmanship has been accepted. It is to be found in the Coal Mines Provident Fund and Bonus Schemes Bill, 1948. A similar provision is to be found there, namely "No Court shall take cognizance of any offence punishable under any such scheme except on a report in writing" and so forth. This is the way in which it is expressed in the Criminal Procedure Code, in Section 195 and in other Sections. The question is just one of form. If you prevent the Court from taking cognizance of it, any complaint filed or not would be innocuous. If you say "don't file a complaint" it does not go far enough. The method of expression I have suggested is covered by very high authority.

Mr. Chairman: Amendment moved:

"That for clause 11 of the Bill, the following be substituted:

'11. No court shall take cognizance of any offence under this Act except with the previous sanction of the Provincial Government or of an authority empowered in this behalf by the Provincial Government'."

The Honourable Sardar Vallabhbhai Patel: I think the expression used here in clause 11 is much wider than the restricted amendment that is proposed by my friend. He wants the expression that "no court shall take cognizance of an offence etc." because that is the expression used in the Criminal Procedure Code. I do not think the expressions used in the Criminal Procedure Code are the final word on the subject. The world is progressing and it is better to widen the scope of this clause. In the one case as soon as an application is presented, if it is not accompanied by a sanction it goes to the waste paper basket. In the other case the court takes the application but asks the applicant to bring the sanction, or proceeds with the application and disposes it of and says that it is open to bring sanction next time. But here the court rejects the application if it is not accompanied by proper sanction. There is no point in accepting this amendment.

Mr. Chairman: The question is:

"That for clause 11 of the Bill, the following be substituted:

'11. No court shall take cognizance of any offence under this Act except with the previous sanction of the Provincial Government or of an authority empowered in this behalf by the Provincial Government'."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clauses 12 to 17 were added to the Bill.

The Honourable Sardar Vallabhbhai Patel: I move:

"That clause 1A be renumbered as clause 2 and clauses 2 to 17 be renumbered as clauses to 18 and necessary consequential changes be made in the Bill."

Mr. Chairman: The question is:

"That clause 1A be renumbered as clause 2 and clauses 2 to 17 be renumbered as clauses 3 to 18 and necessary consequential changes be made in the Bill."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: I move:

"That to sub-clause (2) of clause 1 of the Bill, the following be added at the end:
'and also to any Acceding State for which the Central Legislature has for the time being the power to make laws as respects Census'."

Mr. Chairman: The question is:

"That to sub-clause (2) of clause 1 of the Bill, the following be added at the end:
'and also to any Acceding State for which the Central Legislature has for the time being the power to make laws as respects Census'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 1, as amended stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Honourable Sardar Vallabhbhai Patel: I move:

"That in the Preamble to the Bill, after the word 'Provinces', the words 'and Acceding States' be inserted."

Mr. Chairman: The question is:

"That in the Preamble to the Bill, after the word 'Provinces', the words 'and Acceding States' be inserted."

The motion was adopted.

Mr. Chairman: The question is:

"That the Preamble, as amended, stand part of the Bill."

The motion was adopted.

The Preamble, as amended, was added to the Bill.

The Title was added to the Bill.

The Honourable Sardar Vallabhbhai Patel: Sir, I beg to move:

"That the Bill, as amended, be passed."

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

Mr. Chairman: The House stands adjourned till 10-45 A.M. on Friday, the 20th August 1948.

The Assembly then adjourned till a Quarter to Eleven of the Clock, on Friday, the 20th August 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Friday, 20th August 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I).

11-45 A.M.

IMPERIAL LIBRARY (CHANGE OF NAME) BILL

آنریبل مولانا ابوالکلام آزاد : جناب - میں تحریک کرتا ہوں کہ ایک بل پیش کرنے کی اجازت دی جائے جسکا مطلب یہ ہے کہ ایمپیریل لائبریری کا نام بدلا جائے۔
یہ لائبریری ۱۹۰۳ء میں گورنمنٹ آف انڈیا کے ایک رزلوشن کے ذریعہ کلکتہ میں قائم ہوئی تھی اور اُس وقت سے اس کا نام ایمپیریل لائبریری چلا آتا ہے اب ملک میں جو پالیٹیکل (political) اور کانستیتوشنل (constitutional) تبدیلیاں ہوئی ہیں اُسے دیکھتے ہوئے خیال کیا گیا کہ یہ ٹھیک نہیں ہوگا کہ کسی نیشنلسٹ (nationalist) اسٹیتوشن (institution) کے نام میں ایمپیریل (Imperial) کا لفظ رکھا جائے۔ اُس لئے یہ بل پیش کیا گیا ہے۔ تاکہ آئندہ اُس کا نام نیشنل (national) لائبریری (library) رکھا جائے۔

(English translation of the above speech)

The Honourable Maulana Abul Kalam Azad (Minister for Education): Sir, I beg to move for leave to introduce a Bill to change the name of the Imperial Library.

[Maulana Abul Kalam Azad]

This Library was established in Calcutta in the year 1908 in pursuance of a Resolution of the Government of India and since that time it is called as Imperial Library. In view of the recent political and constitutional changes in the country, it was considered that it would not be appropriate to associate the word "Imperial" with any national institution. Therefore, this Bill has been presented so that in future it should be called as "National Library".

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to change the name of the Imperial Library."

The motion was adopted.

آنریبل مولانا ابوالکلام آزاد : جناب میں پیش کرتا ہوں۔

The Honourable Maulana Abul Kalam Azad: Sir, I introduce the Bill.

INDIAN COTTON CESS (AMENDMENT) BILL

The Honourable Shri Jairamdas Doulatram (Minister for Food and Agriculture): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Cotton Cess Act, 1923.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Cotton Cess Act, 1923."

The motion was adopted.

The Honourable Shri Jairamdas Doulatram: Sir, I introduce the Bill.

DISPLACED PERSONS (INSTITUTION OF SUITS) BILL.—Contd.

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, you were good enough on the last occasion when the Bill was before the House to allow it to stand over in order to give me an opportunity to consider some of the criticisms that were levelled against the Bill as it was placed before the House last time. I have since taken into consideration the various points that were made by honourable members in the course of the debate and I think it would be desirable to introduce some new amendments in order to meet those criticisms and to withdraw the amendment to clause 3 which I moved on the 18th August.

Mr. Speaker: Has the Honourable Minister leave of the House to withdraw the amendment?

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

The Honourable Dr. B. R. Ambedkar: With your permission, Sir, I propose to move my first amendment, copies of which I believe have been handed over to you and the members of the House. Sir, I move:

"That after clause 1 of the Bill, the following new clause be inserted and the subsequent clauses be renumbered accordingly:

"(2) *Duration*.—This Act shall remain in force for a period of three years only, but upon the expiry of the said period section 6 of the General Clauses Act, 1897 (X of 1897) shall apply as if this Act had been then repealed by a Central Act."

Last time my honourable friend Mr. Ananthasayanam Ayyangar raised an important point, namely that this privilege which the Bill was going to accord to displaced persons in the matter of bringing suits had no limitation fixed to it. I think that is a point of substance, although I should like to mention the fact that this question was considered in the Department and we felt some difficulty in the matter of fixing an actual time limit as to when this privilege should be withdrawn. After all it was felt that the privilege was being granted to a displaced person by reason of the circumstances in which he found himself on his coming into India. It was very difficult to fix a precise moment of time when it could be said that the circumstances which justified this privilege had vanished. A displaced person would be deprived of the privilege granted by this Bill only on his being rehabilitated in this part of the country. It is very difficult to say when he is going to be rehabilitated. Hence we did not think it right to put any time limit. However, it seems that it would be desirable to fix a time limit and to make it as wide as possible. Consequently it was decided that a three years' time limit would be reasonable. Therefore we have introduced this amendment fixing the time limit of three years, which is quite clear from the first part of the amendment.

The second part of the amendment which refers to Section 6 of the General Clauses Act may not be quite intelligible to the members of the House. All that it means is that when the three years' period lapses if any suit or any appeal is pending on that date it shall continue to be dealt with in accordance with the law and shall not lapse by reason of the fact that the period has lapsed. That is the reason why this amendment is moved and I hope the House will find no difficulty in accepting it.

Mr. Speaker: Amendment moved:

"That after clause 1 of the Bill, the following new clause be inserted and the subsequent clauses be renumbered accordingly:

"(2) *Duration*.—This Act shall remain in force for a period of three years only, but upon the expiry of the said period section 6 of the General Clauses Act, 1897 (X of 1897) shall apply as if this Act had been then repealed by a Central Act."

Shri M. Ananthasayanam Ayyangar (Madras: General): I think I am satisfied that this change made by the amendment will meet the situation. It is true that the period of limitation may not be extended. Three years is a long enough time and a refugee will be able to settle down to some occupation, trace the defendant and recover his money. I am glad the Honourable the Law Minister has been generous and at the same time not to keep the sword of Damocles hanging over the heads of those defendants who will have to discharge their liabilities. As regards the reference to the General Clauses Act, after the period is over *ipso facto* it must be terminated, subject of course to not disturbing those rights which are already vested.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I support the amendment but I desire that the word "only" should be deleted, as it is redundant. The passage "This Act shall remain in force for a period of three years" without the word "only" means three years only and not more than three years. The word "only" does not serve any purpose. It was probably meant for coaxing the House to accepting the amendment but that is not necessary. If we say that the Act remains in force for a period of three years, it cannot extend beyond three years and if we at all think that it should be extended there is nothing to prevent the House from extending it by an amendment. So the word "only" does not serve any useful purpose. This word was used in another Bill and the House accepted the deletion of the word as being redundant. I submit that this is not a serious thing but only a drafting matter. It should therefore be considered by the House and by the Honourable Minister and he should, I think, agree to delete the word.

The Honourable Dr. B. R. Ambedkar: Sir, I am not accepting the amendment.

Mr. Speaker: I shall put the amendment to the House.

The question is:

"That after clause 1 of the Bill, the following new clause be inserted and the subsequent clauses be renumbered accordingly:

(2) *Duration*.—This Act shall remain in force for a period of three years only, but upon the expiry of the said period section 6 of the General Clauses Act, 1897 (X of 1897) shall apply as if this Act had been then repealed by a Central Act."

Mr. Naziruddin Ahmad: Sir, I shall move my amendment to this.

Mr. Speaker: I think it is too late. I had put it to the House first, and then he had a chance of speaking. I have now put it finally.

The motion was adopted.

New clause 2 was added to the Bill.

The Honourable Dr. B. R. Ambedkar: I beg to move:

"That for clause 3 of the Bill (renumbered as clause 4), the following be substituted.

4. *Institution of suits by displaced persons*.—Notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (V of 1908) or in any other law relating to the local limits of the jurisdiction of Courts or in any agreement to the contrary, a displaced person may institute a suit in a Court within the local limits of whose jurisdiction he or the defendant or any of the defendants, where there are more than one, actually and voluntarily resides, or carries on business, or personally works for gain, if—

- (i) the defendant, or where there are more than one, each of the defendants, actually and voluntarily resides or carries on business, or personally works for gain in India and is not a displaced person;
- (ii) the cause of action, wholly or in part, arises or has arisen in a place now situate within the territories of Pakistan;
- (iii) the Court in which the suit is instituted is otherwise competent to try it; and
- (iv) the suit does not relate to immovable property."

Mr. Speaker: Here also I notice the word "each".

The Honourable Dr. B. R. Ambedkar: It is quite all right, Sir.

Mr. Speaker: Amendment moved:

"That for clause 3 of the Bill (renumbered as clause 4), the following be substituted:

4. *Institution of suits by displaced persons*.—Notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (V of 1908) or in any other law relating to the local limits of the jurisdiction of Courts or in any agreement to the contrary, a displaced person may institute a suit in a Court within the local limits of whose jurisdiction he or the defendant or any of the defendants, where there are more than one, actually and voluntarily resides, or carries on business, or personally works for gain, if—

- (i) the defendant, or where there are more than one, each of the defendants, actually and voluntarily resides or carries on business, or personally works for gain in India and is not a displaced person;
- (ii) the cause of action, wholly or in part, arises or has arisen in a place now situate within the territories of Pakistan;
- (iii) the Court in which the suit is instituted is otherwise competent to try it; and
- (iv) the suit does not relate to immovable property."

Mr. Naziruddin Ahmad: Sir, I beg to move a short notice amendment to this. May I do so?

Mr. Speaker: Yes.

Mr. Naziruddin Ahmad: Sir, I move:

"That in the proposed amendment by the Honourable Dr. B. R. Ambedkar to clause 3 (renumbered as clause 4),—

- (a) after the words 'or any of the defendants, where there are more than one', the words 'at the time of the commencement of the suit' be inserted; and
- (b) in part (i) after the words 'each of the defendants', the words 'at the time of the commencement of the suit' be inserted."

In the main part of this proposed new section it is a condition that the defendants, one or more, should actually and voluntarily reside or carry on business or personally work for gain. My amendment seeks to confine it to the time of the institution of the suit. My purpose is to make it a condition at the time of institution, that is, the defendant or the defendants should actually and voluntarily reside or carry on business or personally work for gain at the time of the commencement of the suit. The validity of a suit depends upon the circumstances prevailing at the time of its institution. Suppose the defendant or the defendants subsequently leave the place the area of the local jurisdiction of the court, and remain in India but in another jurisdiction. Should the suit, which was properly instituted, become invalid? As the clause stands at present, it makes the condition that he must actually or voluntarily reside or carry on business or personally work for gain. That is a continuing condition apparently.

As my ground for moving this amendment I have section 20 of the Code of Civil Procedure which was referred to the other day by my friend Mr. Ananthasayanam Ayyangar. It is in clause (b) of section 20. I shall read that "...any of the defendants, where there are more than one, at the time of the commencement of the suit, actually or voluntarily resides or carries on business or personally works for gain". The passage has been taken bodily from the Civil Procedure Code. But the words "at the time of the commencement of the suit" which I consider to be vital have been omitted perhaps by oversight.

In the amendment I want to insert it in line 7. The passage would stand amended like this: "where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides or carries on business or personally works for gain".

The other amendment in part (i) is of a similar character. I submit that this condition is necessary because it may effect the very legality of the suit. All that is necessary is that at the time of the institution of the suit this residential or business or occupational condition should be satisfied. Later on, if there is any movement of the parties from that area to another area, although within India, the legality of the suit might be in doubt. In view of the fact that there are these words in the Civil Procedure Code from which the passage has been apparently taken, the elimination of these words might be regarded as having been done with a purpose, namely that this condition of residence or of carrying on of business etc., is a continuous condition so long as the suit is pending. In order to remove that doubt I think this amendment should be accepted.

Then I have one or two comments to make on the general amendment. There is a passage "notwithstanding anything contained in Section 20 of the Code of Civil Procedure, 1908 (V of 1908)" and then there is this passage "or in any other law relating to the local limits of the jurisdiction of Courts or in any agreement to the contrary". I submit that the Civil Procedure Code is exhaustive with regard to the law relating to the local limits of the jurisdiction of a court.

[Mr. Naziruddin Ahmad]

Then with regard to agreements, I think that agreement does not oust the jurisdiction of a court. If two persons, A and B, who subsequently become plaintiff and defendant, agree that no suit shall be instituted in Delhi, but provided according to some law prevailing the court of Delhi has jurisdiction to entertain the suit, should the court be deprived of that jurisdiction on account of that agreement? I submit, if I am right—I am not quite certain—if I am right, then the words, “or in any agreement to the contrary” should be deleted because contract to the contrary cannot deprive the jurisdiction of a court.

With regard to “any other law relating to local limits of the jurisdiction of courts”, I am rather doubtful if there are any other laws which really affect the jurisdiction of a Court apart from the relevant Sections in the Civil Procedure Code—Section 15 and the following Sections. The Civil Procedure Code exhausts all the conditions of jurisdiction of a Court.

With regard to Section 20 it relates to other suits, that is suits other than those relating to immovable property, but we are not dealing with immovable property. In these circumstances I ask the Honourable Minister to consider the insertion of the condition “at the time of the commencement of the suit” in the two places indicated. He should also explain the need for the words, “or in any other law relating to the local limits of the jurisdiction of courts”, and the other condition, “or in any agreement to the contrary”. The need for this should be explained.

With these few words I submit that the amendments should be accepted.

Mr. Speaker: Amendment to amendment moved:

“That in the proposed amendment by the Honourable Dr. B. R. Ambedkar to clause 3 (renumbered as clause 4),—

- (a) after the words ‘or any of the defendants, where there are more than one’, the words ‘at the time of the commencement of the suit’ be inserted; and
- (b) in part (i) after the words ‘each of the defendants’, the words ‘at the time of the commencement of the suit’ be inserted.”

Does the honourable member move any amendment for the deletion of those words?

Mr. Naziruddin Ahmad: No, Sir. I merely ask for clarification.

The Honourable Dr. B. R. Ambedkar: With regard to the actual amendment proposed by my friend, I hold the view that those words are unnecessary. However, if he thinks that the absence of the words create any doubt with regard to the jurisdiction of the court, I have no objection to accepting the addition of the words he has suggested in his amendment.

With regard to the other two points raised by my honourable friend, on the one relating to local limits of the jurisdiction of the courts, my submission is that there may be very many other laws which also deal with the jurisdiction of the courts.

Shri M. Ananthasayanam Ayyangar: Matrimonial cases, guardians’ cases etc.,

The Honourable Dr. B. R. Ambedkar: A matrimonial case is one.

Secondly, I come from Bombay; I am more familiar about the legislation there. For instance, I know there is an Act there to deal with the relief to agriculturists; there the local limits of the courts are defined, they are quite different from the provisions contained in the Civil Procedure Code. Similarly, there might be cases in other Provinces. These words have, therefore, been introduced by way of caution on the supposition that there might be other laws describing the jurisdiction of the courts. No harm is done if these words

are introduced in order to prevent any fault remaining in the Bill by reason of such omission of these words.

With regard to the other question raised by my friend as to why the words, “in any agreement to the contrary” are introduced. The position is this: I entirely agree with him—that is my own personal view, however,—that parties by agreement cannot oust the jurisdiction of the court. If the court has the jurisdiction, the parties cannot by agreement say that the suit shall not be brought within the jurisdiction of the court. But I am told that the Lahore High Court has held the following view in a Full Bench case arising out of what are called “Insurance policies”, where a clause like the one I am reading now exists:

“In the event of any claim arising in respect of properties hereby insured, the same shall be settled and paid in Lahore and the entire cause of action shall also be deemed to arise in Lahore, and further that all legal proceedings in respect of any such claim shall be instituted in a competent Court in the City of Lahore only.”

When this clause in the insurance policies came in for interpretation before the Lahore High Court, a Full Bench of the Lahore High Court decided that such an agreement is valid and is binding and the suits must be brought in Lahore. It is an order to abrogate the binding force of this clause and also to nullify the effects of the judgment given by the Lahore High Court and to enable the displaced person to take full advantage of the privilege that we are giving, that these words have been introduced namely, “notwithstanding any agreement to the contrary”. I hope this explanation satisfies my friend.

Mr. Naziruddin Ahmad: Sir, I am fully satisfied.

Shri M. Ananthasayanam Ayyangar: Sir, I want to say a word on this. The amendment suggested by my honourable friend Mr. Naziruddin Ahmad does not fit in and seems to be inconsistent with the amendment that has been put forward by the Honourable Dr. Ambedkar.

Let us take part (i) of sub-clause (1) of proposed amendment. It says,—“(i) the defendant, or where there are more than one, each of the defendants, actually and voluntarily resides or carries on business, or personally works for gain in India and is not a displaced person;”

The privilege is given to the plaintiff in such a case to file a suit not according to Section 20 of the Civil Procedure Code, but either where the cause of action arises or where the defendant resides. Under this part (i) the defendant or each of the defendants must reside only in India; it is immaterial whether he resides in a particular place or in the local limits or jurisdiction of any court. Of course this would not authorise a suit being filed by one who is not a resident of India and is not a displaced person; if he is not a displaced person the defendant must not be a displaced person himself. Therefore, to say, “at the time when the suit is filed”, seems to be absolutely not within the object of the framers of this amendment. If the defendant is not a displaced person but is a permanent resident of India it is immaterial where he resides and you can file the suit anywhere the plaintiff likes. That is the object. So, what is the meaning of saying, “at the time when the suit is filed”? All that is required is that he must be resident anywhere in India. Therefore, Sir, with very great respect I submit that the honourable member’s suggestion in sub-clause (i) does not fit in.

As regards the main clause 4, I would say that the words, “the defendant or any of the defendants, where there are more than one,” might not be necessary. This gives the plaintiff merely the privilege to file a suit where he likes. The object of my honourable friend in including the words, “defendant or any other defendants, where there is more than one,” is this. Under the existing provisions of the Civil Procedure Code, Section 20, if you have to file a suit and there are more than one defendants, you can file it in a particular place, where the other defendants do not reside, only with the consent of the court. He wants to do away with that consent. Therefore, he has included those words also.

[Shri M. Ananthasayanam Ayyangar]

In either case, I do not think it is necessary that the addition of the words should be made. The amendment as tabled by my honourable friend meets the situation and is proper.

Shri L. Krishnaswami Bharathi (Madras: General): Sir, there is one aspect of the matter and that is this. This gives a privilege to the displaced person who is the plaintiff. Cases might occur where after the institution of the suit the plaintiff might go to some other jurisdiction of the court, and therefore in such cases the defendant might very well at a later stage, say that the plaintiff is not now residing there and therefore he has no right of action. Therefore, "at the time of institution of the suit" must qualify the plaintiff also. Whereas ordinarily, under the Civil Procedure Code, the right of action only arises when one or most of the defendants are in some local jurisdiction. Cases might arise where after the institution of the suit the plaintiff might go somewhere else and then the defendant might very well say, "Now the case has to be transferred to some other court". This is just possible. Therefore, the words, "at the time of institution of the suit" must qualify the plaintiff also, so much so that at the time of the institution of the suit, if the plaintiff or any defendant is in the local jurisdiction of any court, then the suit is well instituted.

I support the amendment from that aspect.

Mr. Speaker: I was just considering whether a change of residence of a defendant after the launching of a suit will effect the validity of the suit properly instituted in the beginning.

Shri M. Ananthasayanam Ayyangar: No, Sir. He is a permanent resident of India.

Mr. Speaker: That is the whole point.

Shri M. Ananthasayanam Ayyangar: It has been held, Sir, you will remember that even a suit for injunction for removing of a building can go on even if the building is removed.

Mr. Speaker: I do not know. I will leave it to the lawyers. I know the words there, "at the time of the commencement of the suit" are taken from the Civil Procedure Code, but I am entirely in the hands of the lawyers in the House. I have ceased to practise for twelve years and am not in touch with the law. So I leave it to the lawyers in this House. Anyhow, that is just, by the way. What is the wish of the Honourable the Law Minister in this matter?

The Honourable Dr. B. R. Ambedkar: As I said, these words are unnecessary whereas my honourable friend has a passion to put all these technical amendments. I thought I might once in my life gratify his wishes.

Mr. Speaker: He was suggesting the insertion of the words at two places.

The Honourable Dr. B. R. Ambedkar: That would not affect.

Mr. Naziruddin Ahmad: Second place is unnecessary. We might put it in the first place only.

Mr. Speaker: He is satisfied with having it at one place only. That is a further compromise. Well, then, I will put the first.

The question is:

"That in the proposed amendment by the Honourable Dr. B. R. Ambedkar to clause 3 (renumbered as clause 4), after the words 'or any of the defendants, where there are more than one' the words 'at the time of the commencement of the suit' be inserted".

The motion was adopted.

Mr. Speaker: I now put to the House the amended amendment. The question is:

"That for clause 3 of the Bill (renumbered as clause 4), the following be substituted:

"4. *Institution of suits by displaced persons.*—Notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (V of 1908) or in any other law relating to the local limits of the jurisdiction of Courts or in any agreement to the contrary, a displaced person may institute a suit in a Court within the local limits of whose jurisdiction he or the defendant or any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, if—

- (i) the defendant, or where there are more than one, each of the defendants, actually and voluntarily resides or carries on business, or personally works for gain in India and is not a displaced person;
- (ii) the cause of action, wholly or in part, arises or has arisen in a place now situate within the territories of Pakistan;
- (iii) the Court in which the suit is instituted is otherwise competent to try it; and
- (iv) the suit does not relate to immovable property."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That after clause 3 of the Bill (renumbered as clause 4), the following new clauses be inserted and the subsequent clauses be renumbered accordingly:

"5. *Validation of certain pending suits.*—Any suit instituted by a displaced person after the 15th day of August, 1947, which if this Act had come into force on that day would have been validly instituted in pursuance of section 4 shall, if pending at the commencement of this Act, be deemed to have been validly instituted and be disposed of accordingly.

Explanation.—For the purposes of this section a suit pending at the commencement of this Act includes a suit in respect of which an appeal lies or is pending at the commencement of this Act.

6. *Restoration of certain dismissed suits.*—Where any suit instituted by a displaced person after the 15th day of August, 1947, and before the commencement of this Act, which if this Act had come into force on that day would have been validly instituted in pursuance of section 4, had been dismissed solely on the ground that it had not been validly instituted, the Court shall, on application made within one month from the commencement of this Act, make an order setting aside the decree and shall proceed with the suit.

7. *Restoration of suit where appeal dismissed.*—Where, in any appeal arising from a suit instituted by a displaced person after the 15th day of August, 1947, and before the commencement of this Act, a decree has been passed dismissing such appeal solely on the ground that it had not been validly instituted and the institution of such suit would have been valid if section 4 had come into force on the aforesaid date, the Appellate Court shall, on application made to it within one month from the commencement of this Act, make an order setting aside its decree and remand the case to the Court of first instance for trial."

Now, Sir, this amendment makes provision for three cases. Clause 5 deals with a case where a case is pending; clause 6 deals with a case where the suit is dismissed and clause 7 deals with a case where appeal is dismissed. The House will thus see that all possible cases have been dealt with by these three new clauses, so that no displaced person, by reason of the fact that this Act had not retrospective effect on the date on which he filed his suit, will find himself in difficulty so as not to realise the benefit of this Act.

Shri K. Santhanam (Madras: General): What if the suit had been instituted before and only the appeal was filed later?

The Honourable Dr. B. R. Ambedkar: The point is this. It has been represented to me, although I find it difficult to believe, that certain displaced persons, notwithstanding the fact that Section 20 of the Civil Procedure Code does not permit them to file a suit within the jurisdiction of the court within which they reside, have nonetheless filed such a suit. If these suits were filed before the commencement of this Act, those suits would be dismissed for want of jurisdiction. In order to give them relief we said that even if the suit is

[Dr. B. R. Ambedkar]

dismissed it shall be restored. If the appeal is dismissed, then again the suit also should be restored, so that it merely gives retrospective effect to all those cases where the displaced person, out of pure mistake of law, had filed suit before the commencement of this Act.

Shrimati G. Durgabai (Madras: General): May I know whether a fresh suit can be instituted again?

The Honourable Dr. B. R. Ambedkar: No.

Mr. Speaker: Amendment moved:

"That after clause 3 of the Bill (renumbered as clause 4), the following new clauses be inserted and the subsequent clauses be renumbered accordingly:

5. *Validation of certain pending suits.*—Any suit instituted by a displaced person after the 15th day of August, 1947, which if this Act had come into force on that day would have been validly instituted in pursuance of section 4 shall, if pending at the commencement of this Act, be deemed to have been validly instituted and be disposed of accordingly.

Explanation.—For the purposes of this section a suit pending at the commencement of this Act includes a suit in respect of which an appeal lies or is pending at the commencement of this Act.

6. *Restoration of certain dismissed suits.*—Where any suit instituted by a displaced person after the 15th day of August, 1947, and before the commencement of this Act, which if this Act had come into force on that day would have been validly instituted in pursuance of section 4, had been dismissed solely on the ground that it had not been validly instituted, the Court shall, on application made within one month from the commencement of this Act, make an order setting aside the decree and shall proceed with the suit.

7. *Restoration of suit where appeal dismissed.*—Where, in any appeal arising from a suit instituted by a displaced person after the 15th day of August, 1947, and before the commencement of this Act, a decree has been passed dismissing such appeal solely on the ground that it had not been validly instituted and the institution of such suit would have been valid if section 4 had come into force on the aforesaid date, the Appellate Court shall, on application made to it within one month from the commencement of this Act, make an order setting aside its decree and remand the case to the Court of first instance for trial."

Shri K. Santhanam: I think it would be better if we bring the words occurring in section 4 into line with the wording of section 6 as newly drafted.

Shri M. Ananthasayanam Ayyangar: Mr. Speaker, I have got one doubt. In this amendment you have put new clauses 5, 6 and 7 together. In the fourth line of clause 6, it is stated "dismissed solely on the ground that it had not been validly instituted". So far as the preamble is concerned, my fear is it may not touch the validity of the institution. Here what the amendment seems to mean is validly instituted not in the place where it ought to have been instituted under section 20 of the Civil Procedure Code. We have said on the ground that it had been validly instituted and we will assume for some reason other than one of legal jurisdiction, but for this Act the suit has been dismissed. Even then it is not validly instituted as the wording stands. If before the commencement of this Act a suit was instituted in a place which was a wrong place under the law as it then stood under section 20 of the Civil Procedure Code, if that suit should have been dismissed, it could be restored within a period of years. "Validly instituted" may mean various other grounds on which the suit might have been dismissed. Therefore the words "for one of legal or territorial jurisdiction" must be used here. A suit has been dismissed solely on the ground that it had not been instituted within the legal limits and it has been dismissed on the ground that the Court had no pecuniary or legal jurisdiction.

Then comes the question of making an order, setting aside the decree or order. It need not merely be a decree. There may be cases where the suit has been dismissed by an order. Under the law there is no jurisdiction and a man files a suit and does not pursue it.

Mr. Naziruddin Ahmad: I have some comments to make on the proposed new section 7. In line 3, the following passage occurs: "A decree has been passed dismissing such appeal". This presupposes that the original suit which was instituted by the plaintiff was dismissed and the appeal was by the plaintiff and such an appeal was dismissed solely on the ground that it was not validly instituted. But it may mean that the plaintiff institutes the case and his suit was decreed and the defendant may have instituted an appeal. Then the dismissal of such an appeal means that the plaintiff's suit is decreed. I beg to submit that the following amendment should be accepted:

"For the words 'such appeal' in line 3 of the proposed new section 7 the words 'this suit' should be substituted."

The result of this would be that a decree has been passed dismissing such a suit and a decree by the Appellate Court has been passed dismissing such a suit solely on the ground that it has not been validly instituted. I think it would be that in the appeal the suit may be dismissed either by decree of the appeal or dismissing the appeal; it depends on who is the appellant. If the plaintiff wins, the suit is decreed. If the defendant appeals, the decreeing of the appeal means that the suit is dismissed or by a decree in appeal which follows the order a suit may be dismissed or a suit may be decreed. I beg to submit, Sir, the dismissal of the suit on the ground that it had not been validly instituted is the key, the test and therefore dismissing of the appeal should not be the test. The dismissing of the suit should be the test. The suit may be dismissed by a decree allowing the appeal or dismissing the appeal as the case may be. Therefore, for these two words, "such appeal", the words "the suit" should be substituted. I would respectfully ask the Honourable Minister to consider the thing and decide.

The Honourable Dr. B. R. Ambedkar: With regard to the point raised by my honourable friend, Mr. Ananthasayanam Ayyangar, it is quite true that a suit may be dismissed for various other reasons; but in the context I am quite satisfied that the words validly instituted cannot refer to anything except the jurisdiction of the court and therefore, I am not prepared to disturb that wording.

With regard to the point raised by my honourable friend Mr. Naziruddin Ahmad, I am sure he will realise that the words he proposes are most unsuitable. Because, in an appellate court, what the appellate court does is to dismiss the appeal; it does not dismiss the suit. Therefore, the wording is all right.

Mr. Naziruddin Ahmad: It also decrees or dismisses the suit.

Mr. Speaker: The word 'decree' may remain without the addition of the word 'order'. I was just considering whether the word 'suit' should not be there for the word 'appeal'. Even the appellate decree will be for the dismissal of the suit originally instituted. It seems to be a little confusing: "dismissing such appeal solely on the ground that it has not been validly instituted", what does that 'it' represent?

The Honourable Dr. B. R. Ambedkar: I am prepared to concede that the word 'it' should be substituted by the word 'suit'.

Mr. Speaker: If 'it' is replaced by the word 'suit', his objective is achieved.

The Honourable Dr. B. R. Ambedkar: I am prepared for it.

Mr. Naziruddin Ahmad: That would be better. Sir, I beg to move.

"That in the amendment moved by the Honourable Dr. B. R. Ambedkar, in the proposed clause 7, for the word 'it' where it occurs for the first time, the words 'the suit' be substituted."

The Honourable Dr. B. R. Ambedkar: I accept it.

Mr. Speaker: The question is:

"That in the amendment moved by the Honourable Dr. B. R. Ambedkar, in the proposed clause 7, for the word 'it' where it occurs for the first time, the words 'the suit' be substituted."

The motion was adopted.

Shri Krishna Chandra Sharma (U.P.: General): Sir, I would like to make a suggestion. In the last line instead of the word 'case' the word 'suit' may be substituted, and instead of the word 'trial', the word 'disposal' may be substituted.

Mr. Speaker: It comes to the same thing.

Shri Krishna Chandra Sharma: No; it is different.

Mr. Speaker: I think in the place of the word 'case', the word 'suit' may be substituted.

Shri Krishna Chandra Sharma: Sir, I beg to move:

"That in the amendment moved by the Honourable Dr. B. R. Ambedkar, in the proposed clause 7, for the word 'case', the word 'suit' be substituted; and for the word 'trial' the word 'disposal' be substituted."

Mr. Speaker: The question is:

"That in the amendment moved by the Honourable Dr. B. R. Ambedkar, in the proposed clause 7, for the word 'case', the word 'suit' be substituted."

The motion was adopted.

Shri Krishna Chandra Sharma: I am not particular about the other amendment.

Mr. Speaker: I am putting to the House the amended amendment.

The question is:

"That after clause 3 of the Bill (renumbered as clause 4), the following new clauses be inserted and the subsequent clauses be renumbered accordingly:

5. *Validation of certain pending suits.*—Any suit instituted by a displaced person after the 15th day of August, 1947, which if this Act had come into force on that day would have been validly instituted in pursuance of section 4 shall, if pending at the commencement of this Act, be deemed to have been validly instituted and be disposed of accordingly.

Explanation.—For the purposes of this section a suit pending at the commencement of this Act includes a suit in respect of which an appeal lies or is pending at the commencement of this Act.

6. *Restoration of certain dismissed suits.*—Where any suit instituted by a displaced person after the 15th day of August, 1947, and before the commencement of this Act, which if this Act had come into force on that day would have been validly instituted in pursuance of section 4, had been dismissed solely on the ground that it had not been validly instituted, the Court shall, on application made within one month from the commencement of this Act, make an order setting aside the decree and shall proceed with the suit.

7. *Restoration of suit where appeal dismissed.*—Where, in any appeal arising from a suit instituted by a displaced person after the 15th day of August, 1947, and before the commencement of this Act, a decree has been passed dismissing such appeal solely on the ground that the suit had not been validly instituted and the institution of such suit would have been valid if section 4 had come into force on the aforesaid date, the Appellate Court shall, on application made to it within one month from the commencement of this Act, make an order setting aside its decree and remand the suit to the Court of first instance for trial."

The motion was adopted.

New Clauses 5, 6 and 7 were added to the Bill.

The Honourable Dr. B. R. Ambedkar: I move:

"That in clause 4 of the Bill (renumbered as clause 8), for the words and figure 'section 3 of this Act', the words and figure 'section 4 of this Act', be substituted."

Mr. Speaker: The question is:

"That in clause 4 of the Bill (renumbered as clause 8), for the words and figure 'section 3 of this Act', the words and figure 'section 4 of this Act', be substituted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 4 (renumbered as clause 8), as amended, stand part of the Bill."

The motion was adopted.

Clause 4 (renumbered as clause 8) was added to the Bill.

Clause 5 (renumbered as clause 9) was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: I move:

"That the Bill, as amended, be passed."

Mr. Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

DIPLOMATIC AND CONSULAR OFFICERS (OATHS AND FEES) BILL.

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Minister for External Affairs and Commonwealth Relations): Sir, I beg to move:

"That the Bill to provide for the administration of oaths by diplomatic and consular officers and to prescribe the fees leviable in respect of certain of their official duties, be taken into consideration."

Mr. Speaker: The question is:

"That the Bill to provide for the administration of oaths by diplomatic and consular officers and to prescribe the fees leviable in respect of certain of their official duties, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will take the Bill clause by clause.

The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, after the word 'Act', the words 'or contravenes the provisions of sub-section (3) of section 6', be inserted."

Clause 4 provides punishment for false oath or affidavit but clause 6(3) declares that a diplomatic or consular officer shall not take any reward or payment except as may be provided in rules made in this behalf. That is to say, Government are entitled to make rules under clause 6(3) prescribing the fees, and nothing is to be taken beyond the prescribed rate. There is no provision making it an offence for a diplomatic or consular officer to take anything in excess of the prescribed amount, and so an offending officer escapes without any liability. No doubt he commits the offence of misappropriation or of illegal gratification under Sec. 161 of the Indian Penal Code, but as the offence will take place outside the jurisdiction of Indian Courts he cannot be tried here.

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But if we make it a punishable offence under this Bill it will be triable in any Indian Court if he is arrested here or is found within the local limits of the jurisdiction of any court in India. Therefore there is a lacuna that a diplomatic or consular officer who takes more than the prescribed fees escapes without any penalty and cannot be tried. But if the amendment that I propose is accepted he may be tried here if he is found within the local limits of the jurisdiction of an Indian Court. My amendment would make it an offence and although it is committed outside the jurisdiction of an Indian Court he will be liable to be tried by an Indian Court and cannot escape scot-free. Sir, I move.

Mr. Speaker: Amendment moved:

"That in sub-clause (1) of clause 4 of the Bill, after the word 'Act', the words 'or contravenes the provisions of sub-section (3) of section 6', be inserted."

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I beg to oppose this amendment. Clause 4 is a penalty clause which prescribes punishments for offences committed against this law. Then clause 6(3) prescribes that a diplomatic or consular officer shall not take any fee or reward in excess of those prescribed, and my honourable friend wants to make the contravention of clause 6(3) a penal offence under clause 4. Clause 4 is intended to deal with people who swear false oaths or affidavits and is not intended to apply to officers at all. If a consular or diplomatic officer takes fees which he should not take he will be withdrawn and in various other ways he will be punished; it need not necessarily be punishment in a court of law. Personally I think even sub-clause (3) of clause 6 was unnecessary; it will be illegal gratification under the Indian Penal Code and no special provision need have been made.

Mr. Naziruddin Ahmad: It is not triable here because the offence is committed outside India.

Shri M. Ananthasayanam Ayyangar: Apart from that it is not necessary because of the high position that our diplomatic and consular officers hold in foreign countries. Anyway by way of caution and to ensure integrity and freedom from corruption clause 6(3) may be retained; but having regard to their dignity and high position I oppose this proposed amendment.

Mr. Hossain Imam (Bihar: Muslim): Sir, I am afraid my honourable friend who spoke last missed two other things. He has concentrated on fees but there are rewards for or on account of an act or thing. If you prescribe a thing it is necessary that you should have some kind of punishment for violating it. It is no good saying, "Thou shalt not do this". This "Thou shalt not" has always proved ineffective; it is only fear of punishment that prevents him from violating it. I do not say that diplomatic or consular officers who will be hand-picked men will do these things. Therefore you may do away with this provision; but if you have it you must also have some kind of punishment. The entire criminal law is based on this that for an offence there must be a punishment. And, as was pointed out, our criminal law is ineffective in crimes committed outside the territorial jurisdiction of India, unless a validating law is passed as was done in the case of displaced persons. Therefore, as I said, I do not mind if clause 6(3) is removed because persons of that high status are not likely to commit this offence; but if it is retained it follows as a corollary that some provision like the present amendment of Mr. Naziruddin Ahmad should be made.

The Honourable Pandit Jawaharlal Nehru: Sir, I am unable to accept this amendment for reasons that my honourable friend Mr. Ayyangar mentioned. This should be looked upon as nothing more than a rule and an indication, not as a kind of crime for which punishment has not been provided as the honourable member said. It is a clear indication that something should not be done.

and it would be wrong to mix it up with a specific punishment for false oaths, etc.

If such a thing occurs these persons will be dealt with effectively by the Government, and there is just a chance if you specifically say that they should be proceeded against in a law court for this, some people may try to embarrass them and in many ways, quite needlessly and without the slightest justification. I do not think it helps at all. If they have done wrong there are hundreds of ways of punishing them and much more effectively than by tacking it on to the other section.

So, I submit that this amendment should not be accepted.

Mr. Naziruddin Ahmad: I do not press this amendment, but I should ask for a reconsideration of sub-clause (3) of clause 6. When that comes it is unnecessary.

Mr. Speaker: We shall discuss that when we come to that clause.

Mr. Naziruddin Ahmad: But I shall agree to the removal of sub-clause (3) of clause 6.

Mr. Speaker: This mixture of ideas arises because of some dubious marginal note in this section. The marginal notes say: "Punishment of offences under this Act." This is not a special offence under this Act and it would perhaps be better if head note says "punishment for certain offences." So the honourable member does not press for his amendment?

Mr. Naziruddin Ahmad: I would ask leave of the House to withdraw.

Mr. Speaker: Has the honourable member leave of the House to withdraw? The amendment was, by leave of the Assembly, withdrawn.

Mr. Speaker: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 5 of the Bill, for the words 'in any Province of India in which', the words 'by a Court in India within the limits of whose jurisdiction' be substituted."

Clause 5 of the Bill reads:

"Any offence under this Act may be inquired into, dealt with, tried and punished in any Province of India in which the person charged with the offence was apprehended or is in custody"

So, the provision is to this effect that if any offender is apprehended in any province, or is found in custody in any province, he may be tried in that province, but the unit of jurisdictions of our Courts is not the Province but rather the Sessions Divisions, or rather the Districts. It is mostly Districts, but it may be that a Sessions Division may consist of more than one District. So I would like to make the position clear by this amendment. If the amendment is accepted, the section would read like this:

"Any offence under this Act may be inquired into, dealt with, tried and punished by a Court in India within the limits of whose jurisdiction the person charged with the offence was apprehended or is in custody"

In fact a man has to be tried by a Court and there is no Court which exercises jurisdiction over the whole province except the High Court. Normally a Court which will try is the Court of a Magistrate. That is to be found at the end of the Criminal Procedure Code. So it is the Magistrate's jurisdiction which must be the starting point and therefore a Provincial area would be

[Mr. Naziruddin Ahmad]

wider than a Magistrate's jurisdiction. It is under these circumstances I should make it legally come under the control of a Court in India within the limits or jurisdiction of which the man was arrested or found in. It is simply removing the test as the 'Provincial area' by a provision to the limits and 'jurisdiction of a Court' in India. That should be the test under the Criminal Procedure Code under which he should be tried. This is a formal amendment and should be accepted.

Mr. Speaker: I am afraid the honourable member has ignored the point that the previous words of the amendment do not fit in with the subsequent words. that point?

" may be inquired into, dealt with, tried and punished "

Surely it will not be the business of a Court to inquire into an offence! Suppose the case is tried by a Court of Sessions, will it be the Sessions Court which will enquire into that offence? It will be a police enquiry.

Mr. Naziruddin Ahmad: The investigation is a police investigation.

Mr. Speaker: The previous words are: "may be inquired into, dealt with, tried and punished....." Therefore his words do not fit in. Will he consider that point?

Mr. Naziruddin Ahmad: The point may be reconsidered.

Mr. Speaker: Therefore he does not press it.

Mr. Naziruddin Ahmad: I press my point, but not the amendment.

Mr. Speaker: So I need not put it to the House.

Amendment No. 9 follows the same line as No. 8. The honourable member is not moving it.

Mr. Naziruddin Ahmad: No.

Mr. Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Shri S. V. Krishnamurthy Rao (Mysore State): With regard to my amendment No. 11 in list 2, may I know from the Leader of the House whether the object will not be served by issuing instructions to the Ambassadors and Consular officers at the time of their appointment, because I feel that we need not doubt the integrity of such officers.

The Honourable Pandit Jawaharlal Nehru: It is not a question of doubting their integrity but clarifying their position. It is more formally and precisely done here. It is better to be done here. I do not see any confusion or harm by putting this in here.

Shri S. V. Krishnamurthy Rao: I do not propose to move.

Mr. Speaker: Does Mr. Naziruddin Ahmad wish to say anything on this?

Mr. Naziruddin Ahmad: No.

Mr. Speaker: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Mr. Hossain Imam: I presume that all these rules will be published in the Gazette. There is no provision for it here. Perhaps, we may have an assurance from the Honourable the Leader of the House. That is the usual practice.

The Honourable Pandit Jawaharlal Nehru: There are many types of rules—major rules, minor rules and subsidiary rules. But normally, rules are published and will be published.

Mr. Speaker: I think, under the General Clauses Act there is some such rule.

The question is:

"That clauses 7 and 8 stand part of the Bill."

The motion was adopted.

Clauses 7 and 8 were added to the Bill.

Mr. Speaker: The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Pandit Jawaharlal Nehru: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (the Honourable Mr. G. V. Mavalankar) in the Chair.

INDIAN MERCHANT SHIPPING (AMENDMENT) BILL

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Minister for External Affairs and Commonwealth Relations): Sir, I beg to move:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, be taken into consideration."

Sir, this Bill consists of one single section, a very short and simple affair. Pilgrims proceeding to the Hejaz are required to produce certificates of vaccination against smallpox before boarding pilgrim ships. Till now this certificate had a period of validity of five years. Now the International Sanitary Conventions, 1914 reduced this period of validity of such certificates to three years. So we have to make new forms for this purpose and this requires an amendment of this Act, which had laid down five years. The Bill is a very simple one meant to substitute three years for five years.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, be taken into consideration."

The motion was adopted.

Mr. Speaker: There are no amendments. I shall take clauses 1 and 2 together.

The question is:

"That clauses 1 and 2 stand part of the Bill."

The motion was adopted.

Clauses 1 and 2 were added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Pandit Jawaharlal Nehru: Sir I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

DURGAH KHAWAJA SAHEB (AMENDMENT) BILL

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I move:

"That the Bill further to amend the Durgah Khawaja Saheb Act, 1936, be taken into consideration."

The amending Bill has got a limited objective and I hope, therefore, that the Bill will not be the subject of any controversy in this House. The object of the Bill, as has been made clear in the Statement of Objects and Reasons, is to terminate the membership of certain members of the Durgah Committee who on account of the Partition of the country have gone to Pakistan and the continuance of their membership is neither desirable nor possible.

In justification of this position, I should like to give, in brief, a history of this institution. The shrine at Ajmer is one of the oldest and venerated places of Muslim pilgrimage in this country and attracts persons from distant places, even outside India. A considerable amount of landed property was gifted to the officials of the shrine by the Mughal Emperors and by Daulat Rao Scindia in the early part of the 19th century. The total revenue of the *jagir* is now estimated at about Rs. 1,50,000 per annum. In addition to it large amounts are received annually in the form of donations and thank-offerings from pilgrims and devotees. The spiritual head of the shrine is the *Sajjadanashin*, while its temporal affairs are looked after by a *Mutwalli*. In 1936, an Act was passed for the better administration of the Durgah, but was subsequently amended in 1938. The amended Act is now in force. Under this Act, a Managing Committee was constituted consisting of 2 ex-officio members, viz., the *Sajjadanashin* and the *Mutwalli*, 18 members elected by various Muslim constituencies, e.g., the *Khadim* community of Ajmer, M.L.As of Central and Provincial Legislatures and other Muslims of Ajmer, one nominated by the Nizam and four *Sajjadanashins* of Chishti shrines coopted by the other members.

Unfortunately for the administration of the shrine and its funds, the Committee has been rent with factions and a certain amount of litigation for some time. The Partition of India has brought the whole problem to a head. The *Sajjadanashin* left Ajmer in September 1947 after having mortgaged some of his *jagir* and raised considerable sums of money in other ways including the sale of his household effects and gold and silver ornaments. He is now in Pakistan from where he is reported to be indulging in activities disloyal to this country. The Chief Commissioner has withdrawn his *jagir* from him under the Ajmer Land and Revenue Regulations and has taken in hand the selection of his successor. Seven out of the nine local members of the Committee who, in effect

conducted the affairs of the *Durgah* have migrated to Pakistan following the example of the old *Sajjadanashin*. As a result the administration of the *Durgah* came to a complete deadlock; only two of the members of the Committee and the *Mutwalli* were left and their right to manage the finances of the *Durgah* was not admitted by the bank.

In the meantime, the annual *Urs* at the *Durgah* was to take place in May and it became a matter of immediate necessity to have an active and lawfully constituted Committee in action as soon as possible. We accordingly promulgated an Ordinance on the 11th of May to amend *Durgah Khawaja Sahib Act* of 1936. By virtue of this Ordinance members elected from Sind, N.W.F.P., East Bengal and West Punjab lost their membership. We provided that three members would be coopted by other members of the Committee from among persons residing in any of the acceding States or in the State of Hyderabad.

The Ordinance would expire in November this year and it is therefore, necessary to replace it by an Act. Recently we have received very disquieting reports from the local administration in regard to the administration of the shrine. It is our intention to go rather closely into the many allegations of mismanagement and maladministration which are being made and to evolve suitable preventive measures and provide for efficient administration of the shrine, but the subject is one which requires careful consideration, and in view of the variety of interests involved it has not been possible to devise proposals for a permanent machinery to administer the affairs of the *Durgah*. For the present, therefore, we are doing nothing more than to make changes in the constitution of the Committee necessary on account of partition. The only change from the Ordinance which we have made is to eliminate the nominee of the Nizam and instead we have provided that the three members to be coopted would represent the acceding States and the State of Hyderabad. This, I think, is more in accord with the present position as well as the principle of eliminating altogether any Government nominee on this Committee. In the meantime, we shall look into the question of improving the affairs of the shrine and, if necessary, we shall approach this House for any further amendments of the Act that may be necessary later in the light of our examination of the whole position. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Durgah Khawaja Saheb Act, 1936, be taken into consideration."

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I rise to support the motion. This is a shrine in which the Muslims are very much interested and in which it is well known that some other communities are also interested. The present Bill is of a routine character and not at all controversial. It is a direct consequence of the partition of India and I believe the object of the Bill is to make consequential changes and such additions and alterations as have arisen out of certain political circumstances. But I submit that when further amendments are made, the wishes of some Muslim members who are more interested than others in this matter should also be considered. So far as the present Bill is concerned I have already submitted that I fully accept the measure.

Mr. Speaker: I believe there is nothing further to be said.

The question is:

"That the Bill further to amend the Durgah Khawaja Saheb Act, 1936, be taken into consideration."

The motion was adopted.

Mr. Speaker: We shall now take the Bill clause by clause. There is no amendment

Shri H. V. Kamath (C. P. and Berar: General): On a minor point of clarification, is it better to spell the word 'Durgah' as Durgah or as Dargah?

Mr. Naziruddin Ahmad: I submit, Sir, that the present spelling is in order. The original Act which this Bill tries to amend, spells it as 'Durgah'. The present amendment must be in conformity with the original Act.

Mr. Speaker: In any case, there is no fear of any mistake of identity about it.

The question is:

"That clauses 1, 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 1, 2 and 3 were added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

INDIAN ARMY (AMENDMENT) BILL

Mr. Speaker: I do not find any of the other Honourable Ministers in the House. What is the procedure to be followed?

Some Honourable Members: We might go home.

Mr. Speaker: I sent for the Honourable the Defence Minister immediately I saw the next item of business in the list. But it seems he is not available. I can suggest the course that though the Honourable the Home Minister is not conversant with the points about the next motion, he can as well move it. The next motion is that the Bill further to amend the Indian Army Act, 1911, be taken into consideration.

Mr. Naziruddin Ahmad (West Bengal: Muslim): But there are amendments.

Mr. Speaker: If the Honourable the Home Minister makes the motion, the honourable members who wish to speak on it may do so. Does nobody wish to speak?

Shri M. Ananthasayanam Ayyangar (Madras: General): I shall speak:

Mr. Speaker: The Honourable the Home Minister may move item No. 14 on the list.

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I beg to move:

"That the Bill further to amend the Indian Army Act, 1911, be taken into consideration."

Mr. Speaker: Motion moved:

"That the Bill further to amend the Indian Army Act, 1911, be taken into consideration."

Shri M. Ananthasayanam Ayyangar: Sir, it might look strange that I should rise to speak on this subject. If conscription should be introduced in this country I may not be fit to be conscripted because I am beyond the period. Therefore it evokes laughter from my friend in this House when I try to speak on the Army Bill. But I am interested and I can contribute a number of people to

defend the country the freedom of which we have achieved after so much sacrifice. Hereafter it is for us to consolidate our country and to see to it that it is defended properly. I welcome this measure.

The object of the Bill is this. There are forces in every acceding State and there are forces belonging to the Army in India. When joint action is necessary, who is to be in charge of the command of the forces? Hitherto it has been done by agreement between the States on the one side and the Government of India on the other side. That was on a temporary basis. Whenever they engaged themselves on a particular conflict or a particular engagement inside or outside the country, they agreed that for the time being, for the nonce, the person who is to be in charge of the forces should take charge of the command. This Bill seeks to place such agreements on a permanent footing without *ad hoc* agreements being brought into existence from time to time. It seeks to regulate the relations between the forces of Acceding States and Indian land forces, when acting together. The expression in the Bill is:

"When any of the forces of an Acceding State are acting with, or are attached to, any body of His Majesty's Indian Land Forces, whether within or outside the State, then all the provisions of this Act shall apply to such forces and the members thereof as if they formed part of that body of His Majesty's Indian Land Forces."

Similar things we have heard of even during the last war when the forces of Great Britain and the forces of France had to work together. I am only citing it for the sake of analogy. When allies have to join together and fight the enemy, there cannot be two commanders. Then both of them will spoil the broth. It is therefore necessary to place one of them in supreme command and the rest of the forces have to work under him. That is a very well known feature. For joint action one has to take the lead. The position with respect to the forces of the Acceding States and the Indian Forces is the same.

Some friend outside the House asked why the Naval forces are not included and brought within the scope of the Bill. I am not aware if any Acceding State has got any navy attached to it. If any huge navy is brought into existence by any Acceding State we will have to bring about coordination between the Royal Indian Navy and the other navy. As such there is no other navy and the Royal Indian Navy guards the entire ocean and guards the Acceding States as so. The Bill is therefore limited to the Land Forces raised and maintained by the Government of India on the one side and raised and maintained by the Acceding States on the other. For the purpose of joint action it is the Government of India that will appoint a person who will take charge of the supreme command and the existing forces will work under his guidance. That is the object of this Bill.

Then there are consequential amendments. In clause (2) of section 7 after the word "means" the words "a person of Indian nationality holding his majesty's commission in His Majesty's Indian Land Forces or" are to be inserted. That is, he must be a person of Indian nationality. Hitherto whosoever in charge could command and the object of this amendment is that a person belonging to Indian nationality alone should be in charge of the Forces.

This is a progressive piece of legislation and I would only ask the Honourable the Defence Minister with his very careful conduct of the defence of this country to see to it that we come by our own. This is an essential service and therefore we must not continue to be perpetually under the tutelage of foreigners.

I have absolutely nothing to say against the Commander-in-Chief who might maintain our Forces or train them properly for action. But that must only be for a limited period and steps must be taken to see that the defence of the country is entirely in the hands of our own men, whether they are taken out from acceding States or from the Indian Provinces.

[Sri M. Ananthasayanam Ayyangar]

Now, Sir, I am glad that the Honourable the Defence Minister has come back to take charge of his Bill.

Dr. B. V. Keskar (U.P.: General): Sir, I rise to support this Bill, but I consider that this Bill only tries to rectify certain inconsistencies existing at present, and certain inconveniences to which the Indian Army is put when the forces of acceding States are asked to join hands with the Indian Army. I submit that this is not sufficient. The Bill does not go far enough and I consider it necessary that very soon we should consider ways and means to see that the forces of Indian States are permanently assimilated and absorbed into the Indian Army. For the moment, this Bill applies only when they are asked to join, for example for certain purposes of war, the Indian Army. Then they are treated as part of the Indian Army. But otherwise they are autonomous; after the war they go back to their own State, the Indian Army has no more command over them and they also do not participate in the Indian Army.

This Bill is, no doubt, satisfactory as a make-shift arrangement, but it is necessary for us to see that the forces of the Indian States are permanently absorbed as viable units in the Indian Army itself. Otherwise, I consider that money is wasted because we know that some of the States forces are, from the point of view of equipment and efficiency, not at par with the Indian Army. If we absorb them into the Indian Army, we will see that they are as efficient and as well-equipped as other units of the Indian Army. No doubt, as the Honourable the Minister for States had once stated in reply to a question, keeping the States forces intact, though Defence is a matter which under the Instrument of Accession has been taken up by the Centre, is good for us because the States themselves pay for the expenses on their forces. I have no objection to the arrangement provided the efficiency of these armies is equal to ours, and at the same time they are, in equipment, in efficiency and organisation, at par with the units of our Army.

So, with the hope that very soon the Honourable the Minister for Defence will find out ways and means of bringing this into realization, I support the Bill.

Shri Mahavir Tyagi (U.P.: General): Sir, I must first congratulate our Honourable the Defence Minister that he is just in time; in his absence the Honourable the Home Minister was keeping the front quite warm. I must also congratulate the Whip who has brought him in time.

Sir, the Bill is quite good because it is a beginning to amalgamate the States forces with our Central Forces. But then there are one or two points which I would like the Honourable the Defence Minister to consider. The verbal objections I would not raise just now.

There is one point which strikes me and it is that the standard of the army which the States have been keeping till now with their limited resources, is not quite up to the mark. As far as I know, their pay is too small and sometimes people who do not deserve high offices have been given high ranks and offices. For instance, there is a State—I have just forgotten the name—a small State, on the border of which there are two or three small rivers. There is a military officer who controls the four or five small ferry boats pulled by men, and that honourable officer of the army is known as either the “commander-in-Chief of the Naval Forces” or the “Admiral of the Forces”. So, their ranks are sometimes too bombastic. Therefore, it would be a great clash if you give them a smaller name—those people will feel demoralised. And if you give the same names, it will be difficult for our seasoned Generals and Admirals to pay respects as they would in the case of those very ranks in our Army. So, it will be quite a serious job to adjust their ranks and arrange that those men in the State armies were quite hand in hand with men of our Army. But then if an adjustment is to take place as is provided in this Bill, we have also to keep in view the respective pay they receive. Now it is not logical to use

an army of a State along with your own Army, taking the same job and accepting the same sacrifice from them, and not paying them equivalent pay. So the question the consideration of which has been omitted from this Bill is that they must also draw equivalent pay. A soldier of the State army must draw as much pay as a private or soldier of your Army; so should the Lieutenants and other Commissioned officers. If they are to go on drawing their own pay, work and co-operation will not be quite ideal and complete. So, my suggestion is that the Honourable the Defence Minister must also consider the proposal whether he can introduce in this very Bill a sub-clause saying that all such officers, sub-commissioned officers or other ranks of the armies of the States, will draw the same pay as men holding equivalent contemporary ranks in your Army. (Pandit Hirday Nath Kunzru: ‘They do’.) I beg to differ. The soldiers of the armies in the States do not draw as much pay and allowances and rations as the people in our Army do. Anyway, if they do, that is very good. My friend Mr. Hirday Nath Kunzru knows better about the Army and his word may be taken as an authority. If they do, then the objection will fall. But the Honourable Minister may just decide and see whether his policy is to see that those people are paid the same pay.

Pandit Hirday Nath Kunzru (U.P.: General): When they serve with the Indian Army, all these things are observed.

Shri Mahavir Tyagi: Surely if these things are observed while the States forces serve with the Indian Army, then there was no need for this Bill at all. The Bill is to regulate how things are observed. Anyway, if they are given the same pay, I do not want to bother this House with my amendments or suggestions, but then the Honourable Minister has to say on the floor of the House that they draw the same pay.

Again, there are certain other changes which are called for. For instance there is a rank in this Bill known as the “Viceroy’s Commissioned Officer.” I would say that the Viceroy is no more and so the word “Viceroy’s” may be taken out of it: the Viceroy does not exist. Since the Viceroy does not exist, it may be “Governor-General’s Commissioned Officer” or something like that.

With these few observations I hope the Honourable Minister will go through this Bill as successfully as the Home Minister was carrying on in his absence.

Prof. N. G. Ranga (Madras: General): Mr. Speaker, Sir, so far as the limited object of this Bill is concerned, there cannot be very much disagreement. But what I want to know, and what the country wants to know, is: how long are we to have these so-called State Forces? There was a time when there might have been some need for these Forces because there was no responsible government in the States and any moment, it was feared by the then British Government, the people might rise against their own Princes; therefore, the Princes should be allowed to keep their Forces. It is also true as a result of past history that these Princes—many of them—used to have may be much bigger forces, and therefore they thought it was a sort of great concession they were making to the Paramount Power by agreeing to get on with only smaller Forces and so on. But now I do not find that there is such a great need for separate State Forces in all these various States. Sometime ago, the Honourable Minister for States, Sardarji, assured us that the Central Government had power to supervise over the equipment, the numbers—I do not know activities—of these States Forces and he had a Special Officer for that purpose and he sent him round also and we were told that he was going to Hyderabad also. But we have known in recent weeks how difficult it has been for the Central Government to really control the various activities of this Army, its equipment, its training, its strength and various other details so far as Hyderabad is concerned. We do not want a

[Prof. N. G. Ranga]

similar situation ever to arise in regard to any other State. Under these circumstances I personally feel that the Central Government would do well to take the earliest possible steps to put an end to these State Forces and relieve these Maharajas and their Governments and their *Dewans* and their Ministries from this responsibility of having to maintain separate State Forces and leave the whole of the responsibility of keeping the Forces to the Central Government itself.

Shri M. Ananthasayanam Ayyangar: It is one of the subjects where they have acceded.

Prof. N. G. Ranga: Yes, especially as Defence is one of the subjects in regard to which all the States have acceded, I do sincerely hope that it would be possible for our very strong Minister of States to put an end to this institution of separate State Forces stationed in various places and then to think of settling this particular necessity of adjusting their various ranks, pay etc. as compared to our own Forces.

Babu Ramnarayan Singh (Bihar: General): Sir, more than a year has passed since we are free. I expected a comprehensive measure to regulate the Indian Army. In order to govern the Indian Army there are very few laws and regulations. After the British have gone, the British Army Act by which partly this Indian Army was governed is no more. I think therefore that the Honourable Minister should have brought a comprehensive measure to regulate and govern the Indian Army.

Sir, I take this opportunity to draw the attention of the Honourable Minister to the manner in which the Department is administered. I have known something of this. As I said, Sir, there are very few laws governing the Indian Army, but so far as the Administration is concerned, it appears that everything is done only according to the orders of somebody. In everything you will find nothing but only high-handedness and arbitrariness

Shri B. L. Sondhi (East Punjab: General): You want orders of nobody?

Babu Ramnarayan Singh: Orders I want, but orders ought to be given according to certain law. For instance, according to the Indian Army Act, the punishment of Indian soldiers and officers

Mr. Speaker: I am afraid that discussion will be out of the scope of the present discussion. The honourable member must confine himself to the scope of the Bill.

Babu Ramnarayan Singh: I thank you Sir. I entirely agree that I should make no reference to that. But as I said, a comprehensive measure is urgently required to regulate the Indian Army and besides that, good administration is also necessary in the Department. I say it is more necessary. I shall finish in a minute or two.

Mr. Speaker: He may come to the Bill.

The Honourable Mr. Rafi Ahmad Kidwai: He has nothing to say on the Bill.

Babu Ramnarayan Singh: According to the Indian Army Act, the Commander-in-Chief alone or people authorised by him can give only minor punishment, but in the present Administration we find that even major punishments are given

Mr. Speaker: I am afraid the honourable member is proceeding to irrelevancy.

Babu Ramnarayan Singh: I will not proceed further, but a comprehensive measure is necessary to regulate the Indian Army and to put the administration of the Department on a sound basis. A very comprehensive measure is necessary and I hope the Army Minister will bring such a measure.

Shri K. Santhanam (Madras: General): I have just one observation to make. In the new clause 6A it is said:

"When any of the Forces of an acceding State are acting with or, or are attached to, any body of His Majesty's Indian Land Forces, whether within or outside the State."

This Act should be applicable even when the Forces of a State are acting under instructions of the Government of India without any association with other Indian Forces. When they are going outside India, they should be available and so I suggest to the Honourable the Defence Minister that the words "going outside the State or . . ." must be added to make it more comprehensive and to cover all possible cases. For instance, if the Jodhpur Forces are asked to go to Jaisalmer to protect them, they should come under this Act, whether they are acting with other Indian Forces or not. As it is, the provision is not sufficiently comprehensive. I suggest he may consider this point.

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I apologise to the House for being late when this Bill was taken up.

Babu Ramnarayan Singh: For the last time.

The Honourable Sardar Baldev Singh: This is a very simple measure and the criticism that has been made by honourable members seems to be a bit outside the scope of this Bill. The present Bill, the House will remember, is to replace the Ordinance that was enforced a few months ago. According to that Ordinance the King's Commissioned Indian Officers were not subject to Indian Army Act. The object of this Bill is to bring the King's Commissioned Officer under the Indian Army Act. King's Commissioned Officers were subject to British Army Act and after the 15th of August they were brought under the Indian Army Act by an Ordinance and the present Bill will bring all the King's Commissioned Officers under the Indian Army Act.

As regards the States Forces, I am afraid the criticism of Mr. Tyagi is based on some misunderstanding. The present object of the Bill is that all the States Forces which are with the Indian Union will be under the Indian Army Act. Where they are working or employed in a certain State or a Union of States, it does not make any difference. As soon as they come under or they work according to the instructions of the Indian Union, then they are under our control and it does not matter whether they are in a State or in Indian Union territory. So the defect that has been pointed out by Mr. Santhanam is really covered in this Section. Now, take the case of some of the State Forces which are at present employed in Kashmir. They are under the Indian Army Act and similarly, if those Forces are sent to some other State under the instructions of the Government of India, they will be subject to Indian Army Act and they will be under the orders of the Government of India.

Shri K. Santhanam: Then why do you want this Bill?

The Honourable Sardar Baldev Singh: The object of this Bill is that the State Forces when they are within their respective States—for instance, the State Forces of Jodhpur within Jodhpur State: they are under that States Union—they are not under our control. In that Union they are entirely under the control of that Union, subject of course to the over-all supervision of the Indian Union, because as you know Defence is one of the three subjects in respect of which the States have acceded.

Shri K. Santhanam: The question is whether they are under the Indian Army Act. If they are under the Indian Army Act, then this Bill is useless.

The Honourable Sardar Baldev Singh: In their own State, at present they are not and I am afraid, Sir, that it will not be possible to bring them under the Army Act in their State at present. This subject is being discussed separately. Now for the training of the State forces, the scale of pay of the State forces, etc. it is a subject which is being dealt with separately. A Committee is going into this matter and I hope they will be able to suggest

[Sardar Baldev Singh]

something by which we will be able to bring the training of the State forces and the scale of pay of State forces on the same level as the Indian forces.

It was also suggested, Sir, that the State forces should be amalgamated with the Indian Army. I am afraid, this is rather a ticklish question and I would not like to raise this at this stage. As I have already pointed out this matter is being dealt with separately and several meetings have been held and I hope that the Committee will be able to suggest some way out of this difficulty, but I can assure the House that it is the intention of the Government of India to bring about the training of the State forces, the standard of pay, etc. on the same level as that of the Indian Army.

Another criticism was made, Sir, about the removal of the word 'Viceroy'. That has already been done. Perhaps the honourable member did not notice this change that instead of this 'Viceroy's commissioned officers' the officers are now known as 'junior commissioned officers', (J.C.Os). That is all that I have got to say in connection with the Bill.

The other comprehensive Bill, that is, the revision of the Indian Army Act as a whole is quite a different subject and I am afraid, it is not possible to bring that Bill before this House for some time to come. In view of the changes that have taken place since the 15th August and the entirely new structure, the Army Act will have to be carefully revised and unless it has been carefully revised, it is not possible to bring that Bill before the House, but I am sure that when it has been thoroughly enquired into and suitable changes have been made, the Indian Army Act will be put before the House and the House will have the fullest opportunity to discuss and make any suggestions they may like.

Mr. Hossain Imam (Bihar: Muslim): In view of the statement of the Honourable the Defence Minister that the Viceroy's Commissioned Officers has been changed to that of Junior Commissioned Officers, would it not be better to change the word 'Viceroy's' into 'junior' in the present Bill? If the change has already been made, it is anomalous to have a provision in the Act mentioning the categories that does not exist.

Mr. Speaker: We shall see to that.

The question is:

"That the Bill further to amend the Indian Army Act, 1911, be taken into consideration."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 2 of the Bill, in the proposed section 6A, for the word 'are' wherever it occurs in line three, the word 'is' be substituted."

Sir, this is more than a mere drafting change. I think, Sir, in the interests of grammar, this is absolutely necessary. The House will be pleased to consider the structure of the sentences. It runs: "when any of the forces of an acceding State are acting with, or are attached to, any body of His Majesty's Indian Land Forces". The word "any" makes it a singular number and therefore the corresponding verb should be singular.

Mr. Speaker: Is "any" always a singular?

Mr. Naziruddin Ahmad: There are exceptions in the case of Government. We say, "The Government are considering" but this is to invest the Government with some dignity, but we say "This Assembly is of opinion" and not "This Assembly are of opinion."

Mr. Speaker: I am referring to the word "any".

Mr. Naziruddin Ahmad: The word "any" implies the singular. All the forces means any force, of several forces. There are several forces and the context

talks of any of the forces that is any force. When you speak of any force, the verb should be singular, unless we want to invest the forces with some amount of dignity, as we do in the case of Government or in the case of an editor or in the case of royalty. As we are not prepared to give the same amount of royal dignity to this Assembly, we say: "This Assembly is of the opinion" and we cannot say "Any of the forces . . . are acting with, or are attached to . . ."

Then again in the Army there should be some uniformity. They do not differ from each other but act as one body. So considered from that point of view also the singular is indicated. Sometimes we say, "the committee are of opinion". That is possible, but only from one point of view and that is when it is taken singly each member and separately. Then of course, we say "are", but when we take the Committee or Government as a single body without the plural significance, then they act as one and the singular verb is also to be used. That is the common acceptance of the situation. I submit, Sir, this change is necessitated by questions of grammar.

Mr. Speaker: I do not know whether the Honourable Minister accepts this.

The Honourable Sardar Baldev Singh: The present language is quite all right.

Mr. Speaker: "Any one of the boys" or "any of the boys?" That is the same thing.

Mr. Naziruddin Ahmad: I am absolutely clear on the point that it is singular.

Mr. Speaker: But the other view is also there. The question is:

"That in clause 2 of the Bill, in the proposed section 6A for the word 'are' wherever it occurs in line three, the word 'is' be substituted."

The motion was negatived.

Mr. Speaker: The second amendment seems perhaps to follow the wording of the original Act.

The Honourable Sardar Baldev Singh: I do not accept that amendment.

Mr. Speaker: It has to be followed consistently. Is the objection clear to the honourable member?

This is an amending legislation and therefore the phraseology to be used in this particular clause has to be the same as the phraseology in the original Act and therefore the phrase "His Majesty's Indian Land Forces" has to be here also. This answers also the objection of Mr. Hossain Imam.

Mr. Naziruddin Ahmad: After the 15th of August it would be wrong to say "His Majesty's Indian Land Forces". The fact that the Indian Army Act has not been amended in this respect is no ground for perpetuating a mistake. It is today an anachronism to say that the "Indian Forces" are "His Majesty's forces." The fact that it is so in the original Act is no reason why we should again commit the same mistake, provided it is a mistake, I think. We should accept the amendment and try to give retrospective effect to the Act itself.

The Honourable Sardar Baldev Singh: I do not accept the amendment.

Mr. Speaker: I do not think it is necessary to put the amendment to vote. The Honourable Minister will bear it in mind when he brings the comprehensive legislation.

Mr. Naziruddin Ahmad: In that case, I should move the amendment.

Sir, I beg to move:

"That in clause 2 of the Bill, in the proposed section 6A, for the words 'His Majesty's Indian Land Forces', wherever they occur, the words 'The Indian Land Forces', be substituted."

Mr. Speaker: The question is:

"That in clause 2 of the Bill, in the proposed section 6A, for the words 'His Majesty's Indian Land Forces', wherever they occur, the words 'The Indian Land Forces', be substituted."

The motion was negatived.

Shri Mahavir Tyagi: Sir, I beg to move:

"That in clause 2 of the Bill, in the proposed section 6A, after the words 'Acceding State', occurring in line 2, the words 'or of a Union of Acceding States' be inserted."

Sir, this amendment is a very simple one. My meaning in moving this amendment is, while you take into account the forces of the acceding States, many of the States having amalgamated together, those forces have now become the forces of the Union instead of one particular State. Therefore we may have the following words: "When any of the forces of an Acceding State or a Union of Acceding States." I want to add the words "or a Union of Acceding States" so that the forces, now not belonging to the particular State which has acceded, but the forces belonging to the Union, may also come under the Act.

Mr. Speaker: Is not a union of States, a State? A Union itself is a State.

Shri Mahavir Tyagi: If that is your interpretation, I do not want to move it.

The Honourable Sardar Baldev Singh: A Union of States does not really make much of a difference. My difficulty in accepting this amendment is that the whole question has to be taken together. There are certain States where the Union has not yet been recognised. As the Honourable the Speaker has pointed out, a Union of States is also a State. Really this amendment does not serve any useful purpose. I would request the honourable member not to press it.

Mr. Speaker: I need not put it to the House. About the other amendment, I am afraid, that is out of order, in the sense that it is beyond the scope of the present Bill.

Shri Mahavir Tyagi: Then, it goes out.

Mr. Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

The Honourable Sardar Baldev Singh: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, for the words, 'His Majesty's Indian Land Forces', the words 'His Majesty's Land Forces' be substituted."

Sir, this was left out by mistake, and the Law Ministry pointed out this at the last minute. Therefore, I have moved this amendment.

Mr. Speaker: Amendment moved:

"That in sub-clause (1) of clause 4 of the Bill, for the words 'His Majesty's Indian Land Forces', the words 'His Majesty's Land Forces' be substituted."

I should like to know how the position stands with reference to the clause which we have just adopted. There also we have used the expression "His Majesty's Indian Land Forces." There also a similar expression will have to be used.

Shri M. Ananthasayanam Ayyangar: May I ask, Sir, if the removal of the word 'Indian' will mean the Empire British forces? Why not after independence, restrict it to the Indian Land forces and why should we make the acceding

States also submit. I thought slavery had disappeared. Why should we put the yoke over the heads of the acceding States also. They have also got independence; we have also got independence. Let us not get back to the British Land Forces. We say, Royal Indian Navy; we say Royal Indian Air Force. Why should we say in the case of the Land Forces alone British Land Forces? I am unable to understand this correctly. After the so called independence we have got, so far as this is concerned, we are putting our neck round the halter. I am far from it.

Shri K. Santhanam: I oppose the amendment. I think it is wholly inappropriate because it will extend the scope of this Bill to include all the British Forces wherever situate. We are now bringing a Bill to bring certain State Forces under the Indian Army Act. There is no purpose in removing the word 'Indian' in the first clause or in the later clauses.

Mr. Naziruddin Ahmad: I also oppose the amendment, because, by adopting it we would be denationalising ourselves. The expression would read as His Majesty's Land Forces and we want to remove the word 'Indian'. (Interruption). This is a very objectionable thing. The result would be, as an honourable member has suggested, we would become Anglo Indian Forces.

The Honourable Sardar Baldev Singh: Sir, the amendment, as I have already said, has been suggested by the Law Ministry, on account of an omission made in the original Bill. The correct position is something like this. The definition of a K.C.I.O. is one who holds His Majesty's Commission in His Majesty's Land Forces. Any one holding a Commission in His Majesty's Indian Land Forces would be called an I.C.O., Indian Commissioned Officer. If clause 4 sub-clause (1) of the Bill is allowed to stand as it is, a K.C.I.O. will not come under this Bill at all. The very purpose for which this Bill is brought forward will be defeated. A K.C.I.O. will not come under the Indian Army Act. That is why this amendment has been necessitated.

Mr. Speaker: I have not followed the argument. If the word 'Indian' is to be deleted from clause 4, should it be retained in clause 6A which has just been added?

The Honourable Sardar Baldev Singh: I think it should be corrected wherever it occurs.

Mr. Naziruddin Ahmad: It occurs in four places.

Mr. Speaker: There is yet a third reading of the Bill.

Shri K. Santhanam: In any case, the word 'Indian' has to be in the first part.

Mr. Speaker: That is what I wanted to know.

The question is:

"That in sub-clause (1) of clause 4 of the Bill, for the words, 'His Majesty's Indian Land Forces', the words 'His Majesty's Land Forces' be substituted."

The motion was adopted.

Mr. Speaker: The question is:

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

The motion was adopted.

Clause 4 as amended, was added to the Bill.

Clause 5 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sardar Baldev Singh: Sir, I beg to move:

"That the Bill, as amended, be passed."

Mr. Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

INDIAN TELEGRAPH (AMENDMENT) BILL.

The Honourable Mr. Rafi Ahmad Kidwai: (Minister for Communications). Sir, I beg to move:

"That the Bill to amend the Indian Telegraph Act, 1885, be taken into consideration."

Sir, the scope of the Bill has been explained in the Statement of Objects and Reasons. It is to extend the application of the Telegraph Act to the acceding States. As communications is one of the subjects which all the States will have to accede to the Union, it is proposed to amend the different Acts in the Communications Department to make them applicable to the acceding States, and to the whole of India instead of the existing provinces. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill to amend the Indian Telegraph Act, 1885, be taken into consideration."

Dr. B. V. Keskar (U.P.: General): Sir, I welcome the Bill, but we were under the impression that the acceding Indian States had already surrendered their communications to the guidance of the Central Government. We were all under a misapprehension and we find that we still have need to amend the Act to give us power in the matter of telegraphs and other relevant matters. I submit that with regard to other communications, with regard to ports, with regard to civil aviation

The Honourable Mr. Rafi Ahmad Kidwai: All that was done in the last session.

Dr. B. V. Keskar: I submit that with regard to Posts the matter is not very clear.

The Honourable Mr. Rafi Ahmad Kidwai: Already the necessary amending Bills have been brought before the House.

Dr. B. V. Keskar: Sir, I hope that, as it is written in the Instrument of Accession, all the communications would be effectively in the hands of the Central Government as soon as possible. Sir, I welcome the Bill.

Mr. Speaker: The question is:

"That the Bill to amend the Indian Telegraph Act, 1885, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I beg to move:

"That in clause 4 of the Bill, in part (b) of the proposed section 35, for the word 'construed', the words 'deemed to include' be substituted."

I submit this will follow from the contest. Sir, I move.

The Honourable Mr. Rafi Ahmad Kidwai: Sir, I am not a grammarian and so it is difficult for me to understand the distinction between what is contained in the Bill and what is now proposed. But the advice of my legal advisers is that the language of the Bill is more suitable than the words proposed in the amendment.

Mr. Speaker: Need I put the amendment to the House?

Mr. Naziruddin Ahmad: No, Sir.

Mr. Speaker: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Mr. Rafi Ahmad Kidwai: Sir, I move:

"That the Bill be passed."

Mr. Speaker: Motion moved:

"That the Bill be passed."

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I want one doubt to be cleared about Hyderabad State and whether it would apply to that State. It is not an acceding State but there is a Standstill Agreement. So far as telegraphs and Communications are concerned, the Standstill Agreement keeps them going in those very terms which were in force before 15th August, 1947. Does this apply there also?

The Honourable Mr. Rafi Ahmad Kidwai: The honourable member must have noticed that instead of the word "provinces" we have substituted the word "India". So it applies all over the country without any exception.

Prof. N. G. Ranga (Madras: General): Sir, in the light of the Honourable Minister's reply I wish to express my dissatisfaction at the manner in which the Hyderabad State was allowed to be in possession of its own telegraphs and post offices. I wish the Government of India had taken sufficient steps to take charge of that side of administration also when they were concluding this Standstill Agreement.

The Honourable Mr. Rafi Ahmad Kidwai: Every State possesses post offices and telegraph offices besides our own offices in that State. That was the position in Hyderabad and that is the position in several States. That position continues and we have got post offices and telegraph offices. The State also has its post offices. The Standstill Agreement merely extends the arrangement that existed before and we have not surrendered any of our offices in the State.

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

COAL MINES PROVIDENT FUND AND BONUS SCHEMES BILL

The Honourable Shri Jagjivan Ram (Minister for Labour): Sir, I beg to move:

"That the Bill to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines, be taken into consideration."

As stated in the Statement of Objects and Reasons, this Bill is primarily meant to put on the statute-book an Ordinance which was issued in April last. In 1946 the condition in the coal mines was very disturbing and we had a

[Shri Jagjivan Ram].

series of disputes between employers and employees. Coal being the basic industry on which existing industries mostly depend and on which also depends the future industrial development of the country, Government were very anxious to stabilise the labour forces in the coalfields. With that end in view we appointed in 1947 a conciliation board. The board gave an award which was accepted unanimously by the employers and the workers. We then proceeded to give effect to the recommendations of that award. One of the items recommended in that award was the introduction of provident funds for the coal miners. It also recommended that a bonus linked with attendance and production should be paid to the employees. The employers agreed to pay the bonus as well as to create a provident fund for the coal miners. In order to have legal sanction to this agreement we issued an Ordinance and under that Ordinance we have already formulated a bonus scheme which is working. We have also under our examination a provident fund scheme which will be soon issued. The bonus is being regularly paid to the employees there, and we have also asked the employers to deduct the amount of the provident fund contributions from the bonus of the qualified workers. We have also asked the employers to contribute their share of the provident fund. It will amount approximately to one anna in a rupee of the basic earning of the employees and the employers will also contribute an equal amount. The very important features of the provident fund scheme are that it is being experimented in an industry where the workers are not organised. It is easier to introduce any provident fund scheme in a factory where regular registers of workers are maintained.

But those who have any knowledge of the working conditions in the coal mines, will agree with me that a vast majority of the employees in the coal mines are casual workers. At intervals they return to their native homes where they are engaged in harvesting or other works connected with agriculture. It is only for short periods in the year that they go to the coalfields in order to supplement their income from agriculture by what they can earn in the coalfields. So the employers have taken the view that it is a tough job to introduce such a provident fund scheme for casual workers. But all the same, in spite of all these difficulties, we are determined to make it a success because on the success of this scheme depends the introduction of provident funds for the workers in this country in various unorganised industries.

Sir, I do not want to make any long speech. This Bill is a simple one but it has great potentialities and I hope the House will unanimously accept my motion.

Mr. Speaker: Motion moved:

"That the Bill to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines, be taken into consideration."

Mr. R. K. Sidhva (C. P. and Berar: General): Sir, this Bill as the Honourable Minister has stated is the result of the Ordinance promulgated by him last April, and I congratulate him for having promulgated an Ordinance to establish a provident fund for the workers in coal mines. This Bill, Sir, although restricted to a particular class of workers, I heartily welcome. Whatever small measures, which are really overdue to the workers, are brought by this Government, will be really welcomed not only by the House but by the workers outside who are working in industries and other spheres.

It was also suggested, Sir, that the State forces should be amalgamated by Shri K. Santhanam (one of the panel of Chairmen).]

Sir, the provident fund is really a necessity and it is considered overdue for that class of people, who after their hard work of 25 to 30 years, could lay aside some amount in their old age for the maintenance of themselves and their families. That is an established fact. But unfortunately employers in India

in their own interests have not realized this so far. The result is that differences and bitterness between the employers and employees have increased. A great deal of tension could have been avoided if the employers had arisen to the occasion in establishing in every industrial and other concerns a provident fund, and thereby cementing the differences which at present exist between the employers and employees. For their mutual trust and confidence, Sir, I do feel that the employers even now should realise that they themselves should introduce this scheme and that they should not allow the Government to bring in a measure whereby they would be forced to introduce such a scheme: whereas if it were introduced by themselves, it would be more welcome than if the scheme were forced upon them by Government. But we cannot help it. If the employers are so unreasonable, then the Government have to intervene and we are very glad that we have an Honourable Minister who, today, realizes the interests of the workers and who has at heart their real interest and all the time he is alert to see what the employees actually need. I would have rather wished that he had brought forward a Bill of a comprehensive nature, giving provident fund to every employee—people engaged in house-building, quarry workers and workers in very many other industries. But he has told us that this is an experimental measure. I do not see why the provident fund scheme should be still experimented with. It is absolutely essential if industry is to progress. Industrialists must be told how necessary it is for the good of the country and for themselves as well, that all these potential measures without loss of time should be introduced.

In the last Assembly Session I introduced a Bill for the establishment and grant of provident fund to all classes of workers by their employers. This Bill, makes provision for all the workers. Today, there are casual workers, as I stated, in docks, wharves, jetties, and tramways. They have no provident funds and they are the employees of the essential services. Although Government have come to the aid of the employers in declaring certain of these services as essential, yet no provision has been made for provident fund, although they belong to the essential services. As such when any employee gets an appointment elsewhere, on a higher salary he is precluded from applying because under the Essential Services Act there is a clause that they will be penalized if they leave their present employers without the latter's consent. Bearing in mind this factor, I hope the Honourable Minister, as he is always ready to help the workers, will kindly bring in the provident fund scheme at least for the jetty and dock labourers, who are really large in numbers, so that they may get the same facility as we are today providing to the coal mine workers.

My Bill, as I stated, definitely mentions what kind the provident fund would be. Here in this Bill the Honourable Minister has introduced a scheme whereby there will be a Board of Trustees who will function for the purpose of this provident fund and the bonus scheme. The Bill does not mention what the employers will contribute but he was good enough to say in reply to a question from me that the employees contribution would be one anna per rupee, which is the quota also that the employers would contribute. Generally in most of the companies, the employers give in some instances double, and in some one and a half, the share of the contribution of the employees. I do feel that the employers ought to be generous in view of the large profits they make and give a larger share than what the employees give. I do feel that there should have been a proviso that such and such amounts should be contributed by employers and employees. That would have given us an opportunity to move our amendments. But unfortunately the Honourable Minister has devised a new method, which of course may be beneficial, or it may not be so! I would have really preferred that the amounts should have been mentioned in the Schedule to this Bill.

I do not know whether the Board which shall be formed will also see that on these contributions interest also will be given to the employees. Under the

[Mr. R. K. Sidhva]

Provident Fund Act all this money has to be kept absolutely separate and the interest accrued should be due to the employees. In some provident funds there is a proviso for compound interest. I do not know what is the idea as far as the interest is concerned for this class of coal mine workers, whether the trustees in their agreement or whatever the memorandum may be called would mention the interest as well as the contribution of the employers and the employees. I would like to be more enlightened on this. If the scheme has not yet been finalised I would suggest to the Honourable Minister to see that the employers' contribution is more, if not double or $1\frac{1}{2}$, it should be at least somewhat more than what the employees give. That will be a really generous attitude on the part of the employers or industrialists. I am intentionally using the word "generous", although I consider it their duty to contribute and satisfy the workers who today bring in larger revenues and profits to these industrialists.

Having said all this, I certainly again congratulate the Honourable the Labour Minister for always being alert and in every session of the Assembly bringing in one or other kind of legislation for the benefit of the labourers and workers. I am very happy and I am sure a large section of the House is also happy and the workers will always remember him, because whereas in the previous assemblies these workers were absolutely neglected there is in this Free India today a Minister who does not forget the labourers and he brings in some measure or the other in every session.

Shrimati Renuka Ray (West Bengal: General): Sir, I rise to support this measure, which as the Honourable Minister told us, seeks to ratify an Ordinance which has already come into being. Speaking on this Bill I am reminded of other days, of a time when a different government was in power. Some of us who are still here today, such as my honourable friend Prof. Ranga, will remember that in spite of every effort on our part it was impossible to make the Government understand the vital need for bringing in amenities for the mine workers. The whole subject came under the public eye and the attention of the predecessor of this Assembly was drawn to this subject at the time when the question of the withdrawal of the permission for women working in mines was done without the consent of the people of this country. In spite of every effort that we made at that time for amenities to coal mine labour it was very difficult to get a start with and when it did come it came very slowly. At that time it would have been impossible to suggest a scheme of provident fund or a bonus scheme, for much less that we asked for was denied. As soon as this measure goes through this House perhaps in a few hours it will be placed on the statute book and this shows the tremendous changes that have taken place.

My honourable friend who preceded me referred to the fact that the Labour Minister has brought some very good pieces of legislation for workers. I wholeheartedly endorse it. I would say more. It is not merely bringing of laws on to the statute book that will help us, but it is the implementation of such schemes that is most important and I would say that the Labour Minister has shown that he has a very practical insight. He not only plans and has legislation passed but he realises the very great need to see that these plans are executed properly. To a very large extent the execution of such plans depends on the co-operation not only between the provinces and the Centre but also co-operation between the employer and labour. So when my honourable friend Mr. Sidhva says "Why don't you make it more precise, get the employer to subscribe more and ask him to be more generous" I feel that this is idealistic. What the Honourable the Labour Minister is trying to do is that if we can get this done we will get as much as we can possibly do for the present. This is the first time that a provident fund is being established for labour, which is really casual labour. As we all know labour in mines is

not permanent in the sense that the mines does no work right through the year. For this reason it is very much more difficult to bring in any kind of provident fund scheme and work it properly than in any other type of labour. So to a large extent it must be experimental in the beginning. Sir, I support the Bill as it is and I do not agree with my honourable friend that we can do anything more about it at the moment.

In regard to the other suggestion that we should have such schemes in all other types of labour I agree with Mr. Sidhva. But here also it is not merely the passing of legislation that matters but its implementation. It is perhaps better to go a little slow in passing legislation, so that we can get these things implemented when the legislation has been passed. It would be no earthly use if we had a whole heap of legislation enacted and put on the statute book and when it came to putting them into operation we found that we could not go ahead with them. My praise for the Honourable the Labour Minister is more on this aspect that he realises the realities and difficulties and in spite of it he goes ahead with legislation. He is not just an idealist. I do not have any quarrel with idealism: I believe in it. But in regard to these matters one must have a practical attitude: otherwise one cannot go ahead. Sir, I support this measure. I am sure there cannot be a single member in this House who does not support it and I do congratulate the Honourable the Labour Minister for the manner in which he has gone on with labour legislation.

Dr. P. S. Deshmukh (C.P. and Berar: General): Sir, there cannot be two opinions with regard to either the desirability of this legislation or the fact that the Labour Minister has been looking after the interests of labour in India to the best of his ability and to the largest extent possible. The honourable speaker who preceded me seemed to differ from the points raised by my honourable friend Mr. Sidhva. I for one am more in agreement with my honourable friend Mr. Sidhva. The first point I would like to make is that the Bill appears to follow more or less wholly the terms of the Ordinance. I wonder if it was so practically impossible to alter the terms of the Ordinance and to have brought before the House a legislation different in character from the one we have before us. For instance, I would like to ask whether it was not possible to say that every worker in a coal mine shall by the very fact that he works in a coal mine get a provident fund and a specific bonus, and whether it was not possible specifically to provide in the Act itself that he should get it *ipso facto* without its being made dependent on the fact that Government will frame a scheme notify about it. Then the rates will be published and made applicable. I would also like to know whether it was not possible. When we are going to place on the statute book a permanent legislation, to make it compulsory in the case especially of the mine workers. When we work such a scheme of compulsory provident fund and bonus in respect of the mine workers, then probably in a year or two it might have been possible for us to extend the same benefits, as my honourable friend Mr. Sidhva has so earnestly suggested, to the Port Trust Workers and others. If it is possible I would like the same benefit to be given to Port Trust and similar workers as a matter of course. If it is possible to alter the terms of the enactment I would like it to be made absolutely compulsory for every employer that he shall pay to every mine worker a specific provident fund and bonus. A mine worker would thus get a provident fund *ipso facto* as well as bonus and it would not be necessary for the Government to interfere at every stage or to frame a scheme or to lay down any varying rates.

Sir, it has been pointed out by the honourable speaker who just sat down that there will be many practical difficulties. I should think it will be far easier to work out this sort of scheme because then I do not think any Inspectors even will be necessary. Every employee will be entitled to get it and he who does not get it will be entitled to demand it. In that case I think that the appointment of Inspectors and all provisions which are consequential would be

[Dr. P. S. Deshmukh].

unnecessary. The labour welfare officers who are already employed may be able to look after this matter and see that the provident fund benefit and bonus are given.

There is another point where I am in the fullest agreement with my honourable friend Mr. Sidhva and that is that the employers ought to pay something more than the contribution that the employees would make. We have Sir, the instance of teachers working in private institutions. The teacher pays about half an anna in the rupee, the private management pays half an anna and the Government pays one anna. So, for every half an anna that a teacher contributes from his own funds, the total provident fund he gets comes to about 2 annas. In the present case his contribution is likely to be 50 per cent. The point has been kept rather vague, but the idea of Government in all probability is that the employer will not contribute anything very much more than what the employee does. I would press upon the Government that the contribution of the employer should be double that of the employee. Otherwise the whole sum would be trivial and insignificant, and I do not know whether it will be worth while giving him this insignificant amount. It will be half his own sacrifice and he will be getting just one anna in the rupee. The trivialness of the amount may also make the whole effort not worth while. I would like to press this point of view upon the Honourable Minister.

If the two points that I have made are likely to appeal to the Honourable Minister I would like to make a third point and that is to suggest that this Bill may be referred to a Select-Committee to thrash out these two points, and if it is possible to amend this Bill and bring in this very Bill in a different shape which will contribute automatically to the welfare of coalminers.

Mr. Chairman: Has the honourable member tabled a motion to this effect?

Dr. P. S. Deshmukh: I have not.

Mr. Chairman: Then it is a suggestion which cannot be operative now.

Dr. P. S. Deshmukh: The Honourable Minister could withdraw the Bill and bring in a new Bill. That course is open to him.

These are the two points I wish to make and if the step I have suggested were to be taken by the Honourable Minister we would be saving much of the time of the House and we would be conferring a real and a lasting benefit upon the employees. I know the Honourable Minister has the benefit of the labourers really at heart. Probably it was due to pressure of work that these two points escaped his attention. I therefore think he might do well to consider my suggestions for making the Bill still more effective and take the steps I have suggested.

Mr. Hossain Imam (Bihar: Muslim): While welcoming this measure I wish to sound two notes of warning. Firstly, I find a tendency that we get skeleton laws passed in the Constituent Assembly and the details are left to be filled by the executive which deprives this House of the right and utility of furnishing suggestions and making the law more complete, more useful and more comprehensive. I agree that there is a world of difference between a foreign government and a national government whom we can trust. But after all is said and done let us realize that the trust which we impose is not a trust on the Minister alone; it is a trust on the permanent executive who are there. Are they as much conversant with the condition of the people, living as they do in the

seclusion of the secretariat, as the members of this House who have everyday to come in contact with the people and know where the shoe pinches? I therefore suggest that in future we should have more comprehensive measures, giving a smaller amount of rule-making power to the executive than we are doing in this measure. The whole of this Bill is just an enabling one and we have not got any concrete thing to build the house on.

Secondly, I wish to sound another note of warning, namely, that we have been during the past concentrating on ameliorating the condition of the labour without trying to improve his outturn. As is perhaps known, India is among the last in the raising per man per hour of coal. The best results are obtained by Russia; the second by U.S.A.; and England is fairly high up in the list of the efficiency of coal miners. The Indian coal miner is the worst. And the greatest reason for that is his absenteeism, his laziness and his want of—if you will excuse my saying so—the urge to earn more. May I mention that the condition of the labourer is that as soon as he gets some work in the village he leaves the coalfield, no matter however high he is paid, because he feels he has got his own work to do in the village, his own lands to cultivate. He is absent for three to four months. What I suggest is that in making the rules for this Provident Fund you can so arrange things that it will be more advantageous to the labourer to remain a constant labourer rather than be a periodical one. Today you have got experts in every walk of life. Mining also requires men who know their job and who have the power to do it. I agree that the conditions of the mines are such that it is conducive to the health of the miners for them to absent themselves at times for short spells, but not for long spells. I therefore suggest in framing the rules for the Provident Fund, care should be taken to give the coal mine worker an inducement to be a more regular worker, and in the bonus scheme we should take care that he should improve his work, that he should become more expert and raise more coal than he has been doing. I have to make these suggestions in general terms because the Bill does not provide for them. I know amendments could be moved, but I am perfectly confident that the Honourable Minister and his Secretary are so wide awake and so keen to help labour that when the final scheme is framed I hope all these things will be taken into consideration and our labour will improve and will be a better labour.

Prof. N. G. Ranga (Madras: General): Mr. Chairman, Sir, if Ordinances are to be welcomed at all at any time, they are welcome specially for a purpose like this. Generally they are obnoxious to me and I am sure they are obnoxious to this House, but this is one Government, anyhow in the history of our own country, that has resorted to Ordinances in order to improve the conditions of our labour, and that I consider to be a great feather in the cap of my honourable friend Mr. Jagjivan Ram.

Sir, my honourable friend Mr. Hossain Imam was rather critical of labour in our country, and especially mine labour. I wish to tell him that if their output is so low it cannot be their own fault. The conditions of employment provided by the employers are themselves to a very great extent responsible for it.

Mr. Hossain Imam: I come from that part of the country where coal is mined.

Prof. N. G. Ranga: Yes, I know. But my honourable friend ought to know that the conditions of employment and the implements they are provided with are not half as good as they are in England or in other countries of the West. Under those circumstances you cannot very well expect our miners to show as good an output as the workers in other countries.

Secondly, Sir, he has accused them of being lazy. Why are they lazy? Is it simply because they want to be lazy? They are not lazy in their villages, they are not known to be lazy people in their own hill tracts. They become

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lazy here because they are not having enough to eat and enough of other comforts. Therefore, their lassitude, indeed their tiresomeness, is now general mistaken for laziness and then they are being branded as being lazy, and paid less also and accused in the manner in which my honourable friend has accused them.

Then there is this question of absence of incentive to earn more. This is an old, old argument trotted out by capitalists in the past, but I am surprised how my honourable friend who has evinced a great interest in labour has come to mouth this argument. It is an extraordinary argument. I do not think even these hill people, these Adibasis, are indifferent to any incentive to earn more. If that is so, then there would not have been these strikes, there would not have been this increasing absenteeism itself, there would not have been this unwillingness to go and work at the mines, there would not have been any necessity for this Board of Conciliation to suggest that emergent steps should be taken by Government in order to institute these two schemes of provident fund and bonus. It is because they were not being paid enough and they wanted to earn more and they could not get enough of earnings from these employers, that these people began to refuse work and for that reason all these schemes have had to be produced. Therefore, it shows that they do certainly have an incentive to earn more.

Then there is the third complaint, that is the complaint of absenteeism. Why is it there? I do not think, first of all, that the anxiety of these workers to go back to their own villages and cultivate their own fields and enjoy the rural atmosphere in their villages for a few months in any year is at all wrong. It is good; otherwise what would be the fate of these people if they are to be condemned to live at the pit-heads throughout the year under the conditions that prevail there—the dearth, the filth, the dust, the lack of proper housing accommodation, bathing accommodation and various other facilities that these workers much need—men, women and their children—and even educational facilities. Under these circumstances, I think it is very wise indeed on their part to be thinking of going back to their own villages, may be for a couple of months to replenish their health and also to look to their own fields, and come back to the mines.

Indeed, one of the results that this scheme is intended to yield is to minimise this absenteeism, to induce workers not to remain a day longer than necessary in their villages, to come back again so that they will become entitled to more and more of this bonus, more and more of this provident fund.

I wish to say that this indeed is a revolutionary measure. Take England, is there a scheme for provident fund for casual workers there? I have not come across any till now. In America or in the other countries of the West it has not been instituted till now. In this country this is being instituted today. As our honourable lady Mrs. Renuka Ray has said, we have been asking for a thing like this and we could not get it. This is really a sort of a leap in the dark because we do not know how it is going to work. Certainly it is an experiment, but if an experiment is going to be made in the social sphere then it is well worth making this experiment because if it succeeds then we will extend it to more than fifty million workers in this country. For instance, you have got your agricultural workers—not the day to day workers, you have got the workers employed on monthly contracts and workers employed on annual contracts; those people have till now not been provided with any provident fund. They have got to be provided with this scheme. Then it has got to be extended also to the day to day agricultural workers, too.

My honourable friend, the Minister in charge has told me that it is not necessary that a worker should stick to any one particular mine. It is enough so

long as he works as a miner; it does not matter if he moves from one mine to another. All that he has got to do is to take a discharge certificate from one mine owner and go to another and get it notified there in the other register that he has been admitted. That is enough for him, and everywhere he will be provided the necessary facilities for provident fund as well as bonus. Therefore, all that the worker has got to do is to be loyal to that particular industry, that is the coal-mining industry. So long as he does that he is assured of these two facilities.

Similarly, if the same facilities were to be extended to agricultural workers also, or even to textile workers, dockyard workers and the jetty workers and the ordinary transport workers in our towns, and so on, you would then find that the object that my honourable friend Mr. Hussain Imam has, that is to induce more and more workers to stick to their work and thus become specialists, and therefore increase their skill and so on, would soon be achieved through similar schemes than through any other imaginable method. Therefore, I have no hesitation whatsoever in calling this a revolutionary measure and an excellent experiment and I do wish it every possible success.

Shri Khandubhai K. Desai (Bombay: General): While I, Sir, accord my full and wholehearted support to the Bill before this House, I would like to make a few observations. The condition of the mine workers was the worst in this country among the industrial workers and their condition being the worst, it created during the last few years a very serious situation in the country, because if coal production does not come up to the expected level other industries will suffer. Under these circumstances I believe it right that the Government thought that something requires to be done in order to satisfy the miners and to keep them on the mines with a view to have more production. Therefore, it is a matter of real satisfaction that the lowest rung in the ladder as far as workers are concerned, has been for the first time considered and their conditions sought to be improved. I am quite sure that the Honourable the Labour Minister, if he had more time at his disposal, would have brought a really comprehensive measure which might be applied to the employees working in other established industries in this country. I think that the Bill before this House is not the last word, but as a matter of fact, it is the first word in this piece of legislation. I do not look upon this Bill, as some of my friends have said, as an experimental measure. It is not an experimental measure. It is the first step towards something which ought to have permanent character in this country (Prof. N. G. Ranga: 'Hear, hear') and we, Sir, as far as provident fund and pension is concerned, cannot afford even to think of the failure of either a provident fund scheme or a pension fund scheme. It has to come in and I think it may be that this is just probing what we can do (Prof. N. G. Ranga: 'Say a glimpse into the future'), but not with a view to experiment. It is with a view to take further steps not in the remote future but in the immediate future. If this Bill can be applied and is going to be applied to the coalmines, there is no reason why such a Bill cannot be made applicable to four or five established industries in the country like, cotton, jute, plantations, docks and others. I also feel, Sir, that though the scope of this Bill is very limited in its extent, it gives us an idea as to what can be done for the employees working in the industries.

Sir, something was said about absenteeism of the workers, about their low efficiency and about their laziness. Let us look at this question from a different angle. Have these people up to now been treated as responsible citizens of this country? Of course, every one will at once admit that they have not been treated as responsible citizens of this country. They have had no self-respect; they have had no voice either in the administration of the industry or in the administration of the Government. Now that, under the new set-up, they have got adult franchise, it is they who are practically the rulers along

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with all other adult population of this country. The provident fund scheme does give them a sort of self-respect, a sort of security. Assuming for the sake of argument that most of the Secretariat employees today working in the Government, municipality or such other institutions and who are called, "white collar employees", are deprived of the provident fund schemes which they are enjoying, are also deprived of all the pension schemes which they are enjoying, will they work as efficiently as they work today? The question of provident fund or pension is as much in the interests of the employees who are working as it is in the interests of the nation, and therefore, Sir, I hope this Bill is, as I said, the first word in such legislation and not the last word, and at the earliest opportunity,—and the earliest opportunity that I visualise is the Budget Session—so in the Budget Session I hope the Honourable the Labour Minister will bring in a comprehensive Bill wherein not only the outline of a scheme but a full scheme which can be made applicable to all the industries will come before this House.

With these words, I wholeheartedly support this first word in such legislation.

The Honourable Shri Jagjivan Ram: Sir, I had no intention of giving any comprehensive reply to the debate, but a few questions have been raised which demand a reply from me. Complaint has been made that such measures encourage absenteeism and reduce efficiency, whereby production suffers. This is an idea, Sir, which has been created by the employers in this country in order to condemn the working class. If one were to analyse, one will find that the workers in India are not less efficient than workers in other countries. As regards the coal industry I may inform the House that the employers experimented with imported labour from England and Canada and they found that the Indian miner was more efficient than others. (*Some Honourable Members:* 'Hear, hear'). Some friends here compare the production per man hour. It is very easy to compare the figures of production, but I would ask those friends to compare the figures of earnings as well. If a miner in England produces one-quarter of a ton and if a miner in Jharia or Dhanbad produces one-eighth of a ton naturally one will say that the production of the Indian miner is 50 per cent of the English miner or that the efficiency of the Indian miner is less than that of the English miner, but if one were to know that the wages of the English miner is four times that of the Indian miner, one will come to the conclusion that the Indian miner produces double what the English miner produces and thereby the efficiency of the Indian worker is hundred per cent. more than the English worker. This is a very simple fact, Sir, but it has always been ignored because the employers, having all the possible vehicles of propaganda under their control, have created a fog by which the realities have been screened.

As regards production, it has been a cry that production is suffering. Is only the labourer responsible for the fall in production? Are there not so many other factors which contribute to increased production? Have we been able to remove all the defects by which production is suffering? If production is suffering, we cannot throw the entire blame on the working class. So far as my experience goes, Sir, after the Industrial Truce Resolution I can say with some pride that the working class has responded very manfully and very courageously to our call, and if we have been deceived and disillusioned, we have been disillusioned by a large section of the employers. Production in textile industry has increased. Today production in coal industry has increased and I am faced with a large number of retrenchments and dismissals in the coalfields because there has been overproduction in the sense that there are no transport facilities and raising has to be stopped. If production suffers on

that account, that is no fault of the worker. So we cannot say today that production is suffering on account of the workers. Our machineries in factories have grown old; we have not been able to repair and replace them for the last eight or ten years. Have not all these factors contributed to a decrease in production? The cost of living is soaring very high. Only this morning I was examining how many strikes were declared due to non-implementation of Awards recommending increase in dearness allowance and I was surprised to find, Sir, that most of the strikes were due to this factor or due to demand for increase in dearness allowance. Most of the stoppages of work were due to this reason and considerable mandays were lost. So when we stand up and blame the workers for a fall in production, we should also look to the other factors which contribute to a decrease in production. And if we are to examine that we will not blindly blame the workers alone.

As regards absenteeism, when last year, we were insisting for increasing the wages of the coal miners, the same plea of absenteeism was urged by the employers that if the earnings of the workers were increased, there will be a tendency on their part not to work for more days in a week than they were working before. But the employers have been disillusioned. The attendance has increased. We took particular care to link bonus with production and attendance, and I may inform the House, Sir, that we are going to link this Provident Fund with attendance as well.

My honourable friend, Mr. Sidhva was anxious that Provident Fund should be introduced for all industries and that the employers should voluntarily do this in their concerns. Mr. Sidhva during the last session introduced a Bill to that effect. I do not agree with that view. I do not want individual employers to institute provident funds for their employees alone. I want provident fund on an industry basis or on a regional basis. If the provident fund is on an industry basis, as it is proposed today here, the workers stand to gain. Today the employers are decidedly in a better position than the workers and if the provident fund is only for a single unit of an industry and if the worker is discharged or dismissed from that factory, he loses the benefit of a provident fund. But here even if a worker is discharged from one colliery and if he gets employment in another colliery, his provident fund is not forfeited. His name exists on the register of the provident fund. The only difference is that the employer's share of the contribution will be realized from the new employer, but the worker will all along remain on the register and he will have the benefit of the provident fund. And, therefore, I will request my honourable friend, Mr. Sidhva to revise his idea and he should always insist that the provident fund should be either on industry-wise basis or region-wise it should not be factory-wise.

Another point has been raised and that is, that the employer's share should have been greater than the employee's share. Sir, as I said in the very beginning, this scheme is based on an award of the Conciliation Board, which was voluntarily agreed to between the employers and the employees and one of the terms of that agreement was, that compulsory contributory provident fund will be instituted in the coalfields, the contribution of the employers and the employees being equal. It does not look dignified on our part to alter the terms of that agreement. It is to give effect to an agreement and therefore the contribution from the employers and the employees will be equal.

As regards introducing or instituting provident fund in other industries, we stand committed to that. There is no shirking that responsibility. If our country has not reached a stage where we can think of old age pension in the near future, this is the least that we can do at this stage and we have to do it. And when I said, Sir, that this is an experimental measure, I did not mean that a provident fund is an experimental measure. What I mean to say is that we have to gain experience of its working before we introduce it in other

[Shri Jagjivan Ram]

industries; not that I mean to say that if this experiment fails, the future of provident fund in this country is doomed; that is very far from my conception. I have been working on this scheme for the last six months. I know what difficulties we have to face. Dr. P. S. Deshmukh suggested that all the employees in the coal fields should have been brought on the register and this scheme should have been introduced to all of them. Had he some idea of the working of the coal fields, he would not have said that. The worker goes to a coal field, works for a few weeks, finds the work un-congenial and returns to his village and will never go to the coal fields again for his whole life. Do you propose that his name should be registered, that all the formalities of instituting a provident fund on his behalf should be done with no benefit to him and a lot of botheration to the employer and to the staff that we maintain there? No. You cannot compare the workers in the coal fields to the workers in the factories and therefore, we have not brought a comprehensive measure before the House, because we have to prepare a scheme in consultation with the employers and the labourers there. For the last six months we have been formulating one thing and revising it again in consultation with the workers, their leaders, their unions and the employers and it is after these processes that we have been able to devise something by now.

As regards interest and things like that, I would draw the attention of my honourable friend, Mr. Sidhva to page 3 of the Bill, item 8 of the schedule. Of course, the workers will get interest; they will get compound interest the money that we will get, we will certainly invest somewhere where the money can earn; we will not allow the money to lie idle. It is, of course, a simple thing.

This, as I said, Sir, is a very simple bill, but I visualise it has great potentialities, in the sense that it is for the first time not only in this country, as far as my information goes, throughout the world, that a provident fund has been instituted for casual works. I wish to say a word about dock workers. My honourable friend, Mr. Sidhva is aware that last year we passed a Bill for the de-casualization of the Dock workers and the Act contains a provision that a scheme will be formulated for the welfare of the workers. That scheme may very well contain a provision of provident fund for the dock-workers. But quite apart from that, I may assure the House, Sir, that we are very anxious to institute provident fund for workers in various industries. It may not be possible to bring that Bill in the budget session because, as my honourable friend, Mr. Khandubhai Desai knows, our hands are already full for the budget session. He knows that we have already certain measures which the Government proposes to introduce in the Budget session and it may not be possible to bring that measure in the Budget session. But, it will not take a long time. Before a measure is brought before this House, it takes, as you are very well aware, a good deal of time of our staff to prepare that Bill. It is not simply the drafting of the Bill; before that, we have to work out the details and so many other things. I may not promise that I will bring the Bill in the Budget session. But, we are anxious that we should try to institute provident fund for other industries as well. I hope the House will accept the Bill.

Mr. Chairman: The question is:

"That the Bill to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines, be taken into consideration."

The motion was adopted.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I beg to move:

"That in part (b) of clause 2 of the Bill, for the words 'below ground', the words 'below the ground' be substituted."

The Honourable Shri Jagjivan Ram: I do not accept it.

Mr. Naziruddin Ahmad: I do not press, Sir.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 to 9 were added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 10 of the Bill, for the word 'jurisdiction', the words 'functions and powers' be substituted."

Sir, the text of the Bill says that the Central Government may define their jurisdiction. In fact, functions and powers would be more proper. Jurisdiction is more abstract. Functions and powers are more understandable and are concrete, it seems.

Mr. Chairman: I think the honourable member is under a misapprehension. His defines which Inspector will have jurisdiction over which mine.

Mr. Naziruddin Ahmad: If that is the idea of jurisdiction, I am not pressing this amendment.

Sir, I beg to move:

"That in part (c) of sub-clause (2) of clause 10 of the Bill, for the words 'cause to believe', the words 'grounds for believing' be substituted."

Sir, this seems to be more appropriate.

The Honourable Shri Jagjivan Ram: I do not accept it.

Mr. Chairman: The question is:

"That in part (c) of sub-clause (2) of clause 10 of the Bill, for the words 'cause to believe', the words 'grounds for believing' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clauses 11 and 12 were added to the Bill.

Mr. R. K. Sidhva: Sir, I want a clarification from the Honourable Minister as regards the scheme which he desires to propagate. If he would kindly enlighten us and give some of the details of the scheme, the House would be grateful.

The Honourable Shri Jagjivan Ram: I have already given outlines of the scheme. I cannot give the details at this stage. They are being formulated in consultation with the industry and the workers.

Mr. Chairman: The question is:

"That the First and the Second Schedules stand part of the Bill."

The motion was adopted.

The First and the Second Schedules were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

FACTORIES BILL

Mr. Chairman: Next motion: The Honourable Shri Jagjivan Ram:

Mr. R. K. Sidhva (C.P. and Berar: General): Sir, the next Bill may be taken on Monday. That is a big Bill.

Mr. Chairman: It may be started now and continued on Monday I do not think it is right to lose Assembly's time. I would suggest to the Honourable Minister to proceed with the motion.

The Honourable Shri Jagjivan Ram (Minister for Labour): Sir, I beg to move:

"That the Bill to consolidate and amend the law regulating labour in factories, as reported by the Select Committee, be taken into consideration."

Sir, in moving that the Factories Bill, 1948, as amended by the Select Committee be taken into consideration, I may be permitted to place before the House the salient features of the Bill and the more important changes sought to be made in the Factories Act, 1934.

The House will, no doubt, recall what I mentioned in the statement of Objects and Reasons, that compared to the provisions of the Bill submitted to the House, the Act of 1934 was not only limited in scope, but left many essential and vital matters to the rule making powers of Provincial Governments. This defect has been remedied in the Bill, and all minimum requirements, particularly in respect of health, safety and welfare in regard to which uniformity is most essential have been provided for in the Act itself. The rules framed by Provincial Governments will hereafter be confined to their legitimate role of making provision for the less important and incidental and procedural matters. The Bill differs from the 1934 Act in another important respect also and that is as regards the responsibility for deciding whether the requirements of the Act have been complied with by an occupier or not. The 1934 Act leaves far too much to the discretion of Inspectors, which in view of the specialised and hazardous nature of many processes, they are not able to discharge effectively. The Bill contains detailed provisions which will lift this burden off their shoulders. One of the main principles sought to be emphasised by the new provisions is that an occupier who takes upon himself the responsibility for a manufacturing process must also bear the responsibility for ensuring that it is carried on with due regard to the safety, health and welfare of the workers. He can no longer excuse himself from responsibility for defects by shifting it on to Inspectors. The scope of the Factories Act has considerably been enlarged and the distinction between perennial and seasonal factories done away with. A further important provision relates to the compulsory registration and licensing of factories. The previous permission in writing of the Provincial Government or the Chief Inspector is required for the construction and extension of any factory and plans and specifications have to be submitted and scrutinised before such permission is given.

I may remind the House that this comprehensive amendment of the Factories Act of which I have mentioned only a few salient features has received

the very careful consideration not only of Government but of the Standing Labour Committee and the Indian Labour Conference, both of which are tripartite bodies fully representative of employers and labour. While agreeing generally with the lines on which the Act was sought to be amended the employers' representatives were opposed to certain details such as the extension of the scope of the term "factory", the elimination of the distinction between seasonal and perennial factories, the pre-licensing of factories, the making of compulsory provision for the maintenance of canteens and the making of provision for accommodation for the storage of clothes and seating facilities. The workers' representatives disagreed with the employers' representatives on most of these points. They expressed satisfaction at the comprehensive nature of the amendments proposed by Government but were anxious that Government should be responsible for the treatment of sick workers and their maintenance during illness—matters which have since been taken care of by the Employees' State Insurance Act. They were also of the opinion that three kinds of factory Inspectors, viz., technical, medical and welfare, should be appointed and that children below the age of 15 should not be employed in factories. All these and a large number of opinions received from experts as well as the public were taken into consideration by the Select Committee.

As honourable members will see from the amended Bill placed before the House, the Select Committee made a number of important changes which have added materially to the usefulness of this important enactment. The new Act will be applied to all States acceding to the Centre in respect of labour legislation. The provision of a minimum standard of 500 cubic feet of space per worker in case of new factories, effective arrangements for the supply of wholesome drinking water and the provision of lunch rooms are some of the amenities which the Select Committee thought should be provided to add to the physical comforts of workers. The daily and quarterly limits of overtime have been fixed and the extent of the annual leave with wages has been raised from 10 days per year to one day for every 20 days of work in the case of an adult and to one day for every 15 days of work in the case of a child. Workshops belonging to Federal Railways have been exempted from the provisions of Chapter VIII in view of the fact that the leave rules of Federal Railways are more liberal than the provisions contained in the Bill.

I do not propose to take more of the time of the House with a detailed account of the measures placed before them. It is my earnest hope that the House will find the new Act a distinct improvement on the old. It may not come up to the expectation of all in some respects while some may consider that we are going too fast; but on a balance of the various considerations the House—let me hope—will find the measure appropriate to the spirit of the times. Legislative measures such as this have constantly to be kept under review so that weaknesses may be detected and improvements effected. This will be our constant endeavour. I now commend this Bill as amended by the Select Committee, to the favourable consideration of the House.

Mr. Chairman: Motion moved:

"That the Bill to consolidate and amend the law regulating labour in factories, as reported by the Select Committee, be taken into consideration."

Mr. R. K. Sidhva: Sir, we just now passed a measure on which the Honourable Minister was applauded from all sides of the House. With regard to this Bill I have to congratulate the Honourable Minister and also the members of the Select Committee because certain important suggestions made while the Select Committee motion was under discussion have been borne in mind and incorporated.

As the Honourable Minister just said, the Bill has come out of the Select Committee with some important beneficial measures which relate particularly

[Mr. R. K. Sidhva:]
to the removal of perennial and casual labour and providing better ventilation, which is the real grievance of the workers today in many industries. Particularly in old buildings where the textile industry is carried on in Bombay and Ahmedabad there is hardly any ventilation. The Select Committee have considered this point and have made a provision that ventilation shall be provided in the various factories. I do not know whether this provision will be applicable to the existing buildings or only to the new ones. If it applies only to future buildings I suggest that compulsion should be applied to old buildings also; otherwise the object will be nullified.

Mr. Chairman: The honourable member will see that such a provision is there in clause 16(2).

Mr. R. K. Sidhva: Thank you, Sir.

Then the Select Committee have made provision for a lunch room. I know that in several industrial concerns there are no arrangements for workers to take their meals. In commercial concerns there are lunch rooms and tiffin rooms where during the lunch-hour interval the clerks and others take their meals. I am glad that this facility has now been provided for industrial workers who require it all the more.

Mr. Chairman: The honourable member can continue his speech on Monday next.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday the 23rd August, 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES (PART II — PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Monday, 23rd August, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

PAPERS LAID ON THE TABLE

AUTHENTICATED SCHEDULE OF AUTHORISED SUPPLEMENTARY EXPENDITURE FOR 1948-49—OTHER THAN RAILWAYS

The Honourable Shri K. C. Neogy: (Minister for Finance and Commerce):
Sir, I lay on the table in pursuance of section 36 of the Government of India Act, 1935, as adapted, read with sub-section (1) of section 35 thereof, an authenticated schedule of authorised supplementary expenditure for 1948-49 in respect of expenditure other than Railways.

In pursuance of the provisions of Section 36 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947 read with sub-section (1) of Section 35 thereof, I, Chakravarty Rajagopalachari, Governor General of India, do hereby authenticate by my signature the following schedule of supplementary expenditure from the revenue of the Dominion for the year 1948-49:—

SCHEDULE

Service, Administration or Area to which Demand relates	Amount (in thousands of rupees,	
	Voted	
	Rs.	
99-A.—Capital Outlay on Sterling Pensions	2,16,27,18	
101.—Defence Capital Outlay	65,33,33	

NEW DELHI;

The 17th August 1948.

C. RAJAGOPALACHARI,
Governor General of India.

BOMBAY PUBLIC SECURITY MEASURES (DELHI AMENDMENT) BILL

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I beg to move for leave to introduce a Bill to amend the Bombay Public Security Measures Act, 1947, as extended to the Province of Delhi.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Bombay Public Security Measures Act, 1947, as extended to the Province of Delhi."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: Sir, I introduce the Bill.

TERRITORIAL ARMY BILL

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I beg to move for leave to introduce a Bill to provide for the constitution of a Territorial Army for India.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the constitution of a Territorial Army for India."

The motion was adopted.

The Honourable Sardar Baldev Singh: Sir, I introduce the Bill.

PAYMENT OF TAXES (TRANSFER OF PROPERTY) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I beg to move for leave to introduce a Bill to make provision for the payment of taxes before transfers of property are recognised in certain cases.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to make provision for the payment of taxes before transfers of property are recognised in certain cases."

The motion was adopted.

The Honourable Shri K. C. Neogy: Sir, I introduce the Bill.

FACTORIES BILL —contd.

Mr. Speaker: The House shall now proceed with the further consideration of the following motion moved by the Honourable Shri Jagjivan Ram on the 20th August, 1948, namely:

"That the Bill to consolidate and amend the law regulating labour in factories as reported by the Select Committee, be taken into consideration."

Mr. R. K. Sidhva (C. P. and Berar: General): Sir, last Friday evening, I was making reference to this Bill which has emerged from the Select Committee. The Select Committee has made certain important improvements which are really welcome and I think it is necessary for me to mention them, because it would be unfair on my part to mention only those clauses where

FACTORIES BILL

improvements have not been effected and not those where the Select Committee and the Honourable Minister have taken pains to see that necessary improvements have been made. For instance, Sir, it has been now laid down that in the factories sufficient ventilation should be provided in the interests of the health of the workers. They have even been obliged to mention that the sky-lights and glass windows are to be cleaned periodically and that the bulbs also should be cleaned. You can understand from this, Sir, that in the past factory owners neglected even these minor matters and the Honourable Minister had to go that length into minor matters and prescribe that the windows, the lights and the bulbs should be cleaned. I only wanted to point out the mentality of the industrialists in this respect and their failure has compelled the Government to make legislation of this sort.

There is another improvement: in the matter of the reasonable temperature in the factory rooms. In some factories, the humidity is so intolerable that the workers get exhausted within a very short period of working. Here also, the Bill has provided a certain minimum humidity that is required for the benefit of the workers. Then, again, as regards the movement of the workers in the factories, in a large number of factories that I have seen, sufficient moving space is not allowed, with the result that there have been accidents. Here also, the Bill has made an improvement and specified particular areas for the purpose of the movement of the workers.

Then, there is provision for a lunch room. At present the workers, during the recess hours, wander about, from street to street and pavements, and eat wherever they can get a little shelter under a tree or in the sunshine. Here, the Bill provides that a proper type of lunch room should be provided so that during the recess, the workers can have their meals at ease. They have also taken pains to see that the workers do not take their meals during working hours. You can see, Sir, that while giving facilities to the workers for providing a lunch room, it has also been suggested that the workers should not take their meals during the working hours and cut down production to that extent. The reasonableness of the Select Committee and the Government is proved by their action, that they are not partial only to the workers.

They have also placed a limit on the over-time work. Formerly, there was no limit on over-time work, and the workers, poor as they are, were induced to work as long as they could, so that they can earn more. The poor workers did not realise its effect on their health. Therefore, a particular limit of time has been fixed up to which extent over-time can be allowed to the workers. While the workers may suffer to that extent monetarily, their health is secured. That is also a very welcome feature of this Bill. I also notice, Sir, that a leave of one day for every 20 days has been granted to the workers under this Bill.

Sir, in the last session, while amending the Factories Act of 1934, provision had been made for the establishment of canteens for the workers. The present Select Committee has improved it by suggesting that workers' representatives should be in the canteen. It has been a clamour of the workers for many years that they have no voice in such matters where they are absolutely interested. The Select Committee have borne that in mind and stated that workers' representatives will be maintained in the canteen. I only desire that the Honourable Minister, while making the rules, should see that the majority of the workers are represented on these canteens, because, the canteens are meant for the benefit of the workers, all the consumers goods are available there, particularly eatable goods, and there is no reason why the representation of the workers should not be predominant.

Having made these observations as far as the beneficial provisions are concerned, I may now make some observations on certain points where I feel that the Bill has not gone ahead of the requirements of the workers. Clause 18

[Mr. R. K. Sidhva.]

provides for drinking water. That clause already existed. The improvement effected in this Bill is that no drinking water point should be within 20 feet of the urinal or latrine, so that the bad odour may not interfere with the health of the workers. But, I consider the proximity very near; I would have gone as far as 50 feet. Twenty feet is a very short space. Even granting that 20 feet has been allowed, provision has been made that the Chief Inspector can exempt if he thinks that this distance is not necessary. I feel that the Select Committee have made an error. After having made an improvement, they have themselves tried to undo the good thing they have done. Why should the Chief Inspector be given power to exempt that any of the drinking points could be within 20 feet?

The Honourable Shri Jagjivan Ram (Minister for Labour): The Flush system.

Mr. R. K. Sidhva: I can say in Delhi and Bombay the flush system latrines are as stinking as open latrines, because there is no proper sweeping and no supervision. Even the flush system requires a certain amount of supervision. The flush only carries away a strata from the pan; it does not keep it free from bad odour. A sanitary principle is that phenyle should be put in every day. I know there are certain municipalities that put in phenyle three times a day in public latrines worked by underground flush system. I feel that the Honourable Minister should consider this, and the power which has been vested in the Chief Inspector should be removed.

Then clause 19 provides that there should be a sufficient number of latrines. This is very vague; five may be considered sufficient by one and fifty by another. The municipal laws provide specific seats for public latrines; and in factories for every ten or fifteen there should be one seat. If there are only ten seats for a thousand workers it cannot surely be enough. Who is to determine what is sufficient? If it is intended really to benefit the workers a specific number of seats for latrines must be provided.

Then in clause 27 there is a proviso regarding the employment of women and children in cotton ginning factories where there are pressing factories also. It is well known that these cotton openers are very injurious to health because of the great quantities of dust that come out; and the Select Committee has suggested that wherever there is a cotton pressing factory and an opener there should be a partition right up to the height of the roof. This is all right, but here again there is a proviso that if the Chief Inspector feels that the height of the partition wall should be lower than the roof it should be allowed. I do not see why there should be this exemption. When the thing is bad and the Select Committee thinks that it should be up to the roof, I feel that there should be no exemption.

Mr. Speaker: I will draw the honourable member's attention to the fact that at the consideration stage he should deal with the general principles of the Bill. If he wishes to deal with the merits of individual clauses now, I do not know what he may have to say when the clauses are put to the House.

The Honourable Shri Jagjivan Ram: He will not speak on the clauses!

Mr. Speaker: Discussion of the merits of clauses can be done when the individual clauses are taken up.

Mr. R. K. Sidhva: There are 137 clauses in the Bill and I cannot deal with even half or a quarter of them. But there are some which relate to a specific principle.

Mr. Speaker: It is not a question of the number of clauses the honourable member wishes to take up but the principle on which the discussion should proceed. He should therefore, address himself to the merits of the Bill as a

whole, and he may reserve his remarks as regards the merits or demerits of individual clauses, till the clauses are put to the House. He may point out certain defects—that is another matter—but he should not go into details.

Mr. R. K. Sidhva: I will bear your suggestion in mind and not mention the number of the clauses.

There is provision for an ambulance room, but in view of the frequent accidents that take place in factories I feel that an ambulance car is also necessary.

With regard to the general provisions of the Bill, there are many good provisions but they have to be implemented and the Honourable Minister should take good care to see to their implementation by the provincial Governments. Of the 137 clauses in the Bill there are more than half on which these provincial Governments have to make laws. Labour being a concurrent subject naturally the provinces have been asked to make laws. It is important to see that they make proper rules and provide for supervision to see that these rules are duly observed. I am glad the Honourable Minister has taken power to control the provincial Governments in this respect and to see that rules are framed in conformity with this law. The 1934 Act, for example, contained provisions in regard to cleanliness but still there is a repetition of that in this Bill, which shows that the Provincial Governments took no steps to implement those provisions. I find that the clauses about cleanliness, sanitation, safety, etc., which were in the 1934 Act and also in the 1947 Act have been put in here with slight improvements. That shows that the Honourable Minister is satisfied that the provincial Governments have not implemented those provisions. I therefore feel that the strictest measures should be taken by the Centre to see that the Inspectors and the supervising agency properly carry out the provisions of these clauses. I find that the provincial inspection is very poor and the number of inspectors is very meagre. Arising out of the Tripartite Labour Conference in 1943 the Government of India appointed a Committee in 1944 which said that the enforcement of labour laws has not been up to the mark and the strength of the inspectors is "miserably small". That shows that in spite of the best intentions of the Central Government the workers have got no relief and there is consequently dissatisfaction and strikes. This is what they say:

"In the Factories Act, 1934 factory inspection in provinces has been entrusted to provincial authorities. The Labour Investigation Committee appointed by the Government of India early in 1944 in pursuance of a Resolution passed by the Tripartite Labour Conference in September 1943 admitted in their main report published in 1946 that the enforcement of labour laws has not been up to the mark, the standards of inspection in most provinces are poor and even the strength of the inspectorate is miserably small."

No greater proof is needed. These clauses are quite good on paper but they are of no use if they are not honestly worked out by the provincial authorities. I do not know what the Central Government will do; they have realised the importance of the matter and taken power to themselves.

I understand that under the Labour Ministry there is a department of the Chief Adviser for Factories. The duty of the Chief Adviser is, I believe, to render all kinds of assistance to industrialists and to workers for the purpose of erection of new buildings and to appeal to owners to have their building plans passed by the authorities and also to see that some of the beneficial measures are faithfully carried out. If such a department exists, I would welcome it though it may be very costly, but I would like to know from the Honourable Minister what this new department has been doing for the purpose for which it has been established.

The Honourable Shri Jagjivan Ram: It is not a new department!

Mr. R. K. Sidhva: Well, I would like to know the history of it. If it is an old department, then it is a discredit to the Labour Ministry that such a

[Mr. R. K. Sidhva.]
department, which may be costing a large amount of money to the Exchequer, has not been able to do anything even in the Centre, whereas specific work has been provided to this department. We know of gun factories, cotton factories and pressing factories where this department has not compelled the owners to have their plants passed. This department which has been set up to awaken provincial governments in this matter has done nothing in that respect. I know of factories started in 1937 without any plan being submitted for the approval of the provincial government. When the Honourable Minister says that it is an old department, then I am sorry that it does not do any credit to it because it has failed in the discharge of its duties.

In this connection I would like to quote rather extensively from the "Indian Labour Code" page 11 from the paragraph headed "Factory Reforms in India", because the subject is of importance and relates to the Honourable Minister himself directly. The paragraph reads:

"Measures to bring the working conditions of factory labour in India up to the standards prevailing in the leading industrial countries of the world are being up by a special organisation set up by the Government of India under the Chief Adviser, Factories. This organisation will offer advice to the Central Government, Provincial Governments, States and employers on conditions necessary to ensure the safety and health of the workers and will be available for consultation for all matters relating to design and lay-out of factories and on the standards of housing, factory construction, conditions of work, health and safety and precautions, control of dust, etc. It organises training courses for factory inspectors and others interested in the administration of the Factories Act and thus functions as a centre of technical information and advice and as a venue for discussion among factory inspectors."

I was stating that the calibre of inspectors is very poor. They merely act as an executive authority. In combination with industrialists they just make a report but do not see to the grievances of the workers. That is my personal experience. I did not know that our Government of India had a department where Factory Inspectors were trained. I want to know how many have been trained and how many have been sent to the Provinces for this purpose and if they have been trained and Factory Inspectors are existing in several provinces, then I say that their training has not been to our satisfaction nor to the satisfaction of the Honourable Minister himself. Has there been any check on their training? What sort of training have they been getting? I maintain that it must be a social training. They must have aptitude to serve the labourers and workers. Unless you have picked men with two or three years of social service, I do not think these Inspectors will be able to serve the workers in the manner in which the Government and we desire. Therefore, I do not mind the existence of a department like this, which may cost the Exchequer a certain amount of money, though I do not know what that amount is. But what I do mind is that the work turned out by this agency is according to the standards contemplated and as it has been stated in the paragraph that I have just quoted.

Therefore the Honourable Minister should look into this matter, and as he himself has the welfare of the workers at heart he should kindly see that not only he brings in measures in this House but that he sees that they are implemented. I am sure, Sir, we have got a number of good provisions, even in the 1934 Act, but the fact remains that they were not properly followed. If they were followed there would not have been this bitterness today between the employers and employees and the Government. At times, too, industrial strikes have also taken place. If such an agency were widely made known to the workers, I can assure you that the bona fide labour leaders would guide the workers along the right path and they would realize that for their benefit the Government of India have a special department. And now that the Provincial Governments have been asked to see that their welfare work is carried out satisfactorily, there will be, though I will not say, absolute mitigation, but, a considerable lessening in the number of strikes and the amount

of trouble that now exists. From that point of view, I would like the Honourable Minister to give more attention to this department as well as wider publicity and to see that the proper type of Inspectors are trained. As I have stated, the whole structure of this Act depends upon the Inspectors, the Chief Inspector and the number of Inspectors, and I also agree with what is stated in the report that we have a very small number of Inspectors, considering the very large number of industrial factories at present, leaving aside the new ones that have come into existence. Even for the old factories, there is not a sufficient number of Inspectors who could devote enough time and go into these clauses and see whether these factories are implementing the law or not. Mere exhibition of notices in industrial workshops and factories that these are the tiffin hours, these are the working hours and these are the facilities, will not help. I know what kind of mischief is done by the employers in spite of the exhibition of these notices required by law. They act quite differently to what they exhibit in the factories. I have a very wide experience of the Shop Assistants Act where the hours of work have been fixed. The notice is in each shop but the shopkeeper takes from the assistants a larger number of working hours than actually he is authorised to do. And no Inspector, although this has been brought to their notice, has taken any serious notice of the matter.

So the Government should realise what is the cause of this labour trouble in this country. It is because the good provisions of the Act are not adhered to. I can quote you chapters after chapters in the 1934 Act. Some of the clauses are mere repetitions of this Act. But we are going to repeal those Acts and therefore they have to be introduced into this as a comprehensive Act. Sufficient laws have been made but sufficient material for the implementing of these clauses is not there. I hope the Honourable Minister will keep this in his mind. I can tell him honestly that this is the general feeling of the workers. They do feel that the officials are not sincere to them whenever a question of their interest is brought before the officials.

I will not go into the Industrial Disputes Act, I am just now confining myself to the health, safety and other beneficial measures which are provided in this Act and the bare necessities which are long outstanding and overdue. Some of them are there even now. The Inspectors and the controlling agencies have not even tried to see that they are substantially fulfilled.

Sir, this Bill removes the distinction between seasonal and perennial labour. That was a long-standing complaint of the workers. That was done with even before by the Honourable the Labour Minister and it is being introduced in this Bill also. But railway labourers are exempted from the operation of this Act for the reason, it is mentioned, that the railway workers enjoy better benefits than mentioned in this Act. I differ from that. I have experience that in start the adjoining area there is a municipal administration, where there are factories and there is underground drainage system but only a few yards away where there are railway workers, although the underground drainage system exists nearby the railway area is not connected with it and the old type latrine system continues and the workers are denied the benefit of the underground drainage system. The sweeping is defective. The railways give contracts for sweeping and the removal of the night soil and you can understand what kind of work the contractor will turn out, a man who is not responsible to the civil authorities. The railways are a central subject and the railway employees are our employees and because of that they should not be governed by this Act does not do credit to us. On the other hand, we should see that they are treated better, so that they may be held up as models to others, so that private employees might be treated likewise.

The Honourable Shri Jagjivan Ram: I referred only to running sheds, not to factories.

Mr. R. K. Sidhva: You have mentioned in your speech they are better off. I am not making an argument haphazardly or generally. I have given the specific instance of the drainage system. If the Honourable Minister wants, I can quote a number of other instances. I would suggest that the sweeping, drainage and other facilities should be entrusted to the municipality and the railways should pay them their charges. In some places the railways entrust the work to municipalities. In most of the places they think that departmentally they will do better work. There have been instances where the municipalities had to make complaints to the railways that their sanitation not being satisfactory mosquitoes were breeding and spreading to the neighbouring areas and were likely to affect the health of their areas and therefore they must see that mosquitoes are prevented from breeding. These are instances.....

The Honourable Shri Jagjivan Ram: Let the Railway Minister come.

Mr. R. K. Sidhva: I would request the Honourable the Labour Minister to convey to the Railway Minister if he so chooses. There is a provision in the Bill to draw the attention of the railway. I feel that this Bill should be applied to the railway employees also. What acts have we got for railway employees which are more beneficial to them? This is a government law, it is not a private law and it is government servants who will be benefitted, and who will be treated better. Why do you treat them separately? If it is argued that they get better amenities, then you are giving less facilities to other labourers, although I deny it. Granting for argument's sake that you do give better facilities, then you stand open to the charge that you give better facilities to your own men. The factory labourer should be treated equally. This type of iniquitous method of the foreign government, viz., treating our employees or labourers differently should be done away with. These are our laws and they must all come within our law.

There are other items which I would like to talk about but I would leave to the speakers who follow me. Let them discuss minutely the provisions of this Bill and bring its defective side to the notice of the Government. They might put before him the bright side also and I have done that as well and I hope I will not be charged that I have not mentioned the bright side. I have mentioned it in my preliminary remarks. At the same time it is my duty to point out what I feel, namely that the measures are inadequate.

Quotation often helps the Honourable Minister more than mere arguments. I was referring to the Geneva Industrial Labour Conference. (Prof. N. G. Banga. "What date?") 1938. What is said in 1938 holds good today. I wish that the recommendations of 1938 had been implemented. I would have given applauses to the Government but my regret is that 1938 conditions are existing today. **While welcoming some of the provisions of the Bill** I hope that the Honourable Minister will bear in mind the general remarks that I have made as far as inspection and implementary are concerned. Particularly I lay stress on that subject and I repeat that unless he takes strong measures on that matter, these clauses will remain on paper only and the disputes and bitterness that exist will be difficult to remove.

Shrimati G. Durgabai (Madras: General): Mr. Speaker, Sir, I am really very happy that I am given an opportunity to congratulate the Honourable the Labour Minister who has brought forward again a measure which in my opinion and also in the opinion of the House is a charter of rights guaranteed to the workers working in factories and other work-houses. Indian labour has certainly ample reason to be proud of our Labour Minister in whom they have truly found a champion of their rights and a protector of their interests.

The House is aware that the Bill is designed to secure to the workers the advantages of citizenship, a clean and healthy place where they are to work,

a guarantee of leisure during their toil and an adequate enjoyment of the fruits of their labour. Let us hope that with these guarantees the worker, who is the backbone of our industry, would be able to realize his personality and put forth his best to the prosperity and progress of our country. Let us also hope that the discretionary powers given to the Provincial Governments do not tend to water-down the guarantees laid down in this Bill but to enable them to see that their scope is enlarged to make the worker a responsible partner in industry. The worker puts forth, as I have already stated, his might and contributes his best to the progress of the industry only when he is made to realize his personality and also made to feel that he has got an existence of his own. I must state here my experience. I was simply shocked to see the pockets and the person of the workers being searched when they come out of the factory as soon as the whistle blew. This sight is really abhorring. No individual who thinks that he has a personality of his own can ever put up with such practices. I wonder why anybody should think that these workers are prone to carry away a tool in their pockets and that they are thieves. The pockets of storemen and clerks working in the same factory, who are practically drawing less than the skilled labourers, are not touched. Perhaps this is due to the difference between 'wages' and 'salaries'. I feel that unless such practices are stopped no amount of paper rights and law-making would achieve our purpose. Everybody would admit that this practice destroys the personality of the worker and also humiliates him. Therefore we must take note of it and see that wherever these practices are prevalent they are stopped. I do not mind even if such a practice is made an offence and also penalised.

I have not got much to say on this measure because I am in general agreement with all the provisions of this Bill. I really welcome this Bill as it has emerged out of the Select Committee. But one or two things on which I should like to make a few observations are these. One is about the provisions relating to the hours of work regarding women. I am inclined to agree with Mr. Santhanam and his friends who have put a dissenting minute and I do not really want to speak much on this point because when the authors of the dissenting minute speak they would enlarge the point. I agree with them that the hours of work for women, especially the hours between 10 p.m. and 5 a.m. are really not conducive to them. May be that it will be another opportunity to get a second shift and all that, and the absence of that may not induce them to put more of their energy in the work and earn more. But I feel that work between these hours is really not conducive to their interests and it is likely to abuse their powers. As I have already stated, I leave this point to be explained by the authors of the dissenting minute.

I have another observation to make and that is with regard to leisure. Instead of providing for long intervals of rest for every five hours why not reduce the time? That is, instead of giving one hour or half an hour for every five hours would it not be better if we provide for this interval for rest every two hours and thus reduce the time of that interval for rest to fifteen minutes. In this regard the Baroda model factory have put forward some suggestions which the House is aware of—at least those who have read those suggestions. Therefore I am not going to speak elaborately on that point. They have provided for certain intervals for rest which may very well be adopted by us. Of course it might be said that already it is the Provincial Government's jurisdiction to make some such rules wherever they find it convenient—in the factories where they find it necessary to provide for such things. But a directive or a recommendation may also be made by the Central Government in the scope of their general power to make such recommendations to the Provincial Governments.

Sir, I have done and I do not wish to say anything more because as I have already said I am in general agreement with all the provisions of this Bill and I welcome this Bill.

Shri H. V. Kamath (C.P. and Berar: General): Mr. Speaker, Sir, I welcome this measure as a big step forward. It is a happy augury for the future that in the second year of our freedom our Legislature is going to enact a measure of this kind and scope. The other day the Honourable Minister, in moving the Bill for the acceptance of the House, told us that the very fact that the vested interests such as the representatives of employers opposed many of the provisions of this Bill goes to show that the measure is a very big step forward in labour legislation. He told us in his speech that at the Tripartite conference which was convened by Government, the representatives of the employers were opposed to certain details such as the extension of the scope of the term 'factory', the elimination of the distinction between 'seasonal' and 'perennial' factories, the pre-licensing of factories, the making of compulsory provision for the maintenance of canteens, the making of provision for sitting facilities, etc. On the other hand the workers welcomed many of the provisions—the Bill in almost its entirety. It is a significant fact that even the All India Trade Union Congress did not formulate any serious objections to the Bill when it was circulated for public opinion. After that the Select Committee has made many more changes in the measure as it has been brought before the House today, and I feel I voice the sentiments and the opinions and the views of this House when I say that the changes made by the Select Committee and embodied in this Bill represent a great measure of progress in labour legislation. Time was when our factories and our factory owners, the employers, used to concentrate more on the production of goods, and the good of those who produced these goods in an abundant measure for the employers' benefit, was relegated to the background. Apart from the fact that maldistribution of wealth creates discontent in every society it is also a patent fact that the conditions under which labourers work in factories is a very potent source of industrial discontent and industrial unrest.

Sir, till a few years ago our country was not very far different, or very much better, than what Britain was in the first half of the last century. Labour conditions—hours of labour and working conditions—were so bad inside factories and outside factories that even poets took up cudgels, took up their pens in favour of labour and against capitalist employers. Not merely statesmen, not merely socialist agitators, but even poets like Shelley wrote exhorting labourers not to work for such employers. Shelley said:

"Wherefore weave with toil and care
The rich robes your tyrants wear",

because, Sir, the conditions were so bad, so inhuman that the labourers inside factories were looked upon and treated worse than even cattle and the conditions told upon their health and upon their life. The workers had no joy in their labour, and when work ceases to produce joy, to inspire joy in the worker or the labourer, that work is almost a crime towards the individual and also a crime towards society. Mahatma Gandhi was never tired of stressing this aspect of work,—creative work where the worker takes a joy in his labour, where the worker feels that work is as attractive to him as any activity, say even play outside the factory. We must create conditions for such kind of work, such creative, joyful work, for our labourers who produce the wealth of our country.

Till a few years ago, our employers and our labourers—the owners and the workers in factories—were in opposite camps and almost every factory was a house divided against itself. While the workers had to tighten their belts, the owners had almost always to loosen their belts, because while the pockets of the owners bulged with profits, almost ill-gotten gains I would say, the labourers starved and there was nothing for them to put in their pockets. The conditions under which they worked—men as well as women—left no room

for them to enjoy their life—not merely inside the factory but even at home after their day's labour, because they went home so tired and so fagged out. Conditions inside the factories were most insanitary, ventilation was bad and there were no measures for the health, safety and welfare of workers, and when they went home they had no leisure and not even any capacity to spend their leisure usefully inside their homes.

I would like to touch upon one or two points which have been made out by previous speakers. As regards most of the points that have been raised by my friend Mr. Sidhva, I am sure the Honourable Minister is quite competent to take charge of these matters and he will reply to him suitably. But there is one point which Mr. Sidhva made out as regards urinals and latrines. If he turns to Section 19 of the Bill, my honourable friend will see that under sub-clause (1) parts (d) and (e), it is said:

"(d) all such accommodation shall be maintained in a clean and sanitary condition at all times;

(e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places."

Further on, in sub-section (2) of the same section, part (c) lays down that—

"(c) without prejudice to the provisions of clauses (d) and (e) of sub-section (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both."

Mr. Sidhva raised a pertinent point about disinfectants and phenyle and other substances but if he had read this portion of the Bill very carefully I feel he would not have stressed this point to the same extent as he did.

My honourable friend Shrimati Durgabai raised the other point about the employment of women. I think she has slightly misunderstood the minute of dissent, if I may say so, that has been recorded by my honourable friends Mr. Santhanam, Mr. Khandubhai Desai and Mr. Gokulbhai Bhatt. If you turn to Section 66 of the Bill, there the proviso to sub-section (1) reads thus:

"Provided that the Provincial Government may, by notification in the Official Gazette, in respect of any class or description of factories, vary the limits laid down in clause (b), so that no such variation shall authorise the employment of any woman between the hours of 10 P.M. and 5 A.M."

Mr. Santhanam's minute of dissent refers to this proviso and he wants this proviso to be deleted, that is to say, the emphasis of Mr. Santhanam's minute of dissent is on the employment of women between 7 P.M. and 10 P.M. and also between 5 A.M. and 6 A.M. and not between 10 P.M. and 5 A.M. which the Bill specifically does away with. I wonder how my friend Shrimati Durgabai thought fit to stress this point in her speech. I am afraid she has not read the Bill very carefully. The Select Committee included one of the distinguished women members of this House and I believe she is not opposed to this proviso as it stands, and I have no ambition no desire to be more feminist than a woman. I feel that when a woman member, an enlightened woman member, of this House has no opposition to this measure, I see no reason why we men should step in where women do not want to tread.

Then, Sir, my friend Mr. Sidhva raised a very important point about implementation of the Act. Many Governments—I would not say our Government in particular, but many Governments all over the world—have come into discredit because their Acts have remained mere dead letters, and many wholesome and salutary measures that were enacted were never implemented either due to the callousness or indifference of the officials or due to the non-co-operation of those for whom they were meant. But here in this Bill, as Mr. Sidhva pointed out, we have made provision for penalties in either cases. We have laid stress on the obligation of the workers inside the

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factories and also on the duties of the employers with regard to the amenities to be provided for workers inside the factories. I only hope that these penalties which have been laid down in the 10th Chapter of this Bill will be strictly enforced, because we find, especially after the attainment of our freedom in August last, a tendency to see that many of the measures do not work in the spirit in which they were intended to work. I will quote just one or two instances—perhaps very ordinary occurrences. If we keep our eyes and ears open when we walk about Delhi or New Delhi today, you will see many things happening which we, all of us, if we have the requisite social sense and social responsibility, would not let them happen. Only a couple of days ago, I had gone to the Qutub Minar and there I found very prominently displayed the boards "Keep off the grass", but on one fairly big grassy lawn I saw a whole cricket team with all their implements and paraphernalia playing a cricket match, and I am sorry to say that there was a very prominent Government official also, who was quietly watching the whole *tamasha*. I went to one of the Chowkidars and said, "What is all this? You have got the board 'Keep off the grass' and there you have got a whole cricket team with children and urchins and everybody squatting on the grass and one or two Government officials also thrown in. Why don't you tell them to clear out?" It is a very sad thing that we encourage such things ourselves. Most of them were educated persons. I would not have minded children playing there, but educated persons with the board "Keep off the grass" before them were playing there. I told the Chowkidar and he went and told them. But he was told: No, no.

हम कुछ नहीं कर रहे हैं खाली खड़े हैं"। But he said : "मैं देख रहा हूँ कि आप लोग घास में खेल रहे हैं"। They replied : "नहीं, हम तो ऐसे ही खड़े हैं और देख रहे हैं"। The Chowkidar came back and said : "मानते ही नहीं साहब"। "मानते ही नहीं"।

If that is the spirit in which we are going to work our freedom, I say, God help India.

I would also in this connection stress the importance of Government officials too working the Act in the spirit in which it is intended and where vested interests are concerned, especially where employers are concerned, where owners are concerned, I hope they will deal with them with as much severity, as cruelty and as much harshness as they would ordinarily do in the case of a labourer inside the factory. That is the spirit which we need today to galvanise our social life, our industrial life and our national life in all its various phases. Without that co-operation on the part of the people, without that wholehearted devotion to duty on the part of the officials, our freedom will be empty. If measures are worked without indifference weakness and callousness, I am sure they will go a long way; otherwise even this measure is likely to remain a dead letter so far as a good bit of it is concerned.

I personally wanted certain more facilities and amenities provided to workers. I think we can take a leaf out of the U.S.S.R. especially in this particular sphere of factory labour legislation. I have myself seen some of the Russian factories before the second World War. I have also seen some factories in England and some factories in Germany. I was impressed with factories in Russia on account of the farthest extent to which they have gone in providing facilities and amenities and conveniences to workers inside factories. One thing which I wanted to be incorporated in this measure was as regards creches. I think in this connection we have to refer to clause...

The Honourable Shri Jagjivan Ram: Do not worry about the clause. Go on.

Shri H. V. Kamath: My honourable friend the Labour Minister says I need not bother about creches but I hope you, Sir, and the House will pardon me for referring to this matter.

The clause is 48. In clause 48, sub-clause (3) there is a provision that Provincial Government may make rules. In part (b) of that sub-clause there is a provision requiring "the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing." I wanted just an additional item to be introduced and that was because children are concerned here—children below the age of 6—I thought it would be useful and it would be appreciated by mothers and children, if the children were provided with small toys for play. It is provided in almost all Russian factories. Not merely are there conveniences and amenities for washing and changing of clothing—in big Russian factories they have a radio playing, and where there are no radios, they give gramophones—but a good number of toys of various types and descriptions are provided for children to play with. After all, children cannot sit still there. If there are amenities for washing and changing clothing, that is so far as mothers are concerned. Mothers will do that bit of the work, but what about the children? When they are left alone, and there is just a little water and just their clothes, I suppose they will feel bored stiff. They will get into other kinds of mischief. When we want to prevent them from other kinds of mischief and want to guide them on the right lines, we must provide toys and picture books. That will go a long way towards educating our children right from the beginning, from their early childhood. That is one item which I wanted to be added and I hope the Honourable the Labour Minister will consider this when he enlarges the scope of this Bill as we move forward in our freedom, for after all as he has said this is only the first step.

Then, Sir, I wanted another thing and that is a provision which would enable the workers to ventilate their grievances right on the spot instead of waiting for the official red tape and the proper channel and what not. This again is a feature which I found in many of the factories in the U.S.S.R. I refer to what they call in Russian—well, I don't remember the Russian—the nearest English word would be the "Wall newspaper". Here is a concise description of what the "Wall newspaper" is like. I would read it as it is:

"A powerful weapon of criticism is the wall Newspaper, in which the workers as a whole represent their views on the current events or the local issues. Inside the factory the wall newspaper hangs on the wall like a glorified Notice Board, but a glorified Notice Board with articles and other piece of news and complaints written by all members of the factory organisation."

It might of course be only the trade union workers or the members of the workers' representatives, but that sort of thing ought to be encouraged in our factories. I quite recognise the danger inherent in it, because it may well be said that our workers are not well educated, not well trained, they have no responsibility, they are sometimes inclined to be irresponsible and so on, but while we are going to encourage trade unionism on the right lines I see no reason why this sort of ventilation of grievances right inside the factory should be discouraged, especially as it would go a long way towards cementing co-operation between employers and employees in the ultimate analysis. Of course, in the beginning it might be abused, but when they find that if they make good use of it it will mean that their grievances would be redressed on the spot without delay, the labourers themselves would be very careful in using this "Wall Newspaper" and they will not tend to abuse the facility extended to them.

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There is another feature which I would like to have seen introduced. Our workers are after all poor. India, is well-known for her abysmal poverty, and though our workers are, of course, better off today than they were some 20 years ago, yet certainly it cannot be gainsaid that our workers, on the whole, compared to Western standards, or at least many of the countries in Europe or America or Australia, are comparatively worse off so far as their economic condition is concerned. I want that the employers or the factory owners in every factory should provide the labourers with working clothes, especially in big factories where the employers are known to make phenomenal profits. They could easily afford to get sets of working clothes to the labourers so that they could save their own clothing for home wear. Otherwise, what happens is, that the workman goes to the factory in the same clothes—his home wear—and naturally the clothes do not last very long. Considering the present scarcity of cloth,—and I hope that this won't last very long; we have taken very stringent measures and let us all pray that our Government may succeed in providing enough cloth to the poorest man in our country, but certainly, we are not prophets, and we cannot say how long this scarcity will last,—we should satisfy our labourers by providing them with working clothes, for use only inside the factory, so that they could go to the factory, doff their clothes, don their factory apparel, and when they come home in the evening, change their clothes again and put on their home clothing. And if this reform was introduced, I would insist also on a dressing room inside the factory. In some of the factories in the West where working clothes are provided for the workers, there are dressing rooms also inside the factories.

It was Professor Pigou of Cambridge, who in one of his famous addresses asked his audience: "What is the beginning of economic science?" He remarked: "'Wonder' said Carlyle 'was the beginning of prayer', but it is not wonder, but rather the social enthusiasm, that revolts from the sordidness of mean streets and the joylessness of withered lives, that is the beginning of economic science."

I hope, Sir, that we in our newly born freedom, we will generate, we will create sufficient social enthusiasm, social responsibility, social sense in ourselves and in our neighbours so that India will again rise to her heights of old, and every one in India will have life and have it more abundantly, so that Mahatma Gandhi's dream of Rama Rajya may become a living reality at no distant date.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Mr. Hossain Imam (Bihar: Muslim): Sir, I welcome this measure as an important piece of legislation which was much needed. I had hoped that it will provide for certain deficiencies in our factory laws; but I regret that some of them have not yet been made up. I refer to the particular point which I have been urging before also that facilities for training labour to become better workers are singularly lacking. No provision is made in the welfare section for the compulsory provision of Technological institutes or evening classes for the labourer to learn to work and become a better worker.

Secondly, no provision is made for the education of children. Provision of primary school for the labourers' children where a large number of workers are employed is a necessary one, a provision which many of the bigger companies like the Tatas have already provided themselves, without any prompting from the Ministry.

I also regret that, as usual, many of the powers have been left to the executive to be prescribed by rules. For instance, in the matter of provision of medical attendance, the power has been left to the provincial Government to lay down the manner in which and the scale at which this provision will be made. I welcome, Sir, the provision in the Bill that the Central Government will have the power to issue directives to the provincial Governments on any matter arising out of this legislation. While upholding the glory of provincial autonomy, it goes without saying that in order to have uniformity and a high standard of work, it is necessary that the Centre must retain the power of issuing directives in cases where it is necessary.

The provisions made in the Welfare sections are good and much in advance of the existing conditions. So far they are very welcome; but in order that there may be uniformity, it is necessary that certain regulations, not in the form of regulations, but in the shape of directives should be prepared by the Ministry of Health and Ministry of Labour jointly to lay down a kind of plan on which the provincial Governments should work. I believe, Sir, that with the present day increase of industrialisation in India, it is necessary that labour should get a fair deal and get the highest amount of amenity which it is in the power and within the competence of the Government to give. But, at the same time, it is necessary that labour should also realise that it owes a duty not only to the capital, but also to the general public that it must work wholeheartedly and with full vigour. In this particular piece of legislation, no provision has been made in order to induce this feeling in labour. As I said in the beginning, the provision of technological institutes in the bigger factories would help a great deal in increasing the efficiency of labour.

Last time I spoke I had drawn attention to the fact that Indian labour in the mines was not efficient. Some honourable members retorted that they were quite good and the fault was that of capital. I have just refreshed my memory, and from the statistical reports on coal, I find that efficiency has fallen. The raising power in 1942 was 203 tons per person per annum, whereas in 1943 it went down to 179 tons per annum per person. Whereas Rajputana gives a per person figure extraction of 293 tons, Bihar which produces the largest amount of coal if India gives only 104.63. I just mention these things in order to draw attention to the fact that it is not by pampering labour that you can improve the standard of living and increase the national wealth of India, but it is by increasing the efficiency of labour that both labour and the country will be better off. If capital is not providing them with modern tools, the power rests with the Government to order capital to provide them with better implements. It is no excuse to say that the failing is that of capital. I say either if capital fails or if labour fails, both are failing the nation and the nation as the supreme body can demand that both must do their best and give the best result that can be obtained. I welcome this measure.

Shri Ajit Prasad Jain (U.P.: General): Mr. Speaker, I join with other honourable members of this House in congratulating the Honourable Minister for bringing this nice piece of legislation. The whole problem has been approached in a generous spirit and all reasonable suggestions for the welfare of labour or for bettering its lot have been accepted. The Select Committee has been actuated by the same motive and has improved the Bill in many respects. To enumerate only a few improvements made by the Select Committee,—printing presses and shipbuilding industries have been included within the definition of "manufacturing process". In the original Bill only 350 cubic feet of space was provided for each labourer and now it has been raised to 500, which is 100 more than what is provided in England; and that is very necessary on account of climatic condition. Other important changes relate to the clarification of the provisions for the payment of overtime charges in which all the allowances will be included, and the liberalisation of the leave

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rules. The Select Committee has amended the definition of "worker" and has included clerks and managerial establishment within the purview of this law. Up till now clerks and managerial staff were governed by the Shop Assistants and Commercial Establishments Acts of the different provinces. So far as the change goes I think it is an improvement, but this Bill nowhere says that in future the different laws passed by the provincial Governments, ordinarily known as Shop Assistants and Commercial Establishments Acts, will not be applicable to the factories. It may be that as a result of the application of these two Acts there might arise complaints and conflicts with regard to the hours of work, to the leave rules and other concessions. I think a specific provision should have been made to the effect that the Shop Assistants and Commercial Establishments Acts will not be applicable to the clerical and managerial staff of the factories to which this law applies.

I have submitted that the whole approach to this problem has been a very healthy and generous one, and therefore if I proceed to offer some suggestions it is not in a spirit of hostile criticism or of denunciation but with the idea of being helpful. One very striking feature of this Bill is the over-anxiety to provide for exemptions. In the Statement of Objects and Reasons it was stated that in the existing Act too many rule-making powers were left to the provincial Governments. Some of them exercised those powers properly and others did not, with the result that the working of the existing Act did not prove satisfactory. That has been changed and now one uniform set of laws has been made for the whole country. But there are numerous sections in which provincial Governments have been given the power to make exemptions. I quite realise that the principles governing rule-making powers are different from those governing exemptions. Even then I feel that too many exemptions have been provided in this Bill. I will illustrate that by referring to some provisions of this Bill. I will draw attention to clause 56 which begins with these words:

"Save with the permission of the Provincial Government and subject to such conditions as it may impose, either generally or in the case of any particular factory."

This clause 56 gives powers to the Provincial Government to exempt a factory from the application of its provisions.

Now we come to clause 64 (2) which lays down a similar provision:

"The Provincial Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed."

Among the different items following section 56 is everywhere included. But the thing does not end there. Sub-clause (2) of clause 65 again confers these powers upon the Provincial Government:

"The Provincial Government or, subject to the control of the Provincial Government, the Chief Inspector, may by written order exempt . . . any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54 and 56."

I think that the thing has been overdone and the same provision has been repeated thrice. A careful study of these three clauses will show that there might be even conflicting conclusions and effects resulting from these three clauses. In this connection I might also draw attention to clause 29(2) (b) which lays down:

"The Provincial Government may make rules in respect of any lifting machinery or class or description of lifting machinery in factories—

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(b) exempting from compliance with all or any of the requirements of this section, where in its opinion such compliance is unnecessary or impracticable."

A perusal of the main provisions of clause 29 will show that it lays down certain minimum standards for ensuring the safety of workers. For instance, it says that cranes and other lifting machinery must be of good construction and sound material and properly maintained; that no machinery shall be overloaded; also that:

"While any person is employed or working on or near the wheel-track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place."

I have carefully perused this clause and I see no reason why the very sound principles which have been laid down in this clause should not be made compulsory for every factory. They are the very minimum standards which are necessary for safeguarding the workers from accident and injury, and no exemption should be provided.

I will not take the time of the House by giving many more examples. I may, however, refer to sub-clause (6) of clause 36 which also gives the power of exemption to Provincial Governments. This clause deals with precautions against dangerous fumes. Sub-clauses (2) and (3) refer to certain very necessary and fundamental matters to save workers from injury. I do not see any reason why an exemption should be provided here. I can well understand that the power of Government to prescribe suitable breathing apparatus, reviving apparatus, belts and ropes and other things may be relaxed in the case of some factories but the exemption that has been provided is far too liberal. I wish greater care had been taken in providing these exemptions and I do hope that the Honourable Minister, as he proceeds with the Bill, clause by clause, will either accept the amendments tabled or will himself bring forward amendments whereby these exemptions may be brought within reasonable limits.

Another very great defect which I find in this Bill is that it has not made a fair deal to women. Only a short while ago, the Honourable Mrs. Durgabai complained that clause 66 of the Bill provided for an exemption whereby a Provincial Government could permit the employment of women between the hours of 10 p.m. and 5 a.m. In fact, she stated the proposition a little too broadly. The main clause of the Bill limits the hours of working in case of women from 7 a.m. to 6 p.m. The Provincial Government has, however, been given the power to relax these hours but the relaxation will not entitle the Provincial Government to make women work from 10 p.m. to 5 a.m. The only exception is in the case of the fish industry and fish canning. Even that exception in my opinion should not have been provided. Women have to look after children. There might be mixed labour in a factory where fish curing and fish canning is carried on, and taking every factor into account, the duties of women towards their family-folk and children and the question of morality, I think that whatever other methods for fish curing or fish canning may be adopted, and whatever other type of labour may be employed, no woman should be employed for any industrial work between the hours of 10 p.m. and 5 a.m. and the exemption provided in the sub-section should be deleted.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Hossain Imam (one of the Panel of Chairmen).]

Shri H. V. Kamath: On a point of clarification, I might say that this exemption was embodied because of the habits of the fish which man cannot cure. Fish are caught in the evening or late at night.

Shri Ajit Prasad Jain: If man cannot cure those habits, surely it is not for woman to cure them. Fish can be canned and cured either by men or by women. At night employ men labour and in the day employ women labour. There is no objection to that.

[Shri Ajit Prasad Jain.]

The Bill is defective in the respect that it makes no special provision for women. For instance, there is a clause in this Bill—Clause 34—which relates to the lifting of weights. It lays down that no one will lift a weight which is heavier than he can actually carry without injury to his health. But it does not prohibit the employment of pregnant women. Besides, there may be some female workers between the ages of 14 and 18. Then there will be the male children and adolescents. Weight-lifting is very strenuous and particularly for pregnant women; for females who are not adults and for young children this is not a proper type of labour. I wish an exemption could have been made, prohibiting the employment of these categories of workers in weight lifting.

All over the Continent of Europe and in advanced countries, women and young persons have been prohibited from carrying on certain kinds of strenuous and dangerous works. Some of these have been defined as—

“(a) Work at a furnace where the reduction or treatment of zinc or lead ores is carried on:

(b) The manipulation, treatment or reduction of ashes containing lead, or the desilverising of lead:

(c) The manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate or silicate of lead:

(d) Mixing or pasting in connection with the manufacture or repair of electric accumulators:

(e) The cleaning of work-rooms where any one of the processes aforesaid are carried on.”

There is no provision in the Bill that women and young persons should not be allowed to work in such processes. I wish that a prohibition should have been provided.

There is one other provision in this Bill which might create a lot of difficulties in its working. It relates to the owners of the premises. The Bill ordinarily makes the occupier or the manager of the factory responsible for carrying on the provisions of the Bill, and the occupier or the Manager can be penalised for a breach or violation of any of these provisions. Section 93 deals with owners and it says that where in the same premises, or in the same building, or in the same room, there are more than one factories working, the manager or occupier of the factories shall not be responsible but the owners of the premises. I have not been able to appreciate the principle underlying this clause. Once the owner has let out the premises to an industrialist he retains no dominion or control over those premises. What I think should have been provided in the Act is that either the occupier or manager of one of those factories, or the occupiers or managers of a number of those factories, or of all the factories should have been made jointly and severally responsible for all these works, because it may not have been possible to find out which of those managers or occupiers was actually responsible for any breach or violation. The Bill lays down certain saving clauses in the case of managers and occupiers. If a worker has been responsible for the breach of any of the provisions, the occupier or manager can bring forward that worker and save himself. But that privilege has not been extended to the owner.

Section 93 will show that far too extensive responsibilities have been laid on the owner which he can never discharge. An owner has been made responsible for any breach of rules regarding the carrying of weight. If the Provincial Government lays down that an adult worker shall carry only so much weight, a woman shall carry so much weight, an adolescent shall carry so much weight and a child shall carry so much weight, and there is a breach of the order in a premises building or room where there are more than one factory, it is not the manager or the occupier who will be responsible but the owner. I think that is very unfair. Surely the owner has no control over the workers.

Clause 35, relates to the protection of the eyes. How can you expect the owner of a building to make sufficient provision for the protection of the eyes of the worker?

I will not take the House through all these clauses. Perhaps it is enough for me to show by illustrations to what absurd length the responsibility of the owner has been extended—a responsibility which he can never discharge. I suggest that this particular clause of the Bill should be looked into once again and properly amended.

I have said many things in praise of the Bill but in places I find that the drafting has left quite a number of lacunas, things unprovided for, P.M. which should have been provided. For instance, clause 100 relates to firms and associations and lays down that all or any one of the partners of a firm or association will be responsible for certain acts in violation of the provisions of this Bill. That is perfectly sound. There is, however, a proviso according to which a firm or association can nominate one of its members for doing work and if there is a violation that particular member will be responsible for the violation. This Bill has now been extended to the acceding States. Under the Government of India Act a province means one of the provinces enumerated under the Government of India Act and not an acceding State. It should have been specifically provided that a reference to a province will include also an acceding state. The result of the existing provision is that while in a Province a firm or association has a right to nominate one of its partners or members to perform the duties of occupier or manager and to bear the responsibilities for violation a partnership or association in an Acceding State has no such right. I know that this omission will be made up.

Mr. Chairman: I hope the honourable member has given some amendments on these lines.

Shri Ajit Prasad Jain: Yes, Sir. I have given some amendments. These are some of the features to which I wanted to make reference. But before I conclude I must say a few words in support of what my friend Mr. Sidhva said. It is all very well to lay down good laws. We all feel flattered when we enact advanced laws but laws by themselves are nothing unless they are implemented. My own experience of the working of the present Act has been that whatever good features it possessed, and it did possess many good features, in practice they were not implemented. In many of the districts there is no Labour Inspectors. There is a sort of omnibus Inspectors in the shape of the Collector of the district. The present Bill makes all Collectors Factory Inspectors. But we all know that Collectors are overburdened with other things. They are more concerned with problems of law and order. A collector is something like what we have in jails, a *tasla*, in which one can drink water or which one can use for purposes of eating or as a pillow to sleep on or something to fight with. That is the type of official a collector is. He does almost anything and every thing but does very few things well. Labour is a specialised problem. To leave the question of inspection to a collector would be something very improper.

It might be flung at my face that the collector is only one of the inspectors and that the power has been given to the provincial government to appoint other inspectors. That is true but we are apt to be complaisant. Once the Provincial Governments find that they have a factory inspector in the shape of a collector they may not be so vigilant or careful to appoint factory inspectors, who are specialised persons. In fact this provision for appointing collectors as factory inspectors has a little history behind it. When the first Factory Act was passed on behalf of the factory management it was represented that they must have a comfortable sort of person, a compromising sort of person and it was at their request that the collector was made a universal

[Shri Ajit Prasad Jain.]

factory inspector. I think in working this law factory inspectors must be appointed for each and every area and may I suggest that the Central Government should retain to itself the power of direction, so that wherever a provincial government does not perform its functions properly the Central Government might force its hands to act properly. We all know that the provinces in India are in different stages of industrial advancement. Certain backward provinces are not up to the mark. They are not in a position to compete with other provinces which are more advanced. They might show laxity in the observance of the provisions of this law. It is therefore all the more necessary to provide for central direction of the executive measures, just as we have found it necessary to provide for central legislation.

Shri K. Santhanam (Madras: General): May I point out that clause 113 provides exactly for this contingency?

Shri Ajit Prasad Jain: Yes, Sir. I stand corrected. But I wish that a liberal use of this power should be made. At this stage it is unnecessary for me to refer to all the various provisions of this Bill. In fact there are many things which I would like to say but there will be other stages of the Bill when I shall have opportunity of having my say. Once more I would congratulate the Honourable Minister for Labour for bringing this very advanced piece of legislation for the welfare of the workers.

श्री गोकुल भाई दौलतराम भट्ट : माननीय सभापति जी, मजदूरों के सम्बन्ध में हमारे नेता क्या कर रहे हैं और हम कहां जा रहे हैं, इस विषय में हमारे माननीय मंत्री जी ने काफी प्रकाश डाला है। १९३४ के फैक्टरीज ऐक्ट में किस तरह से विकास होता रहा, यह अभी बतलाने की जरूरत नहीं है, क्योंकि १९३४ के फैक्टरीज ऐक्ट और उसके बाद सन् ४४, ४५, ४६ और ४७ में जो परिवर्तन हुये और आज हमारे सामने जो बिल आ रहा है उसको देखते हुये किसी को भी यह पता लगेगा कि हमने बहुत कुछ आगे कदम बढ़ाया है। यह बात ठीक है कि अगर एक कानून मुकम्मिल बनाना हो तो उसको कई दिन तक, कई महीनों तक, कई साल तक पड़े रहने दिया जाय और बारबार लोगों के सामने उसको ओपीनियन (opinion) के लिये भेजते रहें और अगर उसके बाद भी हम कानून को बनायें तो भी हमारे मेम्बर मित्र हस्तमंजी सिधवा जैसे को इससे पूरा सन्तोष होगा या नहीं, इसमें मुझे बड़ी शंका है। वैसे तो कोई चीज हम ऐसी नहीं बना सकते जिसके विषय में हम कुछ न कुछ न्यूनता न देखने पायें। जो चीज हमारे मंत्री महाशय ने हमारे सामने रखी और छानबीन समिति जिसकी छानबीन कर चुकी है तब भी हम फिर दुबारा उसकी छानबीन कर रहे हैं। कई संशोधन आ रहे हैं। खुद हमारे मंत्री महाशय भी संशोधन ला रहे हैं और जो उस छानबीन समिति में—सिलेक्ट कमेटी में—थे उनमें से भी कई लोग संशोधन ला रहे हैं। इसके माने यह है कि यह प्रगतिशील चीज है। यह कोई ऐसी चीज नहीं है कि एक रोड़ा या ईंट वहां रख दी वह ईंट हम वहां से सरका नहीं सकत। हम तो ऐसे जमाने में रह रहे हैं जब कि हमारी दृष्टि जितनी जितनी व्यापक होती जाती है, उतना उतना हमारा कदम भी आगे बढ़ता जाता है। वैसे इस भवन में देखिये, जब हमें यहां बैठने की मुसीबत हुई तो हमारे भवन को और विस्तृत करने के लिय बड़ा बनाने के लिय थोड़ा बहुत सुधार भी हुआ। वह ठीक हुआ या गलत आ, वह तो दूसरी बात है। लेकिन हमें भवन बड़ा मालूम होता है। इसी तरह से कानून का भी यही रिवाज है और १९३४ से १९४८ का यह जो कानून है उसमें किस प्रकार की तरक्की हमने की है, वह मैं दोहराना नहीं चाहता हूं। कई मित्रों ने इसके लिये हमारे माननीय मंत्री महाशय को अभिनन्दन दिया है। लेकिन मुझे खुशी इस बात की है कि

पिछले ६, ७, ८ महीने में मंत्री महाशय ने मजदूरों के मुतालिक जो कुछ काम किया है वह काफी तो नहीं लेकिन कुछ अंशों में सन्तोष देने वाली चीज है और उसमें अभी थोड़ा दिन पहले ही वह बोनस (bonus) का जो सवाल आया—बोनस का जो बिल आया वह इतना अच्छा बिल था उसके लिय हर तरह से मैं मानता हूं कि मंत्री महाशय को अभिनन्दन हमने दिया। उससे भी हम आगे बढ़कर कहें कि यह फैक्टरीज बिल (Factories Bill) जो है वह भी कोई मामूली चीज नहीं बन रही है। जब बिल हमारे सामने से गुजर करके एक्ट बन जायगा उन दिनों के दरमियान इसमें कई ऐसी तबदीलियां जरूर होंगी जिससे जो हमारे असन्तुष्ट मेम्बर हैं उनको भी थोड़ा बहुत सन्तोष होगा, इसमें मुझे कोई शक नहीं है।

इन मजदूर कानूनों के मुतालिक एक दृष्टि यह रही है कि जो आदमी उत्पादन करता है उसका जीवन सुखमय होना चाहिये। आज तो यहां कारखानों की बात है, फैक्टरीज (Factories) की बात है लेकिन मैं तो यह आगे बढ़कर कहने वाला हूं कि वह जमाना जरूर आने वाला है, चाहे चन्द साल के बाद आये, चाहे चन्द महीनों के बाद आये, लेकिन एक जमाना वह जरूर आनेवाला है जब कि न सिर्फ हम फैक्टरीज ऐक्ट बनाकर बैठ रहेंगे, लेकिन हम वर्कमैनस ऐक्ट (Workmen's Act) बनाकर बैठेंगे, या लेबरर्स ऐक्ट (Labourer's Act) बनाकर बैठेंगे। किसी भी क्षेत्र में चाहे वह कारखाने में हों, चाहे वह खेतों पर हों, चाहे कहीं भी हों, चाहे घर पर हों जो मजदूर जो आदमी काम कर रहे हैं, छोटी तनखाह पाने वाले काम कर रहे हैं उसका जो हक रहता है चार्टर आफ राइट्स (Charter of Rights) वह चीज हमें लानी है। मैं यह जरूर मानता हूं कि आज जिस तरह से हम तरक्की कर रहे हैं, जिस तरह से हम आज कानून बनाने में आगे बढ़ रहे हैं उसको देखते हुए उस गति को देखते हुए मैं मानता हूं कि हमारे मंत्री महाशय वैसे चीज हमारे सामने कभी न कभी पेश करेंगे जोकि सारे हिन्दुस्तान के मजदूरों के लिये एक ऐसी चीज होगी वह उनका एक हक पत्र चार्टर आफ राइट्स (Charter of Rights) होगा। मैं जरूर इस बिल का स्वागत करता हूं और उनका अभिनन्दन करता हूं और मैं यह कहना चाहता हूं कि हमारी दृष्टि इन कानूनों से बदलती रहती है। जो काम करने वाले हैं, उनकी दृष्टि भी बदलने के लिये यह कानून बनाये जाते हैं। वैसे तो अगर सब एम्प्लायर (employer) अपने आप ही जो काम करने वाले हैं उनको सब सहूलियतें देने लग जायें तो कानूनों की जरूरत नहीं रहती। लेकिन हम जानते हैं कि इस प्रकार की दृष्टि होती नहीं है और वह दृष्टि जहां तक हममें आती नहीं है वहां तक हमें कानून के जरिये ही उन बातों को समाज के सामने रखना पड़ता है। मजदूरों की रक्षा के लिये उनके हितों की रक्षा के लिये हमें यह चीज लानी पड़ती है। नहीं तो कोई यह कहे जब कि इस बिल में बतलाया गया है कि जो पावर (Power) से चलने वाले कारखाने हैं वहां अगर पिछले १२ महीने में १० आदमियों ने काम किया हो तो उस कारखाने में यह नियम तुरन्त लागू होगा। वैसे पावर (power) से न चलने वाली जो जगहें हैं, कारखाने हैं वहां २० आदमी हों या जितने भी हों, पिछले बारह महीने में काम करते होंगे तो उनको यह नियम लागू करना पड़ेगा। सम्भव है कि हम ज्यादा सहूलियत कानूनों के बगैर लोगों को देते हैं। और जो कारखानेदार हैं वह भी ज्यादा समझदार होते जाते हैं। अगर यह लड़कों की बात आगई है तो चौदह साल के लड़कों की बात हो तो तेरह साल के लड़कों को नहीं रखेंगे। उनको हम सहायता देंगे और एक यूनियन बनायेंगे। वह लड़के कहेंगे कि हमने जो यह चौदह साल की मर्यादा रखी है उसको घटाकर तेरह साल कर

[श्री गोकुल भाई दौलतराम भट्ट]

दिया जाय। तो इस प्रकार से यह जो मालिक हैं मिल के कारखानेदार हैं उन लोगों को यह जान लेना चाहिये कि इस बिल की जो मन्शा है, इसका जो आशय है, वह आशय यह नहीं है कि कारखानेदारों को हम नुकसान पहुंचाना चाहते हैं। लेकिन हम यह जरूर चाहते हैं कि इसमें जो काम करने वाले हैं, वह खुशी से काम करें, आनन्द से काम करें, इज्जत से काम करें और काम करके घर जब जायें तब उनको यह लगे कि हमने काम किया, रोटी पाई और हमारी जिन्दगी हमने खुश बनाई। ऐसे बिलों की यही मन्शा होती है। इस बिल में हम देखें तो इंग्लैंड का जो सन् ३७ का बिल है उससे कई दरजे यह बिल आगे जा रहा है। मैं उसकी कोई समालोचना नहीं करना चाहता हूं, या तो उसकी तुलना नहीं करता हूं उसमें ज्यादा समय लेने की जरूरत नहीं है। लेकिन मैंने यहां दो चीजें देखी हैं वहां मैं कह सकता हूं कि हमारा यह जो बिल बना है वह बिल उनसे कई हिस्सों में हम आगे जा रहे हैं और यह खुशी की बात है। इसलिये मैं अभिनन्दन कर रहा था। बिल की मन्शा यह है कि जो उत्पादन करता है उसका जीवन आनन्द से गुजरना चाहिये और उसका संसार सुखमय होना चाहिये। उस दिन भाई कै० टी० शाह ने कहा था कि प्रोड्यूस और पैरिश (Produce and parish) इस बिल में तो यह बात है कि प्रोड्यूस प्रोक्योर एण्ड प्रोस्पर (produce, procure and prosper)। या बिल का जो सारांश में अगर कह दूं तो यह बात आ जाती है कि प्रोड्यूस, प्रोफिट एण्ड प्रोस्पर (Produce, profit and prosper)। इस दृष्टि से यह बिल यहां रखा गया है और हर एक चीज को हम देखें तब यह भी उससे कुछ बढ़ता हुआ सा मालूम होता है कि जो जो पाबन्दियां हम कारखानेदारों पर लगा रहे हैं, इस तरह की कई पाबन्दियां, कई ओब्लिगेशन (obligation) हम वर्कर्स (workers) के ऊपर भी लगा रहे हैं। वर्कर्स (workers) को भी उसमें से छूट नहीं देते। वर्कर्स के भी आज ओब्लिगेशन (obligation) है जो काम कर रहे हैं वह साधनों से कर रहे हैं, जिन यंत्रों पर कर रहे हैं उस यंत्र का इस रीति से इन्तेमाल करना चाहिये, कैसी रीति से रहना चाहिये, हर चीज उसमें शामिल की गई है और वह एक सौ ग्यारहवीं धारा है उसमें वह ओब्लिगेशन (obligations) की बात है। इसके सिवा प्रान्तीय सरकार जो जो नियम इस बिल की सुसंगति में रहकर बनायेंगे, उन नियमों का पालन हमारे काम करने वालों को—वर्कर्स को—भी करना पड़ेगा। तो दोनों तरफ से हमारे आदमियों के दोनों समाज के हिस्सों में कई पाबन्दियां भी लगी हैं तो उसके साथसाथ दोनों को फायदा पहुंचाने की बात है। सम्भव है कि कारखानेदार यह चिन्तायेंगे कि कई चीजें ऐसी आ रही हैं कि हम बहुत कुछ जबरन करवा रहे हैं। जैसा कि कोई कहें कि अभी हमारे पुराने कारखाने हैं उसमें ५०० क्यूबिक फुट (Cubic ft.) की जगह कहां से देना सम्भव है। यह कहें लेकिन उसमें भी यह बात रखी गई है कि जिस प्रान्त में वह चीज उसमें से कोई ढिलाई करने की है वह नहीं कर सकेंगे। क्योंकि हमने एक सिद्धान्त मान लिया है कि एक आदमी के लिये इतनी जगह तो जरूरी है। अगर वह कारखाने में इतने आदमी नहीं रख सकते हैं तो वहां कम आदमी काम करेंगे। दूसरे कारखाने बनाना उनको लाजिम होगा। ऐसी ऐसी बातें तो जरूर हमने यहां पाबन्दी के तौर पर रिसट्रिक्शनस् (restrictions) के तौर पर लगा दी हैं। लेकिन दूसरी पाबन्दियों को हमने प्रान्तीय सरकारों के ऊपर छोड़ दिया है। इस बिल की मन्शा को ध्यान में रखकर वह ऐसे नियम बनायें जिन नियमों से इस बिल को हानि नहीं पहुंचे। यह प्रान्तीय सरकारों को हमें अधिकार देना ही पड़ता है और वही हमने दिया है। हर एक प्रान्त की अलग अलग परिस्थिति

होती है और हर एक प्रान्त को चाहिये कि वह अपने वहां के उद्योगों को आगे बढ़ाने के लिये छोटे और बड़े उद्योगों को आगे बढ़ाने के लिये अपनी परिस्थिति के मुताबिक वह नियम बनायें, जैसा हमारे भाई अजीतप्रसाद ने कहा कि हम माडेल रूलस् (model rules) बना लेते हैं लेकिन उस पर अमल नहीं होता है। मैं समझता हूं कि हमारे सूबे सब ऐसे लायक हैं और ऐसे वह बुद्धिमान हैं और वह लोग भी इस आशय को ध्यान में रखकर आगे बढ़ रहे हैं। तब हमें इतमीनान रखना चाहिये कि हमारे सूबों की सरकार जो नियम बनायेगी वह नियम ऐसे होंगे, इसके प्रतिकूल नहीं होंगे। इसमें छूट रखी गई है खास तौर से मजदूरों की जिन्दगी सुखमय होनी चाहिये और वह दब नहीं जानी चाहिये। मैंने एक मतभेद में यह बतलाया है और वह आप लोगों को मंजूर होगा, यह मालूम नहीं है। हमारी सेलक्ट कमेटी ने तो उसको मंजूर नहीं किया। लेकिन एक तौर से मैं यह मतभेदों को भूल जाना चाहता हूं। १० और २० की बात एकसी रखी जानी चाहिये। सम्भव है आज हमारे मंत्री महाशय कहें कि भाई आप थोड़ा सा रुक जायें। थोड़ा सा धीरे चलिए। पहले ५० था, अब २० तक ले आये हैं। पावर फैक्टरीज में वहां दस तक लाये हैं। चार महीने के बाद या एक साल के बाद हम घटा देंगे। लेकिन हमने यह सोचा कि सब कारखाने एक सरीखे ही रखने चाहियें। इसमें कोई बड़ी दिक्कत नहीं आयेगी।

कुछ तो ऐसा होता है कि सुनारों के वहां क छोटे से कमरे के अन्दर १५ आदमी काम करते हैं और वह ऐसी मामूली जगह में बैठे आभूषण बनाते हैं लेकिन वहां इतनी कम जगह होती है कि वह लोग यह कहते हैं कि यह कानून कारखाने वालों और फैक्टरी वालों के लिये लागू होता है हमारे यहां इसी तरह से चलता रहेगा। तो ऐसी कई जगह हैं कि जहां पर यह सब चीजें लागू होनी चाहिये। क्योंकि हमारी मन्शा यह है कि काम करने वाले आदमी जिन्दा दिल रहें। इस चीज के लिये जैसा कि अभी कहा गया है कि वह अलग नोट में लिखा गया है तो और आप इसे ठीक समझें और खास तौर से मैं माननीय मंत्री जी से कहता हूं कि मैं उस वक्त हाजिर नहीं था लेकिन मैं जरूर कहना चाहता हूं कि मेरा कथन एक जरूरी चीज है। अंग्रेजी का मुझे इतना ज्ञान नहीं है कि अभी हमारे कामत साहब ने कह दिया कि क्लॉज ६६ में जो प्रोवाइजो (Proviso) है उसमें यह लिखा गया है कि रात को १० बजे से लेकर सुबह ५ बजे तक कोई स्त्री को काम में रखने की पाबन्दी है हमारी बहिनें जो संसार की प्राणाधार हैं उनका जीवन ऐसा रहना चाहिये कि वह उन घंटों पर कहीं भी न जायें। मजदूरी करने न जायें और वह आराम से रह सकें और अपनी तन्दुरुस्ती को ठीक रख सकें। तो सरकार का यह कर्तव्य हो जाता है कि वह इन चीजों को देखे कि उनकी तन्दुरुस्ती खराब न होने पावे। इसलिये यह चीज रखने की जरूरत है। अगर हो सके तो इस चीज को आप लोग मंजूर कीजिये।

Shri H. V. Kamath: On a point of correction, Sir. The clause lays down definitely that no power should be given to Government to employ women between 10 p.m. and 5 a.m.

The Honourable Shri Jagjivan Ram: Yes, their note of dissent is wrong.

श्री गोकुल भाई दौलतराम भट्ट : एक सवाल यह था कि हमने वर्कर्स (workers) के लिये काम के कई घंटे रखे थे अब वह ८ घंटे तक पहुँचा है और वह चीज़ ऐसी बनी है कि हम अब सारी दुनिया के नक्शे में आगे बढ़ रहे हैं। तो यह बिल इस प्रकार से यहां पेश हुआ है। और इस बिल में जो बातें रखी गई हैं वह इतनी अच्छी और ज़रूरी बातें हैं कि उसका हम ज़रूर स्वागत करते हैं।

बच्चों के लिये और बालिगों के लिये एक मर्यादा रखी गई है १४ साल की है। क्योंकि हमारा विधान जो बन रहा है उस विधान में किसी भी आदमी को जिसकी उमर १४ साल की नहीं है उसको फ़ैक्टरी में और कारखाने में न लगाया जाये इस तरह की बात है। इसके साथ साथ मैं यह भी कहता हूँ कि हमारी सभी प्रान्तीय सरकारों और मरकजी सरकार के ऊपर यह ज़िम्मेदारी आ जाती है कि हमारे १४ साल के जो बालक हैं उनको शिक्षा देने का भी प्रबन्ध किया जाना चाहिये नहीं तो वे विचारे अपढ़ रह जायेंगे और उनकी ज़िन्दगी बरबाद होती रहेगी। इसलिये मैं आशा करता हूँ कि इस तरह का कोई ज़रूर प्रबन्ध होना चाहिये जिस से १४ साल के बच्चों की पढ़ाई का बन्दोबस्त हो सके जिससे वह अपने घर के लिये कुछ आमदनी कर सकें। अपनी नई तालीम के जरिये वे कुछ कर सकें और इस तरह से उपयोगी बन जायें।

शायद इसमें एक चीज़ ऐसी आई है कि कारखाने वाले यह कहेंगे कि देखो आप लोगों के हाथ में सत्ता आई। अभी आप लोग जेलों में बैठे थे और जेलों को महल मानकर बैठे थे और हमें भी ऐसा अनुभव कराना चाहते हो। पहिले तो कोई कानून भंग होता या कोई धारा भंग होती तो हम उनको जुर्माना कर देते। रुपया उनका जमा हो जाता है क्योंकि वह तो लाखों और हजारों रुपया कमाते हैं। १० हजार रुपया जुर्माना किया जाय या लाख रुपया किया जाय तो वह दूसरे दरवाजे से आ जावेगा इसमें कोई रंज नहीं। यह तो हाथ का मेल है। लेकिन उससे सुधार नहीं हुआ। वे ऐसा कोई गुनाह हो उसकी परवाह नहीं करते थे मानो कोई उनको दरकार ही इस बात की नहीं है। यह सोचा गया कि जेल में चले जायें वहां तो कुछ देखें। परन्तु आज की जेलों में कई सुविधायें मिलने लग गई हैं। एक कमरा मिल जायेगा, खाना भी घर से आने के लिये इजाज़त मिल जायेगी। बीड़ी पीने को मिल जायेगी। गरमियों में बाहर सोने की इजाज़त मिल जायेगी। थोड़ा सा काम भी करना पड़ेगा कुछ तकलीफ़ उठानी पड़ेगी। सफ़ेद टोपी हो या काली टोपी हो—कोई भी हो जल की सज़ा का होना सख्ती है लेकिन वह ज़रूरी है। तो भी ठीक है कि हम उनको सुधारने में कुछ आगे बढ़ सकेंगे। मैं मानता हूँ कि इस बिल से हम हमारी राष्ट्र संपत्ति जो कि मजदूर है उसकी क्षति नहीं पहुँचायेंगे। मैं मानता हूँ कि इस बिल से हमें लाभ होगा और वह हमारे लिये फायदेमन्द होगा।

इतना कहते हुए मैं इस बिल का स्वागत करता हूँ और मैं आशा करता हूँ कि इस में जो कुछ कमी रह गई है उसको पूरा करने में हम समर्थ होंगे।

(English translation of the above speech).

Shri Gokulbhai Daulatram Bhatt (Eastern Rajputana States Group):
Mr. Chairman, Sir, the Honourable Minister has thrown sufficient light on the extent and trend of the activities of our leaders directed towards the

benefit of the workers. It is hardly necessary for me to trace the course of developments made in the Factories Act since 1934. It would be quite evident from a review of the changes made in the Factories Act, 1934, and subsequently during the years 1944-47, and the Bill which is before us to-day that we have advanced a good deal. It is true that if some perfect legislation is to be enacted, it should take some time, months and even years and it should repeatedly be circulated amongst the public for eliciting their opinion. Even after going through all this process, we frame legislation, I doubt very much if my honourable friend Mr. Sidhva will at all be satisfied. Normally we cannot pass any measure which is entirely free from defect. Within a short space of time the Honourable Minister brought up this measure. Though it has now been brought before us after having been scrutinized by the Select Committee, yet we are subjecting it to further scrutiny. A number of amendments have been proposed. The Honourable Minister himself is proposing amendments. Many of the honourable members who were on the Select Committee are also moving amendments. From this it follows that this is a progressive measure. It is not like a brickbat or a brick which if placed at one place cannot be shifted. We are living in such times when we are moving forward according to the extent of our vision. Take the instance of this House. When we felt some inconvenience in the seating arrangements, certain modifications were carried out to make it larger and more spacious. Whether it has been satisfactory or not is a secondary point, but we find the House comparatively larger. Similar is the process of law-making. I do not want to recapitulate the trend of progress which we have made by the enactment of this law from 1934 to 1945. Many of my honourable friends have congratulated the Honourable Minister in this connection. But it is a matter of great gratification to me that though the work done by the Honourable Minister for the amelioration of the condition of workers during the last few months is not quite adequate, yet it affords satisfaction to a certain degree. Recently he introduced a Bill regulating the grant of Bonus which I admit was a wholesome measure and for that we complimented the Honourable Minister. If we go a step further we may say that the Factories Bill which is on the anvil is not an ordinary measure. By the time that this Bill becomes an Act, many changes will have been made in it, which would undoubtedly afford some satisfaction to many of the honourable members who feel dissatisfied. One of the idea underlying the framing of such labour legislation has been that the man who produces should have a comfortable living. To-day we are talking of factories but I venture to say that that time is not far off—it may take few years or even months to come—but that time must come—when we will not content ourselves merely by the framing of the Factories Act, but will pass a Workmen's Act or Labourers' Act; in whatever sphere they may be employed—may be in the factories, fields or anywhere, or even in their homes. We have to bring forth the 'Charter of Rights' to safeguard the rights of these persons who are labourers and getting small wages. I am fully conscious of the manner in which we are advancing to-day in the framing of legislation. I am confident that keeping in view the rapid pace at which we are moving, our Honourable Minister will sooner or later bring forth such a measure which would be the 'Charter of Rights' for all the workers in India. I will surely welcome this Bill and congratulate the Honourable Minister. I would like to say that these Acts help in changing our outlook. These laws are also framed for changing the vision of the workers. Ordinarily there would hardly be any need to resort to legislation if all the employers *suo motu* give every sort of facility to the workers. But we know that this is lacking, and so long as we are unable to inculcate that faculty in our minds, we will have to place all these measures before the society by means of legislation. We have to bring forth these measures for the protection of workers and their rights. Lest somebody might say

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that when it has been laid down in this Bill that if ten workers were working in the factories using power during the preceding 12 months, the Act shall soon be made applicable to them. Ordinarily this Act will be made applicable to the factories not using power wherein twenty or more workers were working during the preceding twelve months. It may be that we offer more facilities to the workers even without legislation. The factory-owners are also becoming wiser. They will say that if the question of employment of children aged fourteen is raised, we will not employ those who are thirteen years old. We will help them and form a union. These children will then represent that the age-limit of fourteen which has been prescribed by us should be reduced to thirteen. Such type of factory-owners should realize what is the object of this Bill? It does not seek to harm them. But we would surely emphasize that the workers should be allowed to work with a happy heart and honourably, so that when they return home in the evening after the day's toil, they should feel that they have worked, earned their livelihood and made their life a happy one. Such is the object underlying these Bills. If we look through this Bill we will find that it bypasses a similar Bill passed in England in 1937, to a considerable extent. Neither do I want to indulge in any sort of criticism thereof nor draw out a comparison between the two because it is no use wasting time in this way. Since I have seen both the measures, I can say that our present Bill is far more a progressive measure than that and it is a matter of great pleasure. Therefore, I was congratulating the Honourable Minister. The Bill seeks to help the producer to lead a happy and harmonious life. The other day my honourable friend Prof. K. T. Shah had observed "Produce or perish". This Bill aims at 'Produce, procure and prosper'. Or if I give the substance of the Bill, it would be 'Produce, profit and prosper'. With this object in view this Bill has been brought over here, and if we look at it from all aspects, it would be quite evident that the workers are also being subjected to the same sort of restrictions and obligations as we have imposed on the factory-owners. We are not exempting the workers from the operation thereof. Those workers who are working on the machines and using appliances have also got some obligations today, viz., they should be fully conversant with the method of handling the machinery, and the maintenance thereof. All such things have been incorporated in Clause 111 which deals with 'Obligations of workers'. Besides this, our workers shall have to observe the rules which the Provincial Governments may prescribe under this Act. Many restrictions have thus been imposed from both the sides on the two sections of the community, and this has been done for their mutual benefit. It is just possible that some factory-owners might clamour that we are thrusting some measures on them and forcing them to do a lot. Just as some people will say how is it possible to provide 500 cubic ft. of space in the existing factories? But that too provides that no exemption in this respect can be granted by any Provincial Government even though it may desire to do so, because we have agreed in principle that so much space is required for every worker. If the factory-owners cannot accommodate so many workers in the factory, then their number shall have to be reduced. It would be obligatory for them to set up new factories. Such like things we have prescribed in this Bill in the form of restrictions. But we have left to the Provincial Governments to impose other restrictions. They should frame such rules as may be in consonance with the spirit of this Bill. We shall have to vest this authority in the Provincial Governments and this is what we have done. The conditions vary in each Province. It, therefore, rests with each Province to frame rules according to its local conditions for the development of industries both small and large. Just as my honourable friend Mr. Jain has pointed out that we frame model rules but these are not acted upon. I feel that our Provinces are all wide-awake and discreet and

they are also marching ahead with this aim in view. Therefore, we should be rest assured that the rules which would be framed by the Provincial Governments would be in accordance with this Bill and not in contravention thereof. The exemption which has been provided for in this Bill especially that relating to the welfare of the workers should not be suppressed. I have pointed out this thing in one of my minutes of dissent but I am not aware whether you will accept that or not. Our Select Committee has not approved of that. But for the present I will ignore this note of dissent. There should be no distinction between the number 10 and 20. It is likely that to-day the Honourable Minister might ask us to wait and pause a little. Previously it was 50 and now it has been brought down to 20 and in the case of power factories it has been fixed at 10. This will be reduced after the lapse of four months or say a year. But we thought that all the factories should be brought on the same level. There will not be any appreciable difficulty in doing this.

It sometime so happens that 15 workers have to work in a small shop of a goldsmith and in such a congested place, they manufacture ornaments. But the space there being so short those people can say that this Act is applicable to the factory-owners only. We will carry on like this. So is there any place where all these provisions shall be made applicable, because our aim is that the worker may live a happy life. It has just been stated that this has been brought up in a separate note. But if you believe me, Sir, I may say that I was not present at that time, and I would particularly request the Honourable Minister that my note of dissent is an important one. My knowledge of English is not so vast. Just now my honourable friend Mr. Kamath stated that the Proviso to Clause 60 does not authorize the employment of any women between the hours of 10 p.m. and 5 a.m. Our sisters who are the mainstay of the mankind should not be allowed to go anywhere during these hours. They should not go out for seeking employment, but may have rest and thus maintain their health. Thus it becomes the duty of the Government to see that by doing so they do not lose their health. Therefore, I thought it necessary to place this note. If possible, you may, Sir, kindly accept this.

Shri H. V. Kamath: On a point of correction, Sir. The clause lays down definitely that no power should be given to Government to employ women between 10 p.m. and 5 a.m.

The Honourable Shri Jagjivan Ram: Yes, their note of dissent is wrong.

Shri Gokulbhai Daulatram Bhatt: Another point was that we had fixed a certain number of working hours for the workers which has now been reduced to eight, and in this way we are giving a lead to the world. Therefore, we must welcome this Bill which is a wholesome measure. An age-limit of 14 has been prescribed for 'children' and 'adolescents', because our constitution which is being framed prohibits the employment of any such person, who has not attained the age of fourteen years, in any factory. In addition to this, I would also say that the onus to make arrangements for the education of all children aged 14 years devolves on the Provincial Governments and the Central Government. Otherwise they will remain illiterate and their life will be ruined. Therefore, I hope that some sort of arrangements should be made for imparting education to all children of fourteen years of age to enable them to earn their livelihood. They may be able to do something with the help of their new education and thus become useful.

Perhaps there is something like this in it that the factory-owners might say that you people have got power—recently you were in the jails and were living there as if in palaces—and you want us also to feel like this. Previously if there was any breach of any law or section thereof, a fine was imposed on them—they deposited the amounts because they earn thousands and lacs of rupees. If they are fined rupees ten thousands or a lac, they will arrange to make

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good this amount through the back-door and do not at all feel the pinch. Money is a passing-phase for them. But this did not produce any salutary effect. They were not all afraid of committing any such offence. As a matter of fact they have no respect for the law. They thought of going to the jail and seeing the things for themselves. But many facilities have been made available in the present-day jails—a room will be provided—permission to obtain food from home will also be granted—*Biri* for smoking can be had—permission to sleep outside during the summer months will be given—a small amount of labour will have to be put in and some hardship to be undergone. May one be donning a white or black cap, though sentence of imprisonment is harsh, yet it is necessary.

Even then it is true that we may be able to make some headway in reforming them. I take it that this Bill will not prove harmful to the interest of the workers—who form our national wealth. I realize that this will stand in good stead and be beneficial to our interests.

With these words, I welcome this Bill and hope that we will be able to remove whatever defects remain in this Bill.

Shri K. Santhanam: Mr. Chairman, Sir, this is largely a non-controversial Bill and I do not want to take the time of the House for more than a few minutes. On two points I and two of my colleagues in the Select Committee have appended a Minute of Dissent. One is that we object to the distinction between the factories with power and the factories without power. It is not only where workers are engaged in factories with power that they want protection. I believe that it is in those factories where people are working without power that workers are more sweated than in factories with power. Where there is cashew-nut making, where there is coir-making, where there is *beedy*-making, I know that workers are literally done to death and many returns have shown us that they become victims of tuberculosis and other diseases. I do not see any justification whatsoever why where more than 10 workers are gathered together and there is an employer, the Government should not have some means of ascertaining what the conditions are, what wages are being paid, how many workers are being employed and all other particulars.

There is another more fundamental reason for our Minute of Dissent in this respect. There are two purposes of this Factories Bill. One is to ensure reasonable treatment for workers; the other is to give the nation a real, factual picture as to how many workers are employed, in what industries and what is their productive capacity. The statistical aspect of the Factories Bill is perhaps more important today than even the regulating aspect of it. We are thinking of planning our national economy. We want to build up cottage industries; we want to build up medium industries; we want to build up big industries and unless we have got a real picture of what is going on in the so-called "cottage industries", how can we build them up? We certainly do not want to build up cottage industries on the basis of sweating and that is what this exemption amounts to. Few cottage industries have as many as 20 workers. Therefore, this provision means that almost all the cottage industries will be outside the purview of this Bill and there will be no machinery to gather facts. I know there is a clause which enables the Provincial Governments to extend the powers under this Bill even to those factories, but unless we have got information from all the parts of India, unless we can have it in a uniform method, we cannot derive any enlightenment as to the overall position from what may be done in one province or two. Therefore, I suggest that it is not even now too late for the Labour Minister to take away this unreasonable and wholly unnecessary distinction. Of course, I understand that he has done it more for administrative than for any other reasons, but I do

not think there will be any insuperable administrative difficulties. As one of my honourable friends pointed out, the whole Bill is a Bill of exemptions rather than of regulations. It is open to the Provincial Government to exempt anybody from almost any provision of this Act. Therefore, in the case of cottage industries, it will be open to the Provincial Governments to exempt them from all the provisions which are onerous, which cannot be reasonably satisfied by small concerns, but they will have the framework, they will have the statistics, they will have the minimum machinery, for regulating them whenever conditions deteriorate to such an extent as to require official attention.

The second point is in relation to clause 66 regarding the employment of women. I regret that in our Minute of Dissent an error has crept in. It should have been, not between 10 P.M. and 5 A.M., but between 5 A.M. and 10 P.M. What the Bill has done is that ordinarily women can be employed between 6 A.M. and 7 P.M.; the proviso gives power to the Provincial Governments to extend this period up to 10 P.M. It is for this extension of three hours at night that we object, because what will be the result of extending it from 7 P.M. to 10 P.M.? Women will leave the factories at 10 P.M. They may live three miles, four miles away from their homes. They will have to return to their homes between 10 P.M. and 11 P.M. I say in the present conditions any such relaxation will be a great evil. We know how thousands of women have been abducted in a country where people are still, in spite of our boasted civilisation, of a mentality in which women are not sufficiently respected. We should not therefore allow any relaxation which is likely to lead to possible abuses. Of course, the Labour Minister will say that we are taking away the employment of the women and therefore we are intensifying their poverty.

The Honourable Shri Jagjivan Ram: I say, make them bold.

Shri K. Santhanam: Yes, I know. First make them bold and then relax. Not today, before you have educated them, before you have given them facilities, before you have rid them of the shackles of the *murdah*, which even today in Northern India, in Bihar and U.P. still continues, before you have given them rights of property. You cannot expect them to be bold all in twenty four hours. That is not a feasible process. Besides, I think it will lead to the utter destruction of home life. If these provisions were there today, I would not have objected, if women today go to work after 7 P.M., but today they do not and cannot go to work after 7 P.M. Therefore, this is a new provision, newly introduced. I understand that there is a possibility of double shift in jute and some other industries, but I would resist that temptation. After all, there is no shortage of manpower in this country; there is a surplus of manpower. Most of our women, by tradition and by choice are going to be housewives. We do not want to destroy their role as housewives in order to provide employment for a few women in second shift. I do not think I yield to anyone in my desire for the emancipation of women and for ensuring their equality, but this equality must be real and factual, not merely theoretical. If you are going to destroy their homes and leave them to all kinds of abuses by this relaxation, then, I say you are not doing any good to women; you are doing a great deal of harm. I hope therefore that the Honourable Minister will revise his views and accept our amendment in this respect. Sir, one great improvement made by the Select Committee is regarding the leave with wages. The original Bill provided for ten days. Now it has provided 15 days for a regular worker. It has combined greater leave with greater regularity of work. It has given a sort of bonus for regular attendance. Many capitalists have been saying, "Associate all privileges to workers with greater work". We have done exactly that and I hope no one of them will begin to criticise saying that we are now giving five days more of leave with wages. These

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five days they will have to earn, because only if they work for three hundred days in a year they will be given these fifteen days; otherwise, it will be only at the rate of one day for twenty days. Of course, children get a little more—one for fifteen days. I think this is one of the most wholesome provisions and in the course of the next few years, I hope our factories will increase in efficiency, so that in due time even ordinary factory workers will be able to get the leave which is now available to the so-called middle class workers or clerical workers or "white-collar" workers in the Government, namely, one month's full leave and 15 days casual leave. That is the ideal to which we should work. Probably, it is premature to think of it today, but if our democratic Governments work properly and if the workers respond to the call of the Government to increase production and efficiency, I am sure it should not be impossible to achieve this ideal within at least the next ten years. I hope that day will come. Before I sit down, I congratulate, like all my friends, the Labour Minister for this very important Bill.

Prof. Shibban Lal Saksena (U.P.: General): At the very beginning I must state that this Bill is one of the most important Bills which we have so far passed in this House. Probably it is not generally realized that by this Act we are making the life of about 30 lakhs of workers far better and far happier than it has been so far. The important change in this Bill is in respect of the hours of work. So far 54 hours per week was the prescribed minimum and this Bill will now bring it to 48 hours and when we consider that about 40 lakhs of workers will benefit by this, it becomes a very important Bill. If those factories which have not come within the purview of the factory legislation so far and which will now come within its purview, then the number may be even larger so that ultimately it will affect about 50 lakhs of workers. The introduction of this Bill will be regarded as a red letter day in the history of labour legislation in India.

If I still make some observations which are critical of some of the provisions, of this Bill, I hope my honourable friend, the Labour Minister will take them as suggestions for improvement and not in a spirit of criticism. I recently had the occasion to be at Bombay in the meeting of the General Council of the All India Trade Union Congress. My honourable friend, Mr. Kamath said that even the All-India Trade Union Congress had nothing to say against this Bill, but I can tell him as one of the Vice Presidents thereof that the A.I.T.U.C. welcomes this Bill and the criticism I am making have the full support of that body also. Sir, probably it is not realized how we have gradually reached this stage in the labour legislation in India. It was in 1863 that the first power factory was installed in Bombay and by 1875 there were about a score of factories in the country. It were not Indian labourers who clamoured for better conditions, but the Britishers who were competing with our factories who raised their selfish voice for human conditions of labour in India. So it was through their agitation that the Factories Act was first brought on the Statute Book in India in the year 1881. But it must be realised that the British people fought for this measure for having their own trade to flourish and prosper in India and not for sympathy with labour. But the humanitarian view was not altogether absent. The following paragraph from Mr. Rajani Kanta Das's "Factory Legislation in India" depicts these motives correctly:

"The problem of legislation for Indian factories was soon taken up in the House of Lords by the Earl of Shaftsbury, the wellknown philanthropist and undaunted champion of factory legislation for over forty years. On July 30, 1875, Lord Shaftsbury drew the attention of their lordships to Mr. Redgrave's remark on Indian textile industry, noted above, and described how rapidly it was growing. Pointing out the necessity of regulating labour in factories, he urged that factory labourers in India be saved while the industry was still

young, from the difficulties and complications to which British Labourers had been subjected in the past. 'There is also a Commercial view to this question,' continued Lord Shaftsbury, 'we must bear in mind that India has raw material and cheap labour; if we allow the manufacturers there to work their operatives for 16 or 17 hours and put them under no restrictions, we are giving them a very unfair advantage over the manufacturers of our own country, and we might be undersold even in Manchester itself by manufactured goods imported from the East.'

So their fight for limiting the hours of work to 17 hours a day was not inspired by sympathy for the lot of the poor labouring people alone, but the chief reason was that their own goods would not have been sold here. The very first Factory Act of 1881 was a very simple one, in which provisions were made about the number of workers in a factory to whom the Act could apply—the limit was fixed above hundred. Then the Indian employers were using children for work and in this way they were producing cheaper goods and they therefore placed the limit of 9 years of age as the age below which children could not be employed. It is really a scandalous that at that time 9 years was supposed to be the proper age limit, which means that children of 9 were made to work for more than 9 hours a day. Between 1881 and 1948 the progress in labour legislation can be measured by the Act which we are now discussing. It is not a sudden jump. The first amended Factory Act was passed in 1881, another revised Factory Act in 1911 and the third amended Factory Act in 1922 and the fourth Factory Act in 1934 and this is the fifth and final Factory Act we are passing. I think our Honourable Minister, by the passing of this Bill, will have placed one of the most important Action the Statute Book in his time, and labour in this country will surely always remember him with gratefulness. While I compliment the Honourable Minister on having been so prompt in bringing this measure, I must tell him that the bill needs to be improved much more. We are now a free country and therefore we must not look back on days from which we have emerged, but we must now try to fall in line with the most progressive nations in the world. We are now providing for 48 hours a week, while in America they have only 40 hours a week and in Russia it is even lower. Therefore I have suggested that even if we cannot reduce our weekly hours of work so low just now, we should try to bring down our hours of work to at least 8 hours each week day with a halfday on Saturday. The total will then come to 44 hours a week. But 40 hours a week should be the minimum objective which we should aim at when we bring the next amendment to the Bill. The Honourable Minister has fixed the daily hours of child labour at 4½ hours daily but he has not said anything about the weekly limit. I think it should be fixed at 24 hours per week, so that no children may generally be required to work for more than four hours per day or more than 6 days in the week. I think these reduced hours of work are the most important part of this Bill and in this matter, I hope the Honourable Minister will try to overtake the great advanced countries of the world.

Now, Sir, I come to the sphere to which this Bill applies, that is, the manufacturing processes and the allied trades and industries covered by this Bill. I am glad that the scope of this Bill has been widened and it will now become more comprehensive. But I still feel that there are some very important trades and industries to which the Bill will not apply and to which it should apply. In fact when I compared this Bill with the British Act, I find that provisions of some very important sections of that Act have been left out from this Bill and I have suggested certain amendments to bring the Bill in line with the British Act. I particularly want that the Bill should be applied to dock workers also. I would suggest that the portion of the British Act applicable to dock-workers should be included in this Bill. I have suggested that among the various sub-clauses of Section 2 of this Bill, the loading and unloading of cargo of ships should also be included as a manufacturing process.

[Prof. Shibban Lal Saksena.]

I have also put down painting and polishing as some of the other manufacturing processes. There are some factories where these are being carried out and they should be brought under this Act.

Sir, more important is my suggestion that the Honourable Minister should improve the definition of the word 'worker'. In the previous Act, the definition did not include a person solely employed in a clerical capacity or in a place where no manufacturing process was carried on. On account of this omission, many workers were not given the benefits of the labour regulations. In our province, the United Provinces, in the sugar industry, the Labour Committees appointed under orders of Government had to make special provisions to be able to give the benefits to these workers also. I wish that the definition should be made to include this class of persons also, the clerical staff, the menial staff, etc. It may be said that by implication they are included; I would suggest that this should be explicitly mentioned. I have brought in an amendment so that all workers in the field are also included.

Sir, there is an important defect in this Bill, in that it will not apply to the railway workers in running sheds in future. Mr. Sidhva said something on this point and the Honourable Labour Minister was heard to say, 'go to the Railway Minister.' The Railway Minister would say, 'so far as labour is concerned, you have to go to the Labour Minister.' Between the Labour Minister and the Railway Minister, these workers will probably go to hell. I want to say to the Honourable Labour Minister that this Act should include the railway workers, especially workers in the workshops and running sheds. In fact in the Railway Act, it is provided that the railway servants whose employment is continuous shall not be employed for more than 60 hours a week. We have provided for a 48 hours' week in this Bill. I do not think the Honourable Labour Minister will be justified in leaving the workers in the Railways to such a fate. Taking the spread over into account, the total comes to 84 hours a week in the railways. I would therefore request the Honourable Minister to see that this Act which is more progressive applies also to the railway workers.

Sir, I take very strong exception to section 5 of the Act. Section 5 gives the power to the Government to suspend the entire Act in an emergency. In a slave country that power could have been justified. Now that we are free, I do not think we should give such powers to the executive. The Governments already have the power of promulgating ordinances in the case of an emergency. To give the power to the provincial Government to exempt by notification any factory from all or any of the provisions of this Act in any emergency is something far too wide. The power has not been given to the Central Government, but to the provincial Government. I would suggest that this power must be withdrawn and this section should go. Whenever there is an emergency, the Government should call the legislature to have an amending Bill passed. Such powers are not to be found in the enactments of free countries. I do not know whether in England and America, such powers were given to the executive even during war. They are the legacies of our slavery and they must go.

I would like to draw attention to one other important matter about the disposal of wastes and effluents in some of the factories. I am glad that in this Act, for the first time, the factories have been asked to make effective arrangements for the disposal of wastes and effluents. I have seen rivers in the villages being spoiled on account of the drains flowing from the factories. I have seen cattle die and men suffer from diseases on account of this. I say that the factories should be made responsible to see that before the water is

discharged from the factory, it should be purified and the factories should also be made responsible for any damages caused to the people who suffer on account of the neglect of the factories. I think provision should be made to this end in the Bill.

A word about the spread over. Here we have provided for 10½ hours. In a climate like that of our country, I think it is rather a severe strain. I would suggest that 10 hours should be the maximum spread over.

Another provision to which I object is about the leave rules contained in sections 79 to 84 of this Act. After having provided for leave, it is said that the factory manager can make a plan to regulate the leave and that he shall consult the workers in this matter. How the workers are to be consulted is not mentioned. Section 79 (4) runs as follows:

"If, for the purpose of ensuring the continuity of work in a factory, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under section 3 of the Industrial Disputes Act, 1947 (XIV of 1947) or a similar committee constituted under any other Act, or if there is no such Works Committee or a similar committee in the factory, the occupier or the manager of the factory in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the leave allowable under this section may be regulated."

The question is how the leave will be regulated. It is said that the manager will consult the Works Committees. In the Works Committees, the workers and the management will be equally represented and the Chairman also will be one of the management. The labourers will not have a free discussion of the matter in such a meeting. I think the scheme prepared should be subjected to the labourers' free discussion and free vote. This could only be done in their Trade Union meeting. I would suggest that in the place of Works Committees, the recognised Trade Union should be substituted. I would like to remind the Honourable Minister that it is now nearly one year since we passed the Trade Unions Act in which provision was made for the Government to make rules: I am sorry to say that though ten months have passed, the rules have not yet been made with the result that manufacturers and industrialists have taken advantage of this. If the rules had been made, in every factory there would have been a recognised trade union, and with their co-operation, much could be done and industrial peace could be secured. Therefore, in sub-sections 4 and 5, for the Works Committees, the recognised Trade Union should be substituted. Then alone, there will be free expression of opinion on the part of the workers.

Then I come to child labour. I was surprised that although 15 years is the age up to which one is a child, still after 14 he is allowed to work though up to 15 he is called a child. I think a person should be forbidden 4 P.M. to work up till the age of 15, in which case we could have done without the whole section relating to child labour. The age at which a man should start work is 15: in England, of course it is 14 but there the climate is different. Here children should not be made to work before they are 15. And if, as the definition says, a child is a person less than 15 years of age, I think we should say that no one who is less than 15 should be allowed to work. If we do that a large number of clauses dealing with child labour would go away. But as it is, I suggest that there should be many more limitations on the employment of this child labour. My friend Shri Ajit Prasad Jain mentioned some. In the British Act there is a whole chapter which makes exemptions as regards the employment of women and children; they are not allowed to work in lead industry and in industries where white phosphate is used. I think we should also place these restrictions on child labour and female labour. The British Act is a good model which we could copy in this respect.

[Prof. Shibban Lal Saksena.]

Then as regards leave, my honourable friend Mr. Santhanam said that everyone should get one month's privilege leave and 15 days' casual leave. I heartily endorse that. Although I do not think we can immediately reach that stage, we can still make the rules more liberal, and instead of one day's leave for twenty days work in the case of an adult it may be made one day for every fifteen days' work, and instead of one day's leave for every fifteen days in the case of a child it may be made one day for every ten days' work. In this way I think we can make some approach towards the ideals mentioned by my honourable friend Mr. Santhanam. I think the leave rules are not liberal. In the English Act, I find they have prescribed Christmas, Good Friday and all bank holidays to be holidays for the workers also. That is more progressive than our Bill and now when we are a free country I think we should try to fall in line with other free countries.

Then one important provision of this Bill is clause 101 under which the occupier or manager of a factory can produce some scapegoats and escape liability. If he commits some faults there is a penalty prescribed; but if he can produce a scapegoat who will take the liability on himself he will be punished and the occupier or manager will go scot-free. This is something which is unfair and should not be allowed and this clause should be properly amended.

My honourable friends Mr. Sidhva and Mr. Jain both said that the most important part of the Bill should be the provisions for its implementation. I am glad that clause 113 gives the Central Government power to take the initiative; but I do not think that will be enough until the Honourable Minister uses his personal influence and gives that drive and initiative which is necessary if the measure is to be put into effect. Unfortunately the delay in making rules under the previous Act has been deplorable. I hope this will not happen in future and that rules under this measure will have been made before three months are over. I feel that this measure will be very useful for industrial peace in this country. In fact today there is inflation, industrial unrest and strikes where peace should prevail. If this measure is implemented in the spirit in which it has been conceived it will go a long way towards achieving industrial peace which we all want. Sir, I support the Bill.

Prof. N. G. Ranga (Madras: General): Sir, I am very glad that my honourable friend Prof. Shibban Lal Saksena has given such detailed consideration to this Bill; but I wish to assure him that after all it is not quite right for him to be so pessimistic about the possibilities of this Bill.

Prof. Shibban Lal Saksena: I am not pessimistic.

Prof. N. G. Ranga: And this Bill is not so backward either.

Prof. Shibban Lal Saksena: I did not say that either.

Prof. N. G. Ranga: It is not even so unsatisfactory as he has given us to understand.

Prof. Shibban Lal Saksena: I said nothing like that.

Prof. N. G. Ranga: He said nothing that I have so far suggested but I am afraid he has given that impression to this House, that it is neither such a progressive Bill nor such a satisfactory one. That at least is unfortunately the impression which has been created in my mind. Sir, I congratulate the Select Committee as well as the Labour Minister on having produced this report. I have given very careful consideration not only to this Bill but also to the Act which it seeks to supersede; and for a number of years we have been asking for many of the reforms which have come to be incorporated in this Bill. We asked the previous Government—but in vain—to extend the scope of factory legislation to that large number of small industrial concerns where less than 20 workers are employed and who are being treated very shabbily indeed. Now comes a measure to give these people also the benefit of protection of this

particular Bill; and factory inspection and many more new innovations have come to be introduced in this Bill, not the least of which is the creche about which my honourable friend Mr. Kamath was so very enthusiastic after having seen it in Russia. One friend from behind me was asking me this morning whether after all when there would be a creche it would be reasonable for one to expect that there would be a few dolls, in spite of having a provision that every creche should be equipped with dolls. That is how this scepticism occurs in regard to any proposals that may be coming from my honourable friend and the limits to which scepticism can possibly go; and I think it is very unreasonable scepticism. But I do agree with my honourable friend Prof. Shibban Lal Saksena when he demurred to the provisions giving emergency powers to the various authorities. I have no objection to emergency powers being given; indeed in these days emergency powers are inevitable and they have to be placed in the hands of some authority or other. But what is found lacking in this is that whereas in the International Labour Conference every effort is being made to insist upon prior consultation with the corresponding organisations of employers and employees before these emergency powers come to be exercised by the authority concerned, we do not find any such thing here. And I do hope that my honourable friend the Labour Minister will take early steps—not necessarily legislative—to give administrative directions to the authorities concerned in order to help them to consult the corresponding organisations of workers and employers before they try to give effect to these emergency powers.

Then my honourable friend Prof. Saksena took exception to the Works Committees in regard to leave. I think he should have hailed this provision that an employer should have to consult the Works Committees when he comes forward with any proposal for offering leave and regulating how and when the leave is to be made use of by the workers, and so on. But what possible objection can he have to these Works Committees except that on these Works Committees the managerial staff also might come to be represented whereas on the trade unions only the workers would be represented? Which would be more democratic, which would be more satisfactory and conducive to industrial peace? To make the employer depend for his consultations only with the workers, or to depend on the consultation with the managerial staff and workers also? I prefer the second solution. That is why I support the provision in this Bill.

I am also very glad that this Bill seeks to make good one very big omission indeed in the earlier dispensation. In the earlier days, the Central Government did not have any direct responsibility to ensure that the Factories Act could be and would be fully and satisfactorily enforced. Now for the last thirty years every one who has made a study of labour conditions has been making one big complaint in regard to this particular matter, *viz.*, that although this Factories Act was on the Statute Book it was not being enforced because the Provincial Governments were not so much interested. Therefore, I am glad that the Central Government has today taken the necessary power to give necessary directions from time to time to Provincial Governments in order to see that this particular Bill, when it becomes an Act, is properly and satisfactorily enforced. But more than that, there is even a bigger guarantee that the workers' interests will be safeguarded, that the provisions of this Act will be put in force in the democratic legislatures that we have in our various provinces and also in the growing labour movement. What organized labour in this country ought to look for is not so much for the Acts on the Statute Book but for their own organized strength and capacity to enforce their own will and to see that proper protection is offered to it by the Provincial Legislatures. And what are these Provincial Legislatures. If this House can consider itself democratic, I can assure you that the Provincial Legislatures can claim themselves to be just as democratic as this House, if not more democratic. Indeed the Provincial Legislatures are responsible to their own constituencies, whereas this House depends for its franchise on these Provincial Legislatures in regard to which Prof. Saksena

[Prof. N. G. Ranga.]

seems to be so sceptical. Therefore, it is indeed very good and wise to leave this particular matter to organized labour on the one side and democratic Legislatures and Cabinets in the Provinces, and I do hope that the fears expressed by Mr. Sidhva in regard to the possible failure of our Government to enforce this particular legislation would come to be falsified by the future history of our country.

I shall comment on one thing more, and that is in regard to inspection. Till now Government have been dependent on their own Factory Inspectors. I have suggested several times before that they should make certain experiments for invoking the aid of village *panchayets* in villages and municipal councils in towns, and ask those people to do a bit of factory inspection and bring to the notice of the Government, much more quickly than is now possible by Factory Inspectors, any discrepancy in this particular Act of any misbehaviour on the part of employers.

I have one more word to say in regard to the punishment provided in this. I am inclined to agree with Prof. Saksena that it might be possible for some of these managers to make scape-goats of some of their proteges and then try to escape for any misbehaviour of their own. I think something ought to be done in order to avoid this trouble. Secondly, Sir, I am indeed glad that not only fines, but also imprisonment are provided for any misbehaviour on the part of employers. I am also glad that a lower fine is prescribed for workers than what is prescribed for employers. But at the same time I am not satisfied that the workers are sought to be protected from the Courts as well as from the employers for any sort of misbehaviour on their own part. Well, I think further consideration will have to be given by Government in order to see that the workers' interests are better protected than is sought to be protected according to this Bill, so far as my present reading of it suggests to me.

I am very glad anyhow, that there is a section in this Bill, called Section 111 regarding the obligations of workers. I am glad it is there. Workers have to satisfy or carry out their own obligations just as carefully and scrupulously as the employers. Workers, unfortunately, of course, till now, have complained that it has been a one-sided affair: that they had been expected to carry out their obligations, whereas employers were let off "scot-free" to a very great extent. Nevertheless, it is high time now for the workers to realize and remember their obligations and discharge their own obligations as scrupulously as they have been doing, if not more carefully, even while they insist that the employers should carry out their obligations cast upon them in this Act.

Lastly, I am very glad that this experiment is being made to extend the scope of this Bill to a very large number of industrial workers indeed in this country. I am also glad that all those workers, not directly employed by the so-called employer—but who anyhow are slaves of his and come under his influence in an indirect manner—are also being given protection under this Bill to administer this Act.

Under the circumstances, it is going to be a very difficult thing indeed. If there were 7 or 8 million people who had been brought under the protection of the earlier Bill, I am sure, Sir, more than 20 million workers will come to be protected by this Bill when it becomes an Act. Therefore to try and safeguard the interests, according to the provisions of this Act, of 13 more millions of workers is going to be a colossal affair and it is going to cast a very great responsibility on the Provincial Governments and the Central Government. I do feel that it is a very courageous step for the Honourable the Minister to have taken and he needs our good wishes and he needs the good wishes and support of all well-intentioned employers on the one side and of patriotic workers on the other.

Shrimati Renuka Ray (West Bengal: General): It had not been my intention to take part at this stage of the debate, as I am a member of the Select Committee. But certain points have been brought up about which I feel compelled to speak.

In the first place, this Bill is a measure which is long overdue. It is a measure whereby the Act of 1934 has been improved upon in a way so that it can be implemented and worked. It goes without saying that the 1934 Act in many ways was a dead letter. Apart from the other improvements that have come in, I think the most important part of this measure is that it has made that Act of 1934 workable.

Sir, my honourable friend Shrimati Durgabai said that the measure is a charter of rights. Now, I am very enthusiastic about this measure, but at the same time I do not think it can conceivably be called a charter of rights for the labourers. One may say that it is a part of a charter of rights that will have to be drawn up, but it cannot be a charter of rights because it merely lays down the provisions in regard to working conditions and not conditions of living, which is undoubtedly the most important part of a charter of rights for the labourers.

Together with the Workmen's State Insurance Act, I think this measure is a first step towards achieving this, and I feel that if the Honourable the Labour Minister has a chance, he will bring in, in a not too distant future, a real charter of rights for the working classes in this country.

Now, Sir, I would like to refer to the speech of my honourable friend Mr. Santhanam. I must say that the first part of his note of dissent has a good deal of my sympathy. I do feel that it would have been better if we had included those factories where power is not used under this measure. But in regard to the second part of his note of dissent I want to point out that it would be totally unjustifiable to bring in this provision, whereby women should be entirely prevented from working even up to 10 o'clock. We have to consider this from all points of view. Anything that is really injurious to women's health or home of course must be left out and we should not make any such provision in the Factory Act or anywhere else whereby women have to work under conditions which would be really injurious to her health or to her home. It was for this reason that I moved an adjournment motion in the central assembly in the old days against the withdrawal of the ban on women working underground in mines, because I felt that this was entirely and wholly a wrong measure. But at the same time I do feel that we have to be careful in these things. In the first place if we put bans and restrictions on women working in various ways, we are likely to eliminate women workers as labourers altogether. For instance if we do not allow women in some factories to work up to 10 p.m. it may be that shifts being arranged as they are, they would just be deprived of working in such occupations altogether. Will their working up to 10 p.m. be so very detrimental to their home life? I do not think so. First of all these women who work go together to the factories and come back together. I do not think there are cases of abduction.....

Shrimati Dakshayani Velayudhan (Madras: General): Do they live in the same home so that they can go and come back at the same time?

Shrimati Renuka Ray: They usually stay in the same locality. I think that this exemption will apply only in certain specific industries such as jute mills, where they go together and come back together. Their homes are very near each other. I do not think cases of abduction have occurred. We have had a good deal of abduction in this country in the recent past but I do not think there have been many cases in regard to women labourers. Although women in this country are not yet able to look after themselves, a sorry situation which one has to admit, yet women labourers—I am proud to say—are at least a section

[Shrimati Renuka Ray.]

of our countrywomen who are able to look after themselves much better than others. It would be very unjust on our part that because there are other women who are still suffering from complexes and who have not been given facilities whereby they could look after themselves and hence are unable or unskilled to do certain jobs, we should prevent these other women workers from getting economic justice. It will mean that we deprive them of their means of honest livelihood which will have repercussions of an injurious nature on their family life and homes. For that is what it will mean. I am very much against this note of dissent and I hope that the Honourable the Labour Minister will not accept any amendment on this score.

There is just one other point on which I want to say a few words. My honourable friend Mr. Shibbanlal Saksena spoke about Railways being exempted from the Factories Act. That is not correct. They are not exempted from this Bill. What has been done by the Select Committee is that the railway running sheds have been exempted, because it so happens that their leave rules happen to be better than the leave rules under this Bill. Where any kind of labour has better treatment than the minimum conditions laid down under this Bill I do not think it would be to their detriment that they are exempted from the provisions of this Bill. I think this matter should be cleared up and it should be understood that the railways as such are not exempted.

I do not want to make a long speech. I feel that this measure is an extremely good one. Of course it has defects. My honourable friend Mr. Naziruddin Ahmad will find many grammatical errors and defects in this Bill to which he can bring amendments. Again I do feel that in the light of experience many real defects are also likely to come out which we cannot foresee today. These will have to be rectified later after this Bill has been passed and worked for sometime.

My honourable friend Mr. Sidhva made a long speech about the implementation of this Act. I have always thought that the implementation of an Act is far more important than just enacting it. I think the Honourable the Labour Minister is very much alive to this aspect of the case and I am sure that he will do his very best to see to it that the Act is implemented. As some honourable friends have said today the provincial governments cannot be looked upon in the same way as provincial governments in the past and we do hope that they too will be equally interested as the Honourable the Labour Minister is in seeing that this Factories Act, which though not a charter of rights for the working classes will be an important part of such a charter when it is enacted, is implemented properly.

The Honourable Shri Jagjivan Ram: Mr. Chairman, one finds it very difficult to give a reply to such a large number of criticisms, more so when those criticisms are not made in a spirit of opposition but in an appreciative and congratulatory spirit and also to demand something more for bettering the condition of the working classes. From one section of industrialists in this country and from a few members of this House there has been a complaint that I was going rather too fast in the matter of labour legislation and it leads me sometimes to think whether I am really going too fast. But today after hearing the speeches of the honourable members in this House I feel that I am not going fast enough. In spite of those honourable friends in this House who have sometimes been complaining that the pace and the speed with which I am bringing in labour laws will retard the progress of industrialisation in this country, it has been my own personal feeling that I was not going too fast, because it is inherent in what we have inherited as a legacy from the past government that the pattern of Government that we are working under does not lead us to go fast. This feeling of mine has been confirmed by the honourable members of this House.

Sometimes it has also been complained that some of the measures that I was bringing forward were of a revolutionary nature, that they will scare away

capital and will retard the progress of industry in this country. I think that that apprehension also has been falsified because a democratic government cannot claim to be a democratic government if it does not happen to be the barometer of the feeling in the society. Today I find that my measures do not generally represent the feeling of the society because from the speeches of honourable members here I find that the Bill that has been brought by the Government is not up to the expectations of the honourable members here. That means that it is not up to the standard of the social consciousness that has been aroused after the attainment of independence in this country. Therefore it is a very gratifying feature for me to find that the complaint against me of a certain section of the industrialists and a few honourable members of this House as well is totally untenable.

I now come to the various suggestions that have been made with a view to improve the Bill. I can classify the various speeches made into three categories: one which has been simply to congratulate me, to appreciate the measure and to appreciate the solicitude of the Government in improving the condition of the working classes. To that part I have nothing to say except acknowledging them with thanks. The second part is of such suggestions as have arisen out of a misconception of the provisions of the Bill, or due to the want of a thorough grasp of the provisions made in this Bill. Notices of a large number of amendments have been given. I have given my serious thought to these amendments, and I find that a very large number of the amendments are due to the fact that the honourable members have not bestowed that amount of thought and consideration on the provisions of the Bill as they ought to have given to them. Had they given that much of thought to the various provisions of the Bill they would not have come forward with these notices of amendments.

Mr. Naziruddin Ahmad (West Bengal: Muslim): There was no time to read the provisions of the Bill.

The Honourable Shri Jagjivan Ram: Had they also given their thought to the various aspects of the provisions of the Bill I think many members who have said so many things would have saved a lot of the time of this House. I will not take the time of the House on these suggestions as well. I may just say that many of the suggestions that have been made, either in the course of speeches or those which are sought to be made in this Bill by amendments, are already covered by the provisions contained in the Bill, for example, Sir, I may refer to the point that was raised by my honourable friend Prof. Saksena, whom I do not find in his seat, to include certain manufacturing processes. I am afraid he has not carefully gone through the provision as given in the Bill. Had he done that he would not have raised those points. Similarly there are so many instances that I can quote. So I will not examine the points, made either through the speeches or sought to be made through amendments, in respect of provisions which are already covered.

Then two or three serious criticisms have been made. One is that the present Government, and more so the unfortunate soul which is sometimes called the champion of labour and sometimes the enemy of industrialisation, has been pampering labour. I may assure you, Mr. Chairman, that I am one who believes that right and responsibility go together. I am one who believes that there cannot be a right without a responsibility and anybody who craves for rights and shirks responsibility is not a true citizen of the country. So anybody who thinks that I pamper labour, I am afraid, has not been able to appreciate my policy. I want that the working classes in this country must be treated as citizens of the country. They must have every human right. At the same time I also want that every citizen should realize his responsibility—the working classes included. But you cannot expect only responsibilities. It has been an unfortunate factor in this country that we have been given to expecting only responsibilities from the working classes. When I want some

[Shri Jagjivan Ram.]

rights for them, those who have been given to the habit of taking work from them without giving them the reward, feel that something revolutionary was being sought to be done. That is the whole crux of the situation. I have not made it a secret that I regard workers as an indispensable part and partner in any industry. I have said it so many times. I want to repeat it once more, not because I do not want industrialisation in this country, not because I do not want to protect the industrialists and the employers so long as we are working in the present economic pattern of the country, but because I feel this is the only step which can save the industrialists for some time to come. That is my genuine desire. With such a stupendous fall in production, with such a shortage of consumer goods, I know that it will be foolishness on our part to transform the existing economic system overnight. Therefore we have to protect and preserve the private industries for some time to come. But I know that no amount of appeal, no amount of request—not only from the Government but also from the leaders who count in the country—is going to help the situation unless we do something concrete for the toiling, starving and neglected working classes. Whatever step I propose to take is with that end in view. It is with a view not only to help the working classes but with a view to help the industrialists as well. I have sometimes told my industrialist friends in confidence—and I do not mind repeating it here as well—that if they do not change their outlook, if they do not regard that the workers are also as good human beings as the employers, they will be hastening their own ruination. If today I am forcing something which may appear unpalatable to the employers I may assure them I am doing those things primarily in their interests, because I want to save them in the interests of the nation for some years.

This Factories Bill, Sir, seeks to give some rights to the workers, but at the same time it does not deprive them or bereave them from their responsibilities. If one will look to the provisions of this Bill—I do not want to examine it clause by clause as some of my friends have done, though I can do it I think it is not appropriate at this stage—one will see that we have thrown responsibilities on the workers as well. In every measure that I am bringing, I am seeking to make the workers realise that they have a responsibility, they have their duties not only to themselves, not only to their employers but to the country and the community as a whole.

Some of my friends have said that this Bill is a revolutionary one. Others have said it is a charter of rights for the working classes. I wish, Sir, it were so. I do not think there is anything revolutionary in it; though there are some provisions which seek to uplift the workers from the very downward position to which they have been relegated from so many years past. I do not think those things to be revolutionary. To call a man a man, to call a citizen a citizen, I do not think is any revolution. And what does it seek to do? What it seeks to do is that if a worker falls ill he requires the services of a doctor as much as an employer requires, a worker if he meets with some accident deserves some first-aid as you or I or anybody else deserves. I do not think it is a revolutionary idea if one were to provide some first-aid, some amenities for the workers, as we do for others. It is not a revolutionary idea if one were to ask that if an employer were to employ a lady he will have to make provisions so that the child of that lady is looked after so long as she is engaged in the factory, and there is nothing like revolution if one were to expect that some provision will be made to give some milk, some refreshment, some playing space for those children.

The one thing that may be very revolutionary is that the employers will have to employ welfare officers to look after their workers in factories. The employers may feel—and I have received some protests from certain quarters and certain sections of the employers—but I do not think there is the least germ of revolution in that because that provision also I have made in the interests of

employers. I have been telling my employer friends to look to their counterparts in other countries like America and the United Kingdom, which have the same type of economy as we have—I will not invite them to look to that of Russia, that is a red rag with them. Let them see what amount of money employers in America and in Great Britain were spending on propaganda to educate their workers. I have been asking my employer friends here what amount they are spending for the education of their workers—not education in the general sense but education in the sense that if you are doing really something beneficial for your workers those very facts should be brought to their notice. That even is not brought to their notice. Well, disputes and troubles arise sometimes on trivial and trifling matters; had those things been settled as soon as they started, I think much of the bigger troubles could have been avoided. But there is no agency and there is no contact between the employer and the worker. So, this provision of welfare officers I presume should be a living contact between the employers and their employees, and that will be in the interests of the employers.

So, personally I do not find anything revolutionary in this measure.

Then, Sir, I come to the criticisms. One of the very important criticism of this Bill is that much power of exemption has been given to the Provincial Governments. I agree and accept that. Though there has been a definite improvement in this Bill over the old Act in the matter that we have made a statutory provision in the Bill itself for many things which in the old Act were to be done by rules framed by the Provincial Governments, still very many things have been left in this Bill which are to be prescribed by rules by the Provincial Governments. We have also made very many provisions by which the Provincial Governments or the Chief Inspectors of Factories of the Provincial Governments have been authorised to make exemptions of factories or a class of factories from all or any of the provisions under the various sections of this Bill. But I feel, Sir, that it is necessary that becomes necessary from the very fact that this Legislature is the Legislature of a Federal Government. We cannot afford to shut our eyes to this fact that we are legislating here for a field over which I have no executive authority. And, Sir, I may not expect that the very small staff that I have got in this section will know the various details that are required to be included in these rules. In a huge country like this where conditions differ so diametrically from one part to the other, it is not possible here to frame such detailed rules in the Act itself. Therefore, we had to give these powers to the Provincial Governments.

Then I come to the question of the power of exemptions. Sometimes power of exemption is necessary. I do not want to examine the various clauses, but if one were to examine them one will find that when we are making changes, introducing new measures and making them applicable to the existing factories as well, it will not be wise or desirable for us to expect that all the existing factories will conform to the various provisions that we are laying down in this Act. In the cases of many of the existing factories, their machineries and accessories will have to be rejected because they cannot conform to the new provisions made under this Act. Therefore, exemptions in many cases have become necessary and indispensable, so that we may not have, as soon as this Act is passed, to ask a number of factories in this country to close down. That will not be a wise thing, from the larger national point of view, more so at a time when production is suffering. So, howsoever I wish that all the factories in this country should conform to the new standards, having some responsibility as an administrator, I cannot shut my eyes to these bare facts.

Then, there is another fact. Apart from all these considerations, does it not imply some mistrust of our Provincial Governments when we say: Why so much power of exemption is being given to the Provinces?

Mr. R. K. Sidhva: Because they have not acted fairly in the past.

The Honourable Shri Jagjivan Ram: Mr. Sidhva has been very well replied by Prof. Ranga.

Mr. Naziruddin Ahmad: They cancel each other!

The Honourable Shri Jagjivan Ram: I think they neutralised each other, but I would like to request my honourable friends in this House to remember that the Provincial Governments, their ministries and their legislatures, are as much responsible there as we here claim to be and if we are giving them these powers, I think there is no reason to think that they will not be utilised properly.

Then the other question is about implementation. Mr. Sidhva was very much emphatic that the Provincial Governments have not been as alive to the implementation of this measure as they ought to have been. I know, Sir, that there are various difficulties. On previous occasions, I have given out some of the difficulties which force the Provincial Governments not to engage as large a staff as is necessary for the full implementation of the provisions of this measure, but it is gratifying to note that since I took charge of this responsibility, I have been periodically calling conferences of the provincial Labour Ministers and also calling periodical conferences of the Chief Inspectors of Factories of the Provincial Governments, and as a result of these conferences and as a result of our insistence on the Provincial Governments to increase their Factories inspectorate staff, I am glad to inform the House that today the number of Inspectors in the provinces which, two years back, was only 62, is today 86. Some of my friends will at once say that in such a vast country like ours only 86 Inspectors are not sufficient. Well, I am told that the number of factories in this country so far covered under the Factories Act is something like 13,000. So by rule of three, every Inspector is in charge of or supposed to be in charge of something like 150 factories. That is not a very low standard, I may inform the House. That is supposed to be a very reasonable and a very good standard—to have one Inspector per 150 factories,—so that today we cannot say that we have not sufficient inspectorate staff. But as we widen the scope of the factories Act, the number of factories will increase tremendously.

Prof. N. G. Ranga: It will be three times more.

The Honourable Shri Jagjivan Ram: But while I agree with my honourable friend Mr. Sidhva that the number of inspecting staff will have to be greatly increased, we cannot expect the Provincial Governments to increase their staff simply by criticism, simply by saying they are incapable and so on.

Mr. R. K. Sidhva: Then, what should I do?

The Honourable Shri Jagjivan Ram: You have to use persuasion. You have to remember that they are as anxious to go ahead with this work as we are. So I personally feel that the response to my request to the Provincial Governments has been very encouraging. During the last two years they have appointed twenty-four new Inspectors and that is not a small figure.

Babu Ramnarayan Singh (Bihar: General): What about Bihar?

The Honourable Shri Jagjivan Ram: I have not got the figures for the different provinces ready at hand, but I feel that Bihar is not lagging behind in this respect. Bihar has also made some new appointments, but I wish my honourable friend from Bihar is in better possession of facts about Bihar than I am.

Then, Sir, there have been some questions about more amenities for the workers. One thing we should not forget is that this is after all a Factories Bill. By "Factories Bill" it is implied that we are proposing to regulate the employment conditions, health and safety of the workers inside the factory. We should not confuse it with the welfare measures for the workers outside the factory. If we keep these two factors separate, many of the questions that have been

raised in regard to adult education, visual instruction, primary schools etc. would not have been raised here. Those things are very necessary. They are crying needs of the time. We will, either I as a Labour Minister, or the Government as a whole, here in the Centre or in the Provinces, will have to take concrete steps for educating our adults, for educating our children and other similar things. But that work does not fall within the purview of the Factories Act. I think if we were to include the question of primary education etc. in this Bill, the people outside would ridicule not merely my Ministry but this Legislature also. While therefore those provisions are necessary they are not within the jurisdiction of the Factories Bill. We purposely kept the various age-limits in this Bill so that when we have education scheme for the country, when we feel that all children of such and such age will have to be put in the schools, we have provided that from the creches they will go to the schools.

Then, you Sir, raised the question about the training of workers. That, also, I am afraid, does not fall within the purview of the Factories Bill. We are, however, examining that question separately, as it has a very important place in the national economy. At a time when we are so short not only of production but also of man-power—and here perhaps some of my friends may think that when we have such a huge resource of surplus manpower it looks paradoxical to say that we are short of manpower—but all the same, Sir, the fact remains that we are very short of man-power and therefore, we will have to train our people and I am examining that question. We 5 P. M. have also taken that question separately with the employers in various industries in order not only, that the workers may be in a better position to earn something more but also that we can solve our shortage of manpower and technical personnel. We will have to make adequate provision for training the workers with a view to upgrading them. That question we are examining separately and I am thankful to you, Sir, that you pointed it out here. My time is over, Sir and I shall say a few words about one or two things

Some Honourable Members: Tomorrow?

The Honourable Shri Jagjivan Ram: I will rather have it finished in five minutes now.

About women, Sir, I think the objection of Mr. Santhanam has been neutralized by Mrs. Renuka Ray. But I would like to say one thing. I have given serious consideration to this question. But I do not want to confuse the issue by raising questions like abduction, *purdah*, illiteracy and things like that which he has raised. These are not the ladies who remain in *purdah*. The question of *purdah* does not arise here. Those who are in *purdah* can afford to live in *purdah*, but those who are on the point of starvation they have to go to the mills and earn their livelihood. We cannot judge their standard from the standard of the middle class people. We will have to judge it from the standard of those people who have no means of livelihood.

Shrimati Dakshayani Velayudhan: I should like to know whether the international law allows women to work in factories between 7 and 10 P.M.?

The Honourable Shri Jagjivan Ram: It does and it is in conformity with the international law, but I am not judging it from the international point of view, Sir. Sometimes we have to judge things on the merit of our national requirements and the requirements of our own society. We cannot judge everything from the standard of America, Russia or the United Kingdom. There are so many things in our society which are not to be found in other countries.

Prof. N. G. Ranga: America proposes that women should work till 12 o'clock.

The Honourable Shri Jagjivan Ram: And then to confuse these issues about illiteracy and literacy. Are you really proposing that you are not going to allow illiterate women after 10 P.M.? If you do not allow these women to work, they may have to face starvation. I can appreciate your anxiety for social standards and morality if before making this note of dissent you have brought a resolution that no lady after 10 P.M. is allowed to go and walk in the clubs, on the roads in the towns and the bazaars. For luxury everybody and anybody can go out but for necessity you want to prevent them. Their necessity is greater.

Shrimati G. Durgabai: They go in the cars. Why not?

The Honourable Shri Jagjivan Ram: Then, Sir, about abduction. I wish my honourable friend could have studied the statistics about abductions and then he would have found whether these working-class ladies have been abducted or those in *pardah* have been abducted. He could have ascertained who are the ladies who are abducted most, not those who go in the mills and work, not those who stand on their legs and who earn their livelihood, but those who are confined in *pardah*. Even on principle as much as on necessity, I feel this provision is very much necessary. I have personally seen the females of those poorer classes who have no mainstay, no land, no supporter; they will have to beg or starve if they are not allowed to work and they may not get work if they are not in a position to work for the second shift as well and this provision has been made with a view to enable them, those who as a necessity have to work, that they may work for the second shift also. This will be applicable only in those factories which are working the second shift. So in order to provide those ladies who have no means of livelihood and who may be forced to work the second shift may be in a position to earn their livelihood and also to maintain their small children that this provision has been made. It has been said that it was not in the existing Act; it might not have been, but when I feel that a thing is necessary, there is no bar in introducing a new provision. The fact that this provision is not in the existing Act, is not an argument against introducing it in a new Bill. I feel it is a very necessary provision. I have given my very anxious thought to this question, but at the same time I have seen their pitiable condition and I have come to the conclusion that this provision is very necessary in the interests of those women workers. With these words, I hope the House will accept my motion for consideration.

Mr. Chairman: I think honourable members will have an opportunity when the details are being discussed of having reply to all the questions.

The question is:

"That the Bill to consolidate and amend the law regulating labour in factories, as reported by the Select Committee be taken into consideration."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday the 24th August, 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Tuesday, 24th August, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

FACTORIES BILL—*contd.*

Mr. Speaker: The House will now proceed with the further consideration of the Bill to consolidate and amend the law regulating labour in factories, as reported by the Select Committee. The consideration motion was passed by the House yesterday and we proceed today with the clause by clause reading of the Bill. I find there are amendments by Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Yes, Sir. I have two amendments and I shall move them together as they relate to the same matter.

I beg to move:

"That in parts (e) and (f) of clause 2 of the Bill, for the word 'beginning', the word 'commencing' be substituted."

The clause in the Bill says: "'day' means a period of twenty-four hours beginning at midnight". This is in part (e). (f) also says the same thing. "Week" means a period of seven days beginning at midnight on Saturday night etc. I want to substitute the word "commencing" for the word "beginning". First of all, the word "beginning" is an informal word. The word "commencing" is a formal word and a precise one. It is given out in Webster's Dictionary of Synonyms, which is a standard authority on these matters that the word "beginning" has relation to an event, but the word "commencing" is related to a point of time. We may say that the proceedings of this House begin with the arrival of the Speaker, but it will be proper to say that the proceedings of the House commence at Quarter to Eleven. We are here concerned with a point of time and "commencing" would be a more proper word. I do not say that "beginning" would be absolutely wrong, but the word "commencing" is more appropriate.

In this connection, I should also like to make a suggestion, if it is acceptable to the Honourable Minister, namely, that the week should rather begin after the week-end, that is, after the midnight of Sunday. A week to begin after the midnight of Saturday would not be very proper. This is only a suggestion. For the present, I move only for the changing of the word "beginning" into "commencing".

Mr. Speaker: Amendment moved:

"That in parts (e) and (f) of clause 2 of the Bill, for the word 'beginning', the word 'commencing' be substituted."

The Honourable Shri Jagjivan Ram (Minister for Labour): Sir, I do not claim to be a grammarian as my friend claims to be, but both the words "commence" and "begin" have the same meaning and the word "begin" is simpler than the word "commence". So I would go in for the simpler word and I have also been advised by the Draftsman that "begin" is quite appropriate here. I had requested my friend Mr. Naziruddin Ahmad to help the Draftsman in all these matters and he has helped him to a very great extent. That is why this time honourable members do not see such a large number of amendments from my friend, but I am sorry I cannot accept this amendment.

Mr. Speaker: I take it that only such of the amendments as are not accepted by the Draftsman appear on the Order Paper.

Mr. Naziruddin Ahmad: Yes, Sir.

Mr. Speaker: If that is so, the honourable member may leave them alone, unless he is very particular.

Mr. Naziruddin Ahmad: I am not very particular about these amendments. What happened was that the Honourable Minister was kind enough to ask me to point out some of the amendments to the Draftsman instead of troubling the House over them, and I was enabled to make a large number of suggestions. I am grateful to the Honourable Minister and also to his Draftsman for accepting a large number of suggestions. It is for this reason that they do not appear on the Order Paper. Yesterday, the honourable lady member, Mrs. Renuka Ray, rather lamented the absence of a large number of amendments which the House normally expects from me. The reason was as I have explained. However, in spite of all my industry, I missed a few more points and that is why they appear even now on the Order Paper. But so far as the Honourable Minister is concerned, he has been extremely fair in considering the amendments. So, if he does not accept these two particular amendments, I shall not press them.

Mr. Speaker: Then, I take it the honourable member wishes to withdraw.

Mr. Naziruddin Ahmad: Yes, Sir. I beg leave of the House to withdraw.

Mr. Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Speaker: Then there are amendments by Prof. Shibban Lal Saksena in List No. 5, amendments Nos. 1 to 5.

Prof. Shibban Lal Saksena (U.P.: General): Sir, I beg to move:

"That in part (k) (i) of clause 2 of the Bill, after the word 'packing', the words 'painting and polishing' be inserted."

I will also move the second amendment just now as it relates to the same sub-clause. I beg to move:

"That after part (k) (v) of clause 2 of the Bill, the following new part (k) (vi) be added;

"(vi) loading cargo on or unloading cargo from vessels or ships;"

Sir, by my first amendment I have only tried to extend the meaning of the words "manufacturing process". As I said yesterday, some industries had been left out and they could be easily included in this Bill by adding "painting and polishing" here.

By my second amendment—which is more important—I have tried to add "loading or unloading of cargo from ships". In fact, the British Factories Act

has got several sections for dock workers, because according to that Act, dock workers are also entitled to the same amenities. In fact, I would like to draw the attention of the Honourable Minister to Section 105 of the British Act by which they have extended the provisions of the Factory Act to dock workers. We know that there are about a lakh of these people in this country and if a Section like Section 105 of the British Act could be added to this Bill, it would be much better, but I think even if we add this new sub-section (vi) in clause 2 (k), the purpose would be served. The provisions in Section 105 of the British Act run as follows:

"The provisions of this Act hereinafter in this sub-section mentioned shall apply to every dock, wharf or quay (including any warehouse belonging to the owners, trustees or conservators of the dock, wharf or quay and any line or siding used in connection with and for purposes of the dock, wharf or quay and not forming part of a railway or tramway) and every other warehouse (not forming part of a factory) in or for the purpose of which mechanical power is used, as if it were a factory; and as if the person having the actual use or occupation of it or of any premises within it or forming part of it were the occupier of a factory....."

Then there are certain other sub-sections; and in regard to the loading and unloading of cargo, the section says:

"The provisions of this Act mentioned in paragraph (a).....shall apply to the processes of loading, unloading or coaling of any ship in any dock, harbour or canal..... and to all machinery or plant used in those processes, as if the processes were carried on in a factory and the machinery, or plant were machinery or plant in a factory and the person who carries on those processes were the occupier of a factory."

That means that all the docks and wharves and quays are covered by these provisions in the British Act. So what I say is that the large numbers of dock workers in India should also be given the benefit of this Act. Recently, we had a Dock Worker's Act which is intended to remedy the present casual nature of dock labour, but the condition of the dock workers is very bad and if we only add this simple clause, all the benefits of this Act would be extended to them. They are engaged in a work which is of paramount importance to the country, and if their conditions of service are not improved, and they are dissatisfied, nation's commerce will suffer. I, therefore, earnestly plead for extending this Act to them.

Mr. Speaker: I was just considering, before I put the amendments, whether the first amendment is not covered by the words "ornamenting, finishing" etc. which are already in the section.

The Honourable Shri Jagjivan Ram: It is covered. I was also just going to point out that it is covered by the words "ornamenting and otherwise treating" which are already in the Section.

Prof. Shibban Lal Saksena: Then, I do not press that amendment.

The Honourable Shri Jagjivan Ram: In regard to the second amendment also, I may explain, so that the honourable member may be induced to withdraw it. Loading and unloading of cargo is covered by the Dock Labourers' Regulations and therefore we did not include that thing here.

Prof. Shibban Lal Saksena: But there is nothing for them in this Bill here.

The Honourable Shri Jagjivan Ram: Not in this Bill but in the other Act.

Mr. Speaker: The Honourable Minister says loading and unloading is covered by the regulations for the dock labourers. His contention is that they have therefore, not included it here.

Prof. Shibban Lal Saksena: Are the same amenities provided there and have they the force of a statute?

The Honourable Shri Jagjivan Ram: Their safety and other things are provided there, but not all those things which are provided here in the Factories Act. The point about loading and unloading does not come in the manufacturing process and that is not a factory.

Mr. Speaker: The question is:

"That after part (k) (v) of clause 2 of the Bill, the following new part (k) (vi) be added;

'(vi) loading cargo on or unloading cargo from vessels or ships.'"

The motion was negatived.

Prof. Shibban Lal Saksena: Sir, I move:

"That in part (l) of clause 2 of the Bill, the following be added at the end;

'including every person employed in or on behalf of a factory as menial, clerical, supervisory or other staff.'"

Sir, the definition of "worker" formerly had a tail in which it was mentioned that the clerical staff is not included in the definition of "worker". This tail has now been dropped. I consider this is an improvement, but this matter is of vital importance and these words should therefore be specifically mentioned here. There is obviously no harm in mentioning them. It was with this same purpose in view that the words in the tail of the former definition were omitted. I think by using these words, we will be able to make our purpose more explicit and avoid much litigation. I hope the Honourable Minister will accept the amendment.

Mr. Speaker: Amendment moved:

"That in part (l) of clause 2 of the Bill, the following be added at the end;

'including every person employed in or on behalf of a factory as menial, clerical, supervisory or other staff.'"

The Honourable Shri Jagjivan Ram: I have every sympathy with the mover of the amendment, but I do not accept it, not because I am opposed to it, but because it is superfluous. It is covered here in the definition as given in the Bill. Everybody who is connected with any of the works incidental to or connected with the manufacturing process is a worker. So I find this amendment superfluous and not necessary.

Prof. Shibban Lal Saksena: In view of the assurance of the Honourable Minister that they are included, I beg leave of the House to withdraw my amendment.

Mr. Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in part (m) (ii) of clause 2 of the Bill, for the word 'twenty', the word 'fifteen' be substituted."

Sir, our friend, Mr. Santhanam and two other friends in the Select Committee have given their note of dissent stating that this part (ii) should not be there and that all factories whether they use power or not should be covered by this Act. I have every sympathy with them, but I do think that there should be maintained separate statistics of factories which are using power or which are not using power. If the Honourable Minister is keen on having that differentiation let him have it, but there should be brought under this Act a larger number of factories, and therefore I have suggested that the word "fifteen". I hope as a compromise the Honourable Minister will accept the amendment.

Mr. Speaker: Amendment moved:

"That in part (m) (ii) of clause 2 of the Bill, for the word 'twenty', the word 'fifteen' be substituted."

The Honourable Shri Jagjivan Ram: Sir, I do not accept this amendment, not because I do not want to bring all the factories in this country within the

purview of this Act, but because it will not be administratively possible at this stage and there is no meaning in putting a thing on the statute book which will not be enforced in the near future. Moreover if the Provincial Government find that they are in a position to enforce the provisions of this Bill to every factory, they have got the power to extend the scope of this Bill and apply it to the other factories as well. Therefore I do not accept the amendment.

Prof. Shibban Lal Saksena: If the Honourable Minister is not agreeable, I beg leave of the House to withdraw my amendment.

Mr. Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Prof. Shibban Lal Saksena: Sir, I move:

"That in part (m) of clause 2 of the Bill, the words 'or a railway running shed', occurring at the end, be omitted."

Sir, this is an important amendment and I wish the Honourable Minister could see his way to accept it. In fact, it was not in the old Act and it is an innovation in this Bill. I don't think that the Honourable Minister wants to make the lot of people in the railway running sheds worse than what it was before. As I pointed out yesterday from a quotation from the Railway Act, I find that they are putting in 60 hours work and the spreadover is 84 hours. I think the running staff is the most important staff in the Railways. Unless we give the drivers, the firemen, the engine-cleaners and all these people the amenities provided for in this Act, I think we cannot run the railway service efficiently. I therefore hope that the Honourable Minister will not have it said about this Bill that it has also injured a large number of workers who have so far enjoyed the benefits of the Factory Act. I hope, Sir, he will accept the amendment.

Mr. Speaker: Amendment moved:

"That in part (m) of clause 2 of the Bill the words 'or a railway running shed', occurring at the end, be omitted."

Shri K. Santhanam (Madras: General): This point came for an exhaustive enquiry at the Select Committee meeting and it was found that it was to the advantage of the workers themselves that the clause should remain as it is. There was some difficulty in distinguishing between workers within the running shed who were treated as factory workers and others who work outside the running shed and were treated as non-factory workers and there was a great deal of confusion. Also under the Railway rules the people we exempt from this Factory Act get many more privileges and therefore it is considered desirable that this running shed should not be treated like a factory for the good of the workers themselves.

Prof. Shibban Lal Saksena: I cannot think of any advantages to which they are entitled by being excluded from this Act.

The Honourable Shri Jagjivan Ram: I think, Sir, this amendment has been put by my honourable friend out of some misconception. He has raised the question of drivers and guards. I do not see how we can mix up these drivers and guards with the railway running sheds. It is not meant for drivers, firemen and guards. These running sheds are not as a matter of fact factories; they are not even repair shops; they are places where these engines are cleaned or minor repairs done. The anomaly arose because those who are working in these sheds are treated as if they were employed in a factory and those working outside are treated as if they are not factory workers; and that anomaly was created among the same category of staff themselves. In order to do away with that anomaly and in view of the fact that these running sheds are from the nature of their work not factories, it was brought to our notice by the Railway Board

[Shri Jagjivan Ram]

that it would be advisable to exempt these running sheds from the purview of the Factories Act. As regards other amenities, as pointed out by Mr. Santhanam they are better placed in the matter of leave rules and other things. As regards hours of work, for railway workers as pointed out by Prof. Saksena, they are for the running staff. Those also are going to be revised in view of the award given by Justice Rajadhyaksha which will soon come into force. So all these points do not arise and my honourable friend is labouring under a misconception; I hope he will withdraw the amendment.

Prof. Shibban Lal Saksena: I would have found great pleasure in withdrawing it but as I am myself fully acquainted with many running sheds all over the country

Mr. Speaker: There can be no reply to the argument. The honourable member has to make up his mind whether he withdraws it or wishes it to be put to vote.

Prof. Shibban Lal Saksena: I desire to press it.

Mr. Speaker: The question is:

"That in part (m) of clause 2 of the Bill, the words 'or a railway running shed' occurring at the end, be omitted."

The motion was negatived.

Mr. Nasiruddin Ahmad: Sir, I move:

"That in part (n) of clause 2 of the Bill, for the words 'and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory', the following be substituted:

'and includes, where the affairs of the factory are entrusted to a managing agent, such managing agent;'"

This relates to the definition of the word "occupier". It says: "'occupier' of a factory means the person who has ultimate control over the affairs of the factory." Then there is a long passage: "and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory." These words are condensed in the amendment.

The amendment merely substitutes for the last words "shall be deemed to be the occupier of the factory" the word "includes". The definition relates to an occupier and if we say it includes a managing agent all these words "shall be deemed to be the occupier of the factory" would be unnecessary. If we say that the occupier includes the managing agent if he is in charge, that is quite enough to express the idea and it economises so many words. Sir, I move.

The Honourable Shri Jagjivan Ram: Sir, it is not only a question of drafting but changes the meaning also to some extent. Under the clause the managing agent if he is in charge will be the occupier, whereas the amendment would make the person who is in ultimate control as well as the managing agent occupiers of the same factory. So it is not merely an improvement of language but also changes the meaning. I cannot accept it.

Mr. Nasiruddin Ahmad: The same risk is there also in the clause as it stands.

Mr. Speaker: No, it is not so. The amendment would make it apply to both; that is not the idea.

Mr. Nasiruddin Ahmad: Then I do not press it.

Mr. Speaker: Then I need not put it to the House.

Mr. R. K. Sidhva (C. P. and Berar General): Sir, I beg to move:

"That after part (o) of clause 2 of the Bill, the following new part be inserted:

'(oo) 'Chief Inspector' and 'Inspector' mean persons who have served for about three years in any recognised social institute.'"

In view of the Inspector's duties this is very important. The Honourable Minister stated that even in the Adviser's department there is training of inspectors. I should like to know what training is given there. If the Inspectors are trained there I will press for this amendment.

The Honourable Shri Jagjivan Ram: Sir, I am not accepting this amendment.

Mr. R. K. Sidhva: Then I do not press it.

Mr. Speaker: Then I will not put it to the House.

Shri Ajit Prasad Jain (U. P.: General): Sir, I move:

"That in part (q) of clause 2 of the Bill, the following be added at the end:

'and all references to a province shall be construed as references to an Acceding State'."

I said something about this yesterday and I desire to say a few words on it now. This amendment really relates to clause 100 of the Bill which says that in case of firms and associations all the partners of the firm or members of the association shall be responsible for any breach or violation of the provisions of law. To this there is a proviso to the effect that it will be open to the partners of the firm or the members of the association to nominate one of their partners or members, and that person alone shall be liable for any breach or violation of the law. But that proviso lays down a rider that such member should be residing within the provinces of India. Now the word 'province' has a special meaning under the Government of India Act and means one of the provinces mentioned therein. This Bill has now been extended to the Acceding States. And if this amendment is not accepted it will mean that in the case of a firm or association which carries on business in an Acceding State the partners or members, who will all be ordinarily residing in an Acceding State, shall not be entitled to nominate a partner or member who alone will be responsible for violations or breaches of the law. I think for provinces and States there must be one law and my amendment would remove the anomaly that now exists in the Bill. I hope it will be accepted. Sir, I move.

Mr. Speaker: Amendment moved:

"That in part (q) of clause 2 of the Bill, the following be added at the end:

'and all references to a province shall be construed as references also to an Acceding State'."

The Honourable Shri Jagjivan Ram: I think it should read as "references also to an Acceding State." I am prepared to accept in this form.

Mr. Speaker: Has the honourable member any objection to adding the word "also"

Shri Ajit Prasad Jain: No, Sir.

Mr. Speaker: The question is:

"That in part (q) of clause 2 of the Bill, the following be added at the end:

'and all references to a Provinces shall be construed as references also to an Acceding State'."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. Nasiruddin Ahmad: Sir, I beg to move:

"That the Proviso to Clause 3 of the Bill be omitted."

[Mr. Naziruddin Ahmad]

Sir, the main part of clause 3 is to this effect: "In this Act, references to time of day are references to Indian Standard time, being five and a half hours ahead of Greenwich Mean Time." Then there is the proviso that the Indian Standard Time may be abandoned in certain cases and other times may be allowed to be observed. I submit, Sir, that by allowing this latitude, nothing would be gained. In fact, no principle will be affected if we all observe the same Standard Time. There will be uniformity. No vested rights or caste prejudices of any kind which the people value so much will be safeguarded by adding this proviso. On the other hand, in the interest of uniformity of time, I submit the proviso should be deleted. No hardship will be caused thereby to anybody.

Mr. Speaker: I think the honourable member knows that this is an amendment which need not be proceeded with and that he will not, as usual, press this.

Mr. Naziruddin Ahmad: If the Honourable Minister does not accept it. . .

Mr. Speaker: It must be obvious. There is a difference of twenty minutes between the Bombay time and the Calcutta time. If a uniform time is adopted, the Calcutta workers will be put to a great hardship.

Mr. Naziruddin Ahmad: The amount of time will be the same; only the starting point will be different. It is only in astronomical or other scientific observations that the exact local time is very important. If in the Posts and Telegraphs and the Railways the same Standard Time which is current from Bombay to Assam without causing the least disturbance, I think there will be no difficulty in accepting this amendment and deleting this proviso. It will cause difficulty only in the case of nautical and astronomical observatories; we are not here dealing with any such thing.

The Honourable Shri Jagjivan Ram: What about the Calcutta local time?

Mr. Naziruddin Ahmad: Calcutta time is an anomaly against which there has been a serious outcry. I beg to submit that in the Railways, Post Offices and in Offices throughout India, the Standard Time is maintained and no hardship is caused. There was a gentleman who was a lawyer, and he wanted to catch a train. He had to add 24 minutes to the local time, which was then known as the Jubulpore time. He was always late and always missed the train. So, this time he began to arrange for his departure from three days before the journey. First of all, he added 24 minutes to the local time and committed to memory the exact time. Unconsciously, forgetting that he had already added the time, he again added 24 minutes and when he went to the platform, it was empty. He thought the train was late and that he had come too early. After some time, he was informed that the train had left. In these circumstances, no advantage will accrue to any one by allowing this difference in the timings; in fact, it would be always dangerous to allow two timings in the same place.

Shri K. Santhanam: In U.K., they have got the Summer Time and Double Summer Time.

Mr. Naziruddin Ahmad: In Post Offices and in Telegraph Offices, we have got the Standard Time. The All-India Radio also observes the Standard time, and everybody has accepted these timings. Conversion of one time into another is an irksome and risky affair. It is for this purpose that I want to make it uniform.

Shri H. V. Kamath (C. P. and Berar: General): The metropolis of the province from which my honourable friend himself hails, which is one of the biggest industrial centres in our country, is notorious for its persistent observance of local time.

Mr. Naziruddin Ahmad: Nowadays that has changed.

Mr. Speaker: Do I put it to the House?

Mr. Naziruddin Ahmad: Yes.

Mr. Speaker: Amendment moved:

"That the Proviso to Clause 3 of the Bill be omitted."

The Honourable Shri Jagjivan Ram: I do not accept the amendment. Apart from the times that may be prevailing in places like Calcutta and Bombay, it becomes sometimes necessary to alter the Standard Time and apply the local times in certain industries in certain seasons of the year. In other countries also they have the Summer Time and the Double Summer Time and think like that. It is at present existing in our country also. It is not going to cause any difficulty to anybody if local times are applied. Therefore, I do not accept the amendment.

Mr. Speaker: The question is:

"That the Proviso to Clause 3 of the Bill be omitted."

The motion was negatived.

Mr. Speaker: The question is:

That Clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I do not propose to move the amendment; but I would like to take this opportunity to make a few observations about this clause 4, if I may be permitted to do so.

Mr. Speaker: Yes.

Shri Ajit Prasad Jain: Sir, Clause 4 provides that the provincial Government shall have the power to declare that a factory which in fact consists of different departments or branches should be treated as so many different factories. In the British Act, there is also a counter part of this provision and the Chief Inspector there has been given the power to treat more than one factories as one factory. I think that is a very wholesome provision that the Chief Inspector of the Provincial Government should have the power to treat either a number of factories as one, if they are one, or treat one factory as a number of factories, if they are different factories. That does not necessarily mean that the Provincial Government will un-necessarily group a number of factories into one; but if any effort is made by the Factory owners to circumvent the provisions of law, then, the Provincial Government may act so that the true intention of the Act may be carried out. I hope that in working out the provisions of this Bill, this point will be kept in view.

Mr. Speaker: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Prof. Shibban Lal Saksena: Sir, there is some misprint here. The amendment which I have tabled gives two alternatives. The first alternative is that clause 5 of the Bill be omitted and if it is not acceptable, then, in the alternative, I have suggested three amendments.

Mr. Speaker: That may not be in order.

Prof. Shibban Lal Saksena: I know my honourable friend the Minister is not going to accept any of these amendments. I only want to make my position clear in regard to this clause.

Mr. Speaker: The procedure which I would suggest is this: let us first dispose of the amendments; if he has to say anything substantially against the clause, then he may address the House about the clause.

Prof. Shibban Lal Saksena: All the four amendments are one connected whole. They are put forward only in the alternative.

Mr. Speaker: Which amendment does he propose to move?

Prof. Shibban Lal Saksena: I have suggested that either clause 5 of the Bill be omitted, or, if that is not acceptable, then in clause 5 of the Bill, after the words "provincial Government", the following words be inserted, namely:—"with the consent of the Legislative Assembly expressed through a resolution."; that in clause 5 of the Bill, the words "all or" occurring in line three be omitted, and that in the Proviso to clause 5 of the Bill, the words "at a time" be omitted. I had also pointed out yesterday that in a free India we should not give to the Executive power of over-riding the wishes of the Legislature. Here we are passing this Act after prolonged discussions and we should not give power to any executive authority to say that an emergency has arisen and so this Act must remain in abeyance. I think the Government has enough powers to meet emergencies, and Acts passed with great labour by this sovereign Assembly should not be put at naught by mere executive orders. I want this power to be taken away, but Government may have power in times of emergency to call a meeting of the Assembly. At present they also have powers to issue an Ordinance. It should never happen that the workers in a factory are without any Code to regulate their conditions of service. I think that England and America, although they went through the great war, still did not annul their labour legislations. What they did was that they tried to have their Parliament or Congress to meet and to frame laws to meet any emergency. If we put in this provision here, it may be later used vindictively by another Government not properly disposed towards labour. I am not prepared to give this power to any Government to set at naught the will of this sovereign Assembly. I think it is an undemocratic provision and it should not be included in an Act passed by this Assembly. I hope the Honourable Minister will see that this anomaly is removed from the Act. He already has all the powers to meet emergencies and to give a Government the power to transcend all law will be most unwise. I wish this to be a really democratic Bill and I do not want it to be said that any Government has powers to sit at naught legislation passed by this House.

Mr. Speaker: The position then comes to this. As I stated to him his amendment No. 7 for the deletion of the entire clause, will be out of order. He can of course vote against the clause.

Then there are three other amendments—Nos. 8, 9 and 10, which he wishes to move as alternatives to the deletion of the clause.

I shall put them to the House one by one. Amendment No. 9 goes out because the deletion of the words "all or" is not going to make any difference. The clause reads:

"In any case of public emergency the Provincial Government may, by notification in the official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act."

Really there is no substantial change. But if he is particular, I will put Nos. 8 and 10.

Prof. Shibban Lal Saksena: I would like to know what the Honourable the Minister has to say. I think he may agree with me.

Mr. Speaker: Very well.

The Honourable Shri Jagjivan Ram: I have nothing much to say. These powers of exemption are being given to the Provincial Governments in case of

public emergency. We are widening the scope of the Factories Bill. My friend is aware in case of an emergency, like a war, a very large number of small factories spring up in connection with war supplies and it may not be desirable and wise on the part of the Government to enforce the provisions of this Act to a very large number of factories that may be existing or may exist, as a war emergency.

Now as that amendment is, if this emergency provision is to be used, it should be with the express approval of the Legislature. Well, it is for the House to decide whether, in case of an emergency, it will be possible to convene a meeting of the Legislature and to have a resolution passed to this effect,

seeking the approval of the House to the exemption of the factories from the provisions of this Act. I do not think it is advisable to have this provision that the prior approval of the Legislature will have to be taken. It might be that in case of an emergency it will not be possible to convene a meeting of the Legislature at all and the members themselves may not be in a position to attend the meeting. So I do not think it is necessary to have that provision and I cannot agree to the deletion of this provision. It is very necessary.

Prof. Shibban Lal Saksena: In place of "Provincial Government" will he be prepared to have "Central Government"?

Mr. Speaker: That is a new suggestion. But is the honourable member particular that I should put the amendment to the vote of the House?

Prof. Shibban Lal Saksena: If he does not agree I will withdraw it.

Mr. Speaker: There is no question of withdrawal. He is not going to move the amendments. So that disposes of all the amendments to this clause except that of Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad: I am not moving.

Mr. Speaker: In that case I shall put the Clause to the vote of the House. The question is:

"That Clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That in sub-clause (1) of clause 6 of the Bill, for the word 'may', the word 'shall' be substituted."

The idea is that the Provincial Government 'shall' have to make rules requiring all these provisions which are provided in this Act. Therefore, I move.

Mr. Speaker: Amendment moved:

"That in sub-clause (1) of clause 6 of the Bill, for the word 'may', the word 'shall' be substituted."

Shri Prabhu Dayal Himatsingka (West Bengal: General): I do not see why the Honourable Minister should ask for this change to be made in clause 6. This Factories Bill makes compulsory provision for health, safety and other conveniences and amenities for labour, this section seeks to lay down certain additional conditions which if the Provincial Government shall so desire they may lay down, viz., approval of particular places as sites for a factory or otherwise. There is nothing as regards conveniences for labour or anything else. So far as the big towns are concerned, there are municipal laws which have to be followed by applicants for the erection of factories and they have to apply for sanction to the different municipal corporations. So far as the other municipal towns in the provinces are concerned, there also the municipal laws require it. But if certain factories have to be erected in villages, where there

[Shri Prabhu Dayal Himatsingka]

is neither a municipality nor anything else, this question of a selection of a site or finding a site, does not arise. You will find that this Factories Bill has been made very extensive in view of the definition of the word 'factory' and it has been made applicable to a number of occupations carried out by more than 20 persons. If site plans have to be filed and specifications have to be filed and the same made compulsory, the expenses will be very much increased. Any expenditure we add to the erection of a factory, or the manufacture of any particular thing, has to be paid for by the consumers. It is not the factory owners alone who have to pay. They certainly realize every pice they spend from the consumers. Therefore the Honourable Minister should consider the advisability of the change of the word 'may' into 'shall' and I am sure that when he will consider it carefully he will not press his amendment.

Shri K. Santhanam: I support the objection taken by the previous member. There is not only the question of plans but also provisions requiring registration and licenses for factories. If you alter 'may' into 'shall' it will mean every kind of factory, including weaving factories, etc. will have to be licensed. I do not think it is the intention of the framers of the Bill or the Government that such things should be forced on the Provincial Government for every class of factory. This Bill can be extended to the smallest concerns with five or six people and so in view of those facts, I do not think it is desirable that the Provincial Government should be compelled to make rules on every one of these items. They may make rules on one, two or three items according to the necessities of the case.

Shri H. V. Kamath: I think, Sir, the word 'may' wherever it is necessary will carry the force of 'shall', and the amendment is not quite necessary.

Shri Gopikrishna Vijayavargiya (Gwalior State): Sir, I feel that this amendment is necessary, because I know in my place in Central India the Birlas have acquired a very large amount of land and factories will grow on them very gradually. Nobody will know how they will construct them. Specifications and plans are therefore very much necessary, as the Government must know what they are and, so the rules must be framed.

Shri Ajit Prasad Jain: Sir, I am afraid I cannot agree with the contention of Mr. Santhanam. Section 6 begins with: "The Provincial Government may make rules". This 'may' is proposed to be changed into 'shall'. Further the clause says:

"requiring the previous permission in writing of the Provincial Government or the Chief Inspector to be obtained for the site on which the factory is to be situated for the construction or extension of any factory or class or description of factories."

This section by itself empowers the provincial government to frame rules with respect to any class or description of factories. After the change of the word "may" into "shall" it will still be open to the provincial government to lay down that certain classes of factories may not have to take the permission. This change will not make it compulsory for the provincial government to lay down rules in respect of all factories. The rules may be confined to certain classes or descriptions of factories and the reasons given by Mr. Santhanam in support of the objection does not hold good.

Shri K. Santhanam: Will the honourable member please see that part (a) refers only to the site and in regard to parts (b), (c) and (d) there is no such option.

Shri Ajit Prasad Jain: Yes, I have seen them. Paragraph (b) refers to such permission and if (a) goes (b) also goes. Similarly (c) refers to such plans and specifications and if (b) goes (c) also goes. Thus (a), (b) and (c) all go together. They all apply or do not apply. Part (c) is on a different footing. But it also provides that the requirements of registration may be in respect of any class

or description of factories. (d) does not come under the omnibus objection, because certain very small factories may be left out of the requirements of registration by the provincial administration. I submit that it should be made compulsory for the provincial government to lay down the rules. May be the provincial government may choose to exempt certain class of factories but the laying down of the rules must be compulsory and as such I support the amendment of the Honourable Minister.

Prof. Shibban Lal Saksena: Sir, I also think that the amendment of the Honourable Minister is necessary and I do not agree with my friend Mr. Santhanam. I think that this is really intended to enable the Government to keep statistics of all the factories which spring up and also to see that they do spring up according to a national plan of development. Government will then know where such factories are being established. The provincial governments shall themselves take into consideration the objections raised by my friends and make such rules which will exempt such factories in regard to which it will be cumbersome to file such particulars. We should trust the provincial government in that respect. They will themselves make rules which will enable industry to grow and the Government at the Centre will have an overall picture of the development and they will know whether the development is according to their plan, so that they may be able to tell us when necessary how much the country has progressed and how far their plans are being achieved. I think this is a very important amendment. The word 'may' should be changed into 'shall'.

श्री गोकुल भाई दौलतराम भट्ट : माननीय सभापति जी, प्रान्तीय सरकार नियम "बनाये"

या उन्हें बनाना चाहिये इसके मुताल्लिक बात चल रही है। मैं मानता हूँ कि हर एक प्रान्त में म्युनिसिपैलिटियाँ, कारपोरेशन वगैरह होते हैं और उनके भी अलग अलग नियम रहते हैं कि कहां कारखाने होने चाहियें, बड़े कारखाने कहां चल सकते हैं, छोटे कहां होने चाहियें। इसके मुताल्लिक भी उनके नियम होते हैं। तो यहां हमने जो दो बातों के मुताल्लिक कहा है कि प्रान्तीय सरकारों को नियम बनाना चाहिये। इस प्रकार का जो संशोधन अभी आ रहा है उसमें इतनी कड़ी पाबन्दी आ जाती है कि प्रान्तीय सरकार इस प्रकार से करेगी तो हर एक छोटे और बड़े कारखाने को कोई न कोई बाधा आयेगी कि वह कुछ नहीं कर सकेंगे। हर जगह एक लोकल अथोरिटी (Local authority) होती है, फिर प्राविन्शियल अथोरिटी (Provincial authority) आ जाती है। इस प्रकार से यह दिक्कत पैदा होगी। इससे मैं चाहता हूँ कि जो शब्द 'may' पहले से इसमें रखा है, वह ही मुनासिब है और इतना ही काफी है और वहीं तक हमें जाना चाहिये, क्योंकि कई जगह हमारे माननीय मन्त्री महाशय कहते हैं कि इससे ऐडमिनिस्ट्रेटिव (administrative) दिक्कत पैदा होती है। और यहां पर ऐसी दिक्कत जरूर पैदा होने वाली है। जब दस, पन्द्रह का सवाल आ गया वहां ऐडमिनिस्ट्रेशन (administration) का सवाल आ गया। मैं मानता हूँ कि व्यवहार में उससे ज्यादा दिक्कत हो जायेगी। 'shall' रखने से हम उनकी मुसीबत बढ़ाने वाले हैं, घटायेगे नहीं। इससे मैं चाहता हूँ कि 'may' ही रखा जाये और 'shall' न रखा जाये।

(English translation of the above speech).

Shri Gokulbhai Daulatram Bhatt (Eastern Rajputana States Group): Sir, the matter under discussion is that the Provincial Government 'may' or 'shall' make the rules. I know that in each and every Province there are municipalities, Corporations etc. which have got separate rules of their own in regard to the location of factories and the places where small or large factories should

[Shri Gokulbhai Daulatram Bhatt]

be installed. They have framed their bye-laws concerning all such matters. Here we have referred to things about the rule-making powers of the Provincial Government. The amendment which is coming before us imposes some irksome restrictions which if observed in this manner by the Provincial Government will affect all the large and small factories and they will not be able to do anything. Everywhere there is a local authority and over that comes the Provincial authority. In this way, this dual control by the two authorities will create difficulties. Therefore, I would stress that the existing word 'may' is quite appropriate and adequate and we should not go beyond that, because at many places the Honourable Minister has stated that it will create administrative difficulties. Here there is bound to be such a difficulty. When the question of ten or fifteen arises, that will involve the administration. I feel that in actual practice it will create a great difficulty. By the substitution of the word 'shall' we are going to add their difficulty rather than removing it. Therefore, I would like that the word 'may' be not substituted by 'shall'.

Mr. Naziruddin Ahmad: Sir, I beg to submit that the word 'may' will be sufficient to serve the purpose. There is a suspicion in the debate that Provincial Governments where necessary will not make rules, unless we introduce the word 'shall'. I submit that wherever rule-making power is given it is always the custom to use the word 'may' instead of 'shall'. As Mr. Kamath has said in many cases the word 'may' has the import of 'shall', though I do not agree with that view so far as the present Bill is concerned. There is no reason to suppose that where rules are necessary the Provincial Governments will not make them. After all they are democratic institutions and they will march with the times. As examples I submit that the word 'may' has been used in other places also. In clause 64 at page 21, line 1, it is said "The Provincial Government may make rules". In clause 76, line 1, it says "The Provincial Government may make rules". Again in clause 83 it is "The Provincial Government may prescribe". I submit that the word 'shall' is not called for. It is always prudent to leave the Provincial Government to determine what rules are to be made. If we use the word 'shall', as Mr. Santhanam has pointed out, the Provincial Governments will be bound to make rules, providing for all the things as are indicated in the clause. This may lead to hardship or anomalies in different cases. It is far better to leave to the Provincial Governments full discretion as to the matter in which rules are to be made, the manner in which they should be made and the extent to which they should go. By using the word 'shall' we shall probably rob the Provincial Governments of all discretion in the matter. In these circumstances I beg to submit that the change of the word 'may' to 'shall' is not called for and need not be pressed. The word 'may' is used in various other Acts and Bills in the same manner as it appears in the present text.

Shri T. A. Ramalingam Chettiar (Madras: General): Sir, on a point not necessarily of order but of procedure, I wish to point out that the report of the Select Committee has been presented by the Honourable Minister. It therefore puts people in a delicate position when he himself moves amendments to what he has placed before the House. I do not know whether as a point of order or as a point of procedure because of the delicate position thereby created, you may not rule that such amendments may, if necessary, be moved by somebody else on behalf of the Government or otherwise. But the Minister himself proposing an amendment puts people in a very delicate position and it makes things very awkward when there is an opposition.

Mr. Speaker: In form it will be better if somebody else moved the amendment; but in substance it is not going to make a difference because the awkwardness will still be there if the Minister supports that amendment. Technically speaking, it can be said that all the clauses are put from the Chair and therefore any person can move an amendment, including the Minister. That seems

to be the technical position. But it would look better if somebody else moved it—not that a Minister is debarred from moving it.

What is the Honourable Minister's say about the present amendment?

The Honourable Shri Jagjivan Ram: I personally thought that this change was necessary, but in view of the wishes of the House I will not insist on my amendment.

Mr. Speaker: Has the Honourable Minister leave of the House to withdraw his amendment?

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

The Honourable Shri Jagjivan Ram: I move:

"That after part (d) of sub-clause (1) of clause 6 of the Bill, the following new part be added:

'(e) requiring that no licence shall be granted or renewed unless the notice specified in section 7 has been given.'"

This is a formal amendment requiring that the requirement of giving notice by the occupier under section 7 is fulfilled before a licence is granted or renewed.

Mr. Speaker: The question is:

"That after part (d) of sub-clause (1) of clause 6 of the Bill, the following new part be added:

'(e) requiring that no licence shall be granted or renewed unless the notice specified in section 7 has been given.'"

The motion was adopted.

Dr. V. Subramaniam (Madras: General): Sir, I will not move the amendment but will say a few words. Before giving the permission the Inspector will have to fulfil several formalities—he will have to inspect the site, he will have to scrutinize the plans and do so many other things. It will take a long time for him to go round and inspect all the sites. From the information given by the Honourable Minister there will be 150 to 200 factories and he will have to do his normal work and also inspect the sites and study the plans to see whether they are up to the standards and have the requisite safety and other margins. All this will take a long time. And by chance even a clerk can delay the communication for three months. According to the provision contained in the existing clause it is enough if the industrialist takes the opportunity of applying for permission: he just waits for three months and he automatically gets the permission. I consider that the period of three months is not sufficient. I have therefore made it six months in my amendment. If the Honourable Minister wills he may take it, otherwise I am not moving the amendment.

The Honourable Shri Jagjivan Ram: I will not accept it.

Mr. Speaker: Then there is the amendment by Prof. Shibban Lal Saksena.

Prof. Shibban Lal Saksena: In view of the acceptance of the amendment of Mr. Ajit Prasad Jain I am not moving it.

Mr. Speaker: The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

The Honourable Shri Jagjivan Ram: I move:

"That in part (b) of sub-clause (1) of clause 7 of the Bill, after the word 'name', the words 'and address' be inserted."

It is simply to have the name and address.

Mr. Speaker: Amendment moved:

"That in part (b) of sub-clause (1) of clause 7 of the Bill, after the word 'name', the words 'and address' be inserted."

Shri Prabhu Dayal Himatsingka: That is not necessary because of the definition of the word "occupier" in sub-clause (n) of clause 2. It says that 'occupier' means the person who has ultimate control over the affairs of the factory. The address and everything is there. It is not therefore necessary. But if the Honourable Minister wants to have it in addition here also, that is a different matter.

The Honourable Shri Jagjivan Ram: I want to have it here also.

Mr. Speaker: The question is:

"That in part (b) of sub-clause (1) of clause 7 of the Bill, after the word 'name', the words 'and address' be inserted."

The motion was adopted.

The Honourable Shri Jagjivan Ram: I move:

"That for part (d) of sub-clause (1) of clause 7 of the Bill, the following be substituted:

(d) the nature of the manufacturing process—

(i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act, and

(ii) to be carried on in the factory during the next twelve months in the case of all factories;"

This provision has become necessary in view of the fact that we want some industrial statistics. Under the Industrial Statistics Act employers are required to submit certain statistics. In order to save duplication of work of the employers, in consultation with the Ministry of Industry and Supply we thought that if we make this provision in this Act we will get these statistics and the work of the employers will also be lightened.

Mr. Speaker: Amendment moved:

"That for part (d) of sub-clause (1) of clause 7 of the Bill, the following be substituted

(d) the nature of the manufacturing process—

(i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act, and

(ii) to be carried on in the factory during the next twelve months in the case of all factories;"

Shri K. Santhanam: There can be no objection to the amendment, but the wording is not quite happy. Suppose an existing factory has been carrying on one process for twelve months and carries on another process for the next twelve months. It has to give statistics as to what it carried on for the previous twelve months and not what it is going to carry on. In the case of existing factories if it is necessary they should give not only the process carried on for the last twelve months but also what they propose to carry on for the next twelve months.

The Honourable Shri Jagjivan Ram: That is covered by (ii) which says "to be carried on in the factory during the next twelve months in the case of all factories".

Prof. N. G. Ranga (Madras: General): I would like to have one clarification. Does this preclude any factory in the next year in continuing the process of its own work?

The Honourable Shri Jagjivan Ram: No, not at all.

Mr. Speaker: It is only a necessary ingredient of the notice to be given—he has to give notice of occupation and it is in connection with that notice that he has to state these facts.

The question is:

"That for part (d) of sub-clause (1) of clause 7 of the Bill, the following be substituted:

(d) the nature of the manufacturing process—

(i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act, and

(ii) to be carried on in the factory during the next twelve months in the case of all factories;"

The motion was adopted.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That after part (g) of sub-clause (1) of clause 7 of the Bill, the following new part (h) be inserted and the existing part (h) be re-lettered as part (i):

(h) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act;"

Sir, this amendment also is for statistical purposes.

Mr. Speaker: The question is:

"That after part (g) of sub-clause (1) of clause 7 of the Bill, the following new part (h) be inserted and the existing part (h) be re-lettered as part (i):

(h) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act;"

The motion was adopted.

Mr. Speaker: The question is:

"That clause 7, as amended, stand part of the Bill."

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Shrimati Dakshayani Velayudhan (Madras: General): Sir, I understand that the Honourable Minister is not prepared to accept the amendment, so I do not propose to move my amendment, but I want to speak on the clause.

Mr. Speaker: Then she is also not going to move the other amendment for the deletion of sub-clause (5)?

Shrimati Dakshayani Velayudhan: My objection is to sub-clause (4) of the Bill

Mr. Speaker: I would like her to clarify as to whether she insists on moving for deletion of sub-clause (5), that is amendment No. 13 in list No. 5. She is not going to move amendment No. 12; is she going to move No. 13?

Shrimati Dakshayani Velayudhan: Sir, I am told the Honourable Minister is not willing to accept any amendment, so I do not propose to move any of them.

Mr. Speaker: Then she may speak.

Shrimati Dakshayani Velayudhan: I said my objection is to sub-clauses (4) and (5) of clause 8 of the Bill. In sub-clause (1) of this clause it is said:

"(1) The Provincial Government may, by notification in the official Gazette, appoint such persons as possess the prescribed qualification to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit."

According to this Bill, an Inspector is expected to possess certain qualifications. If a District Magistrate is to act as a factory Inspector, I wonder whether he is also expected to possess the prescribed qualifications of a factory

[Shrimati Dakshayani Velayudhan]

Inspector. I understand the Labour Department has a scheme for giving training to factory Inspectors. I would ask the Honourable Minister whether he will ask the District Magistrates also to go for this factory Inspector's training.

Then, Sir, it is a known fact that if Government officers are asked to take up work relating to labourers, there is every possibility of the Government official siding with the employers and not with the employees. That is the most important factor which I wish to bring to the notice of the Honourable Minister

Shri B. Das (Orissa: General): I wish it were so!

Shrimati Dakshayani Velayudhan: and if you want an Inspector to fulfil his duties as a Factory Inspector in the interests of the workers, I think he will not be able to perform these duties if he has other duties as well. A District Magistrate I think will have a large amount of work and I do not think he will be in a position to do justice to the labourers if he is given the work of inspecting factories as well. So, I think the workers will not get any benefit if there is provision made in the Bill that even District Magistrates or any officials of Government can be made Inspectors of Factories. I therefore strongly protest against the provision made in this Bill to appoint District Magistrates as Factory Inspectors.

Then, I object to sub-clause (5) as well. That sub-clause also gives the Provincial Government power to appoint public officers to act as Inspectors. The arguments that I have already placed before the House will hold good in the case of sub-clause (5) as well.

So, my objection is to sub-clauses (4) and (5) of this clause. I hope the Honourable Minister will try to see whether there is any weight in the arguments that I have placed before the House.

Mr. R. K. Sidhva: I want to speak on this clause, Sir.

Mr. Speaker: In that case, we better adjourn and meet after Lunch.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock
Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Mr. Speaker: We were discussing Clause 8. Mr. Sidhva.

Mr. R. K. Sidhva: On this clause, Sir, hinges the smooth working of this Act. I consider this a very important clause if the various provisions are to be worked in the spirit in which they have been made. But I am very sorry to find that while our Honourable Minister is so liberal in his views as regards beneficial measures for the workers, he has adopted a retrograde measure as far as the implementation of these clauses are concerned, particularly when he has empowered the District Magistrate to be an Inspector. Now, Sir, you are well aware how over-busy a District Magistrate is. He is the head of the Local Self-Government Department

The Honourable Shri Jagjivan Ram: May I point out one thing? I am afraid Mr. Sidhva will be repeating the same things which he said in the general discussion on this point. He took a long time in labouring the same points.

Mr. R. K. Sidhva: That is not the answer to what I stated. The Minister did not certainly anticipate what I was going to state.

Mr. Speaker: The point is this. When the honourable member spoke on the consideration motion, the very same point was made by him.

Mr. R. K. Sidhva: I never spoke a word about the District Magistrate.

The Honourable Shri Jagjivan Ram: But he did, Sir.

Mr. R. K. Sidhva: I never mentioned District Magistrate. If you read my speech there you will find it.

What I was now stating, Sir, was that the District Magistrate is so over-full with his work. He is the head of the Local Self-Government Department. He is the head of the Revenue Department. He is the head of the Judiciary also. In several provinces, he is also the head of the Labour Department. I know of a province where the Chief Secretary is the Labour Commissioner. Now, how can you expect fairness from an officer who is over-worked and who really is saddled with other Departments who are so very important that he does not give any time to labour work. In these days when we are out to do something good for the labourers, we must have a person who can devote his time for this class of work and who has an aptitude for the good of the workers. That is the point and this clause is therefore really very important. I am therefore pointing out to the Minister that it will be unfair to himself and naturally to the workers if he does not apply his mind liberally on this issue. I want to know from him as to how he expects wholehearted attention from a District Magistrate as far as these beneficial labour measures are concerned.

The Honourable Shri Jagjivan Ram: You have already referred to training of Inspectors.

Mr. R. K. Sidhva: Yes, I did refer to the fact that he has got an Adviser, a Department in which it is stated that the Inspectors are to be trained. Now, if that is a very good Department, if the Inspectors are trained, then, why bring in the District Magistrate? Delete the District Magistrate. I am not at present interested in the Inspectors to be appointed, but I wish to say that this appointing of the District Magistrate as the Inspector for the district is very obnoxious.

Mr. Speaker: Will the honourable member refer to sub-clause (6)?

Mr. R. K. Sidhva: Yes, Sir. It says that where there are more Inspectors than one, the Provincial Government may declare the powers which they shall exercise etc.

Mr. Speaker: I do not claim to know the position of the Honourable Minister, but the scheme appears to be that there will be more than one Inspector and perhaps the District Magistrate is also to be an Inspector for his District so as to effect or bring about co-ordination in the whole of the district. That seems to be the scheme.

The Honourable Shri Jagjivan Ram: I think, Sir, that if I intervene at this stage there will not be much necessity for a longer debate on this point. What the scheme envisages I shall presently explain, and also what will be the result if the suggestions to omit clauses (4) and (5) are accepted. The scheme is that the Provincial Governments will have a number of Inspectors in their jurisdiction, but it may not be possible that there will be an Inspector in every district or in every Sub-Division. In some of the Sub-Divisions, there may be a few very small factories which may not justify the appointment of a whole-time Inspector for that area alone. In that case, the S. D. O. of that Sub-Division may be empowered with the powers of an Inspector under this Act and it is always better to have the Sub-Divisional Officer given this power rather than not have any person in that locality with the power of the Inspector. So it is in the interests of the workers to have this authority delegated to the District Magistrate or the Sub-Divisional Officers and others whom the Provincial Governments may think necessary. It does not preclude that in those districts where the District Magistrates have been empowered as Inspectors under this

[Shri Jagjivan Ram]

Act there will be no Inspector appointed. There will be Inspectors in addition to the District Magistrate. It also happens that the District Magistrate, in the course of his duties, may go on tour in certain areas in the district and certain facts may be brought to his notice regarding some factories in that area. If he thinks that he will go and see the factory and find out whether the grievances or complaints are correct or not, unless he has got authority under this Act the employers may refuse him permission to enter the premises. Therefore, I think this provision is very necessary and it is in the interests of the workers. I am liberal to the workers, but that does not mean that I should also become impractical. I think that this provision is very necessary in the interests of the workers themselves.

Mr. R. K. Sidhva: My point was that really I do feel that it will be impracticable for a District Magistrate, in view of the other work with which he is saddled, to work satisfactorily. That is my point.

Mr. Speaker: The honourable member has not seen the point. The point is that the District Magistrate is not going to be the only Inspector. He is one of the many and he is given the power, in case there is not enough work for having a whole-time Inspector. The object is also that whenever a District Magistrate visits the district, he may casually go and see the factories. I think from the point of view of finance and also from the point of view of convenience, it is desirable that, as the head of the magistracy, the District Magistrate should be the co-ordinating factor. That seems to be the whole scheme.

Mr. R. K. Sidhva: You know very well, Sir, the influence of a District Magistrate and anybody who will be appointed

Mr. Speaker: Well, the honourable member does not seem to be satisfied. He may proceed with his argument.

Mr. R. K. Sidhva: I am only stating that it would be good on our part if at least (4) is deleted. I am not even worried about (5), which deals with other public officers, but I do feel that the District Magistrate would interfere unnecessarily. He has also no time to go into this matter and if other Inspectors are appointed he will come into their ways and unnecessarily prevail upon them with his influence. I only feel in the interest of the workers and also to ourselves who wanted to do something good that this clause 4 should be deleted.

Shri Prabhu Dayal Himatsingka: I do not think that Mr. Sidhva is taking the right stand. Why should we be afraid of District Magistrates in the changed situation today? If we have ready made Inspectors in every place, we can appoint them under this section. Otherwise Inspectors have got to be appointed or they may not be appointed in time and so on. I do not see how that can prejudice anybody—either the employers or the employees if you appoint a District Magistrate as an Inspector. He should be there; when other Inspectors do their duty, he need not go out all his way and take up those duties. I do not think, Sir, we should object to this officer or be afraid of him.

Mr. Speaker: I do not think any further argument on that point is necessary. The situation seems to be so obvious. However, it is a question of opinion and we are unable to convince Mr. Sidhva on the point.

Shri M. Ananthasayanam Ayyangar (Madras: General): On a point of information, I believe that under the existing Act every District Magistrate is *ex-officio* Inspector. This is so in the present Act and we have not made any modification in that.

Babu Ramnarayan Singh: rose.—

Mr. Speaker: The matter has been sufficiently argued and I do not think any further debate on the point is necessary. We have to put through a very large number of sections and a very large number of amendments and the time

at our disposal is so short, unless the members want to sit in this session beyond the 4th of September.

The question is:—

“That clause 8 stand part of the Bill.”

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9 was added to the Bill.

Shri V. S. Sarwate (Indore State): I beg to move:

“That in the *Explanation* to clause 10 of the Bill, the following be added at the end:

‘or any such Authority as the Provincial or Indian State Government may by notification declare in the Official Gazette, provided the qualification granted by the Authority is registrable under the law of the Province or State concerned.’”

Mr. Speaker: The honourable member may have his say in support of the amendment. Then I will place it before the House.

Shri V. S. Sarwate: This is a very formal amendment. The scheme of the Bill seems to be that in administrative matters the Provincial Governments have been given power in most of the cases. Here the Provincial Government have been given the power to appoint qualified medical practitioners and the *Explanation* defines who are qualified medical practitioners and two Acts have been mentioned. My object in moving this amendment is that in the acceding states and in some of the provinces there are medical authorities who are competent to give degrees, which are not recognised by the above two Acts. For instance at page 73 of the evidence, there is one such authority mentioned by the Bombay Government. Take Medical Faculty, Bombay, which has not been included in the Acts mentioned. So to make this consistent with the first part which says: “The Provincial Government may appoint qualified medical practitioners”, I have added that the qualifying medical practitioner may be such as have been recognised by the Provincial Governments themselves. There is nothing inconsistent in this. It is consistent with the spirit of the whole section. Therefore, I hope that the Honourable Minister will accept my amendment.

Mr. Speaker: Amendment moved:

“That in the *Explanation* to clause 10 of the Bill, the following be added at the end:

‘or any such Authority as the Provincial or Indian State Government may by notification declare in the Official Gazette, provided the qualification granted by the Authority is registrable under the law of the Province or State concerned.’”

The Honourable Shri Jagjivan Ram: Sir, this is a matter for the Ministry of Health and as soon as I received notice of that amendment, the Health Ministry was consulted in this matter, and their opinion is that this amendment at this stage is rather premature. The Ministry of Health itself is examining the whole question and it will be for them to bring necessary amendments to these two Acts referred to in the *Explanation* and when they amend these two Acts, the purpose which is in the mind of my honourable friend will be served. So, for the present, I think it will be premature and I do not think I am competent to accept this amendment unless advised by the Ministry of Health.

Shri V. S. Sarwate: My difficulty is what happens in the intervening time.

Mr. Speaker: The Honourable Minister has explained the position. Does he wish me to put the amendment to the vote of the House?

Shri V. S. Sarwate: Yes, Sir.

Mr. Speaker: The question is:

“That in the *Explanation* to clause 10 of the Bill, the following be added at the end:

‘or any such Authority as the Provincial or Indian State Government may by notification declare in the Official Gazette, provided the qualification granted by the Authority is registrable under the law of the Province or State concerned.’”

The motion was negatived.

Mr. Speaker: The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clause 11 was added to the Bill.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in sub-clause (1) of clause 12 of the Bill, the following be added at the end:

'so that they may not injuriously affect the health of, or become a source of nuisance to the people of the locality and the factory shall be liable to pay damages to compensate in full the injury suffered by any persons or institutions, singly or collectively, who are adversely affected by the manner in which the factory disposes of its wastes and effluents'."

Sir, I come from Gorakhpur where there are twenty-one Sugar Factories situated near every station and anybody who goes in a train will find that the whole atmosphere is full of stench. This is a great nuisance. I have many times tried that the factories should be so planned and equipped that the waste products which they throw out are properly treated before they go out of the factory so that the rivers which are used for drinking water by cattle as well as men may not be spoiled. I have seen villages where these effluents are collected and where life becomes a hell; the health of the people there is so bad; probably nowhere else you will find life so miserable.

In fact, we cannot stand in these villages on account of the effluents glutted there. Now that, we are a free country, the health of the people must be the first concern of this Assembly, and I think on the factories must be laid the duty of seeing that the waste products thrown out are properly treated before they go out, so that the people in the locality may not suffer. I think if this amendment is accepted, the effluents will not be discharged before they are treated properly by the factories. Of course, there are some good factories which treat the effluents before they are discharged and the nuisance is not there. But most of the factories do not take the trouble to ensure this; they do not care for the health of the people in the locality. If this provision is made, every factory will take care to see that the health of the people is not injured. I hope the Honourable Minister will accept this amendment because it would help thousands of people.

Mr. Speaker: Amendment moved:

"That in sub-clause (1) of clause 12 of the Bill, the following be added at the end:

'so that they may not injuriously affect the health of, or become a source of nuisance to the people of the locality and the factory shall be liable to pay damages to compensate in full the injury suffered by any persons or institutions, singly or collectively, who are adversely affected by the manner in which the factory disposes of its wastes and effluents'."

Shri Gopikrishna Vijayavargiya (Gwalior State): Sir, the point raised by Prof. Shibban Lal Saksena is a really important one. I think the water coming out from so many factories is very injurious and some of the industries which probably may flourish in the future, such as the Ryon industry, and other factories throw out very injurious water. I think very drastic provision must be made in this respect. I hope the Honourable Minister will explain whether this provision is sufficient or not and if that is not sufficient, some other must be found in the direction of what Mr. Shibban Lal Saksena has suggested.

The Honourable Shri Jagjivan Ram: There are so many things which are very desirable and very important. I think the honourable members should realise that we are legislating here for factory labour. We are legislating here

to regulate the employment, health and safety of the workers in the factories. One may very well argue that some things are manufactured in the factories, the factory owners charge exorbitant prices and therefore, the Factory Bill should provide for the control of prices. I do not know how far it will be competent for us to legislate in this Factory legislation for everything that is connected with the factory, whether in the factory or outside the factory. We have made ample provision here. If one were to examine the provisions, he will notice that the provincial Government has been empowered to make rules prescribing the arrangements to be made under sub-section (1) or requiring that the arrangements made in accordance with sub-section (1) shall be approved by such authority as may be prescribed. If the Provincial Government thinks that the arrangements suggested by the employer for the disposal of the wastes and effluents is not satisfactory in the interests of the persons residing in the locality, the provincial Government may not approve of that scheme, but may ask for or suggest another alternative scheme. That is covered here. Even if it is not covered, I do not think it is competent for us to legislate for all these things in the Factory Bill itself.

Prof. Shibban Lal Saksena: In view of what the Honourable Minister has stated, I withdraw the amendment moved by me.

Mr. Speaker: I may point out for the information of the honourable member that even under the general law, nobody has a right to commit nuisance to the other and whoever is a subject of that nuisance has a right under the law to go to the court to have his remedy.

Mr. Naziruddin Ahmad: The law of Torts.

Mr. Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Speaker: The question is:

"That clause 12 stand part of the Bill."

The motion was adopted.

Clause 12 was added to the Bill.

Shri Ajit Prasad Jain: Sir, there is a similar amendment in the name of the Honourable Minister. If he wants to move it, I am not moving this; if he does not move that, I shall move this amendment.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That in part (a) of sub-clause (1) of clause 13 of the Bill, for the word 'free', the word 'fresh' be substituted."

This is a formal amendment, Sir.

Mr. Speaker: The question is:

"That in part (a) of sub-clause (1) of clause 13 of the Bill, for the word 'free', the word 'fresh' be substituted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

Shri H. V. Kamath: Sir, with a view to facilitate the acceptance of my amendment, I would invite reference to the corresponding clause in the original Bill before it was sent to the Select Committee: that is clause 15 in the original Bill. A comparative study will help us to comprehend the nature of the

[Shri H. V. Kamath]

amendment. In sub-clause (1) of clause 15 of the original Bill, we have got the words, injurious or offensive. Here also, in sub-clause (1), we have got the words injurious or offensive to the workers employed therein, in line 4. Just to bring sub-clause (2) in line with sub-clause (1), I have suggested this amendment. Because, here we have got only the word 'injurious'; the word offensive has been deleted. My impression is, unless my memory betrays me, that in the Select Committee—the proceedings of the Select Committee should not be disclosed—the word 'offensive' was agreed to be incorporated in addition to the word 'injurious' in sub-clause (2), so that it would read, "fumes therefrom as are likely to be injurious or offensive to workers employed in the room." I should like to hear from the Honourable Minister why this has not been incorporated. I hope he will throw some light on this point. Sir, I move:

"That in sub-clause (2) of clause 14 of the Bill, after the word 'injurious', occurring in the last line, the words 'or offensive' be inserted."

Mr. Speaker: Amendment moved:

"That in sub-clause (2) of clause 14 of the Bill, after the word 'injurious', occurring in the last line, the words 'or offensive' be inserted."

Shri K. Santhanam: Sir, before the Honourable Minister replies, I wish to point out, that according to my recollection, this particular amendment was accepted in the Select Committee, but by oversight, it was not incorporated. I remember to have moved this amendment and it was accepted; but we were not able to scrutinise the entire re-draft in view of the short time. We merely want the same expression in the two clauses. It is "injurious or offensive" in one clause and "injurious" only in the other clause. Somebody may take a hair-splitting argument and find a difference between sub-clauses (1) and (2).

The Honourable Shri Jagjivan Ram: I do not remember exactly what Mr. Santhanam says. In this matter, we have to depend on our experts. My expert advice is that, in the first sub-clause it is all right. With regard to the second sub-clause, some gases may not be offensive, but may be injurious; there may be some gases which may be offensive, but may not be injurious. Therefore, this provision is not necessary.

Shri H. V. Kamath: That is why I have said, "injurious or offensive".

An Honourable Member: That would mean both.

Shri H. V. Kamath: It can be both.

Mr. Speaker: That would be a double restriction.

The Honourable Shri Jagjivan Ram: I do not accept the amendment.

Shri H. V. Kamath: I do not accept the explanation of the Honourable Minister.

Mr. Speaker: The question is:

"That in sub-clause (2) of clause 14 of the Bill, after the word 'injurious', occurring in the last line, the words 'or offensive' be inserted."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I move:

"That in sub-clause (2) of clause 15 of the Bill, the word 'If' occurring at the beginning be omitted."

The word is redundant.

Mr. Speaker: The question is:

"That in sub-clause (2) of clause 15 of the Bill, the word 'If' occurring at the beginning be omitted."

The motion was adopted.

Shri Ajit Prasad Jain: Sir, I move:

"That in sub-clause (3) of clause 15 of the Bill, the words 'which is required to be effectively purified' be omitted."

Clause 2 says that water is required to be used in a purified state and there is no need to repeat these words in sub-clause (3). These words should be deleted as being unnecessary.

Mr. Speaker: Amendment moved:

"That in sub-clause (3) of clause 15 of the Bill, the words 'which is required to be effectively purified' be omitted."

Shri Prabhu Dayal Himatsingka: Sir, I oppose this amendment because what Mr. Jain says is not correct. Under sub-clause (2) the factory will have to use water from a public supply or other source of drinking water or water which must be effectively purified before it is used. In the case of water from a public supply it is already purified, and the question of further purification does not arise. If it is taken from any other source and the water is not as it should be, it will be for the Inspector to require it to be purified. Therefore if you omit the words "which is required to be effectively purified" the Inspector may call upon a factory which is using water from a public supply to purify it again. So these words should remain; otherwise there will be complications.

Prof. Shibban Lal Saksena: I think it is unnecessary to retain these words.

Mr. R. K. Sidhva: In some places there are two kinds of water,—for flushing and for drinking. If the clause is clear I do not mind.

The Honourable Shri Jagjivan Ram: There are three sources of water for increasing humidity,—public supply, other source of drinking water, or water which should be effectively purified before use. In the third case it must be purified in the factory; in the other two cases it is already purified. So the words should be retained.

Mr. Speaker: The question is:

"That in sub-clause (3) of clause 15 of the Bill, the words 'which is required to be effectively purified' be omitted."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 15, as amended, stand part of the Bill."

The motion was adopted.

Clause 15, as amended, was added to the Bill.

Clauses 16 and 17 were added to the Bill.

श्री गोकुलभाई दीलतराम भट्ट: माननीय सभापति जी, मेरा संशोधन इस प्रकार है—

"That in sub-clause (2) of clause 18 of the Bill, after the words 'drinking water', the words 'in Hindustani and' be inserted."

[श्री गोकुल भाई दौलतराम भट्ट]

यह संशोधन रखने को जरूरत इसलिये हुई कि हमें राष्ट्र भाषा का सब जगह इस्तेमाल करना चाहिये, चाहे वह गुजरात में हो, चाहे वह दक्षिण में हो, या चाहे वह देश के किसी और हिस्से में हो। भाषा की दृष्टि से यह जरूरी है कि हम अपनी राष्ट्र भाषा का सम्मान करें और उसके जुरिए हम आम लोगों में पहुंचें। और आम लोगों में पहुंचने का एक तरीका यह है कि जहां कहीं कोई इतिला दी जाय, जहां कहीं कोई सूचना दी जाय वह राष्ट्र भाषा में तो देनी ही चाहिये। और उसके सिवाय प्रान्त की भाषा में या दूसरी और भाषा में जिसे लोग समझ सकें उसमें देनी चाहिये। इसलिये मैंने यह संशोधन रखा है। वैसे तो मैं मानता हूं कि यह संशोधन सदा है लेकिन जरूरी भी है क्योंकि हमें अपनी राष्ट्र भाषा बढ़ानी है।

(English translation of the above speech).

Shri Gokulbhai Daulatram Bhatt: Sir, I beg to move:

"That in sub-clause (2) of clause 18 of the Bill, after the words 'drinking water', the words 'in Hindustani and' be inserted."

The necessity for moving this amendment is that we should use the national language in every sphere, may be in Gujrat, or in the South or in any other part of the country. From the linguistic point of view, it is necessary that we should respect our national language and by means of that we should establish our contact with the masses. The only way to associate ourselves with the masses is that we should use the national language for communicating any sort of information which may be desired to be circulated. And besides this, this should be given in the language in vogue in the Province concerned or in any other language which is understood by the people. Therefore, I have proposed this amendment. I do admit that this is a simple amendment, but I feel it necessary because we have to popularise our national language.

Mr. Speaker: Amendment moved:

"That in sub-clause (2) of clause 18 of the Bill, after the words 'drinking water', the words 'in Hindustani and' be inserted."

Mr. R. K. Sidhva: The clause refers to a language understood by a majority of the workers. If my honourable friend wants to propagate Hindustani, that is a different matter but this is not the place to do so. In the present clause I think it is enough if the language is one which is commonly understood in the place.

Shri O. V. Alagesan (Madras: General): Will both the scripts be used?

Mr. Speaker: The amendment is silent on that.

The Honourable Shri Jagjivan Ram: The provision as it stands is quite useful and will serve the purpose. The language should be one which is understood by the majority of the workers. I think we should find other means for the propagation of Hindustani. Sir, I oppose the amendment.

श्री गोकुलभाई दौलतराम भट्ट : मैं संशोधन को वापिस लेने की इजाजत चाहता हूं।

Shri Gokulbhai Daulatram Bhatt: Sir, I beg leave to withdraw my amendment.

Mr. Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. R. K. Sidhva: With reference to sub-clause (2) if the Honourable the Minister considers that no exemption should be given, well and good. Otherwise I shall not put it. I feel that in such a matter, the drinking water should

not be contaminated with latrine or drainage water. Why should there be any objection to the approval of a shorter distance by the Chief Inspector?

The Honourable Shri Jagjivan Ram: I do not accept this view. When we are thinking of modern amenities, we have to think of modern science also!

Mr. Speaker: Science might perhaps invent better methods and the space in a factory may not allow for a longer distance.

Shri H. V. Kamath: In Clause 19 there are mandatory provisions to keep them clean.

Shri Ajit Prasad Jain: Sir, I move:

"That in sub-clause (3) of clause 18 of the Bill,—

- (i) for the words 'methods of', the words 'provision shall be made for' be substituted;
- (ii) the words 'shall be provided' be omitted; and
- (iii) the words 'provision shall be made' be omitted."

The amendment would then read:

"In every factory wherein more than two hundred and fifty workers are ordinarily employed, provision shall be made for cooling drinking water during the hot weather by ** effective means, and for distribution thereof."

It is a verbal amendment.

Mr. Speaker: Amendment moved:

"That in sub-clause (3) of clause 18 of the Bill,—

- (i) for the words 'methods of', the words 'provision shall be made for' be substituted;
- (ii) the words 'shall be provided' be omitted; and
- (iii) the words 'provision shall be made' be omitted."

The Honourable Shri Jagjivan Ram: I accept it.

Mr. Speaker: The question is:

"That in sub-clause (3) of clause 18 of the Bill,—

- (i) for the words 'methods of', the words 'provision shall be made for' be substituted;
- (ii) the words 'shall be provided' be omitted; and
- (iii) the words 'provision shall be made' be omitted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 18, as amended, stand part of the Bill."

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Mr. R. K. Sidhva: With reference to this amendment, before I move it, I would like to know what is the meaning of "sufficient latrine and urinal accommodation....." in (1) (a) of Clause 19. It seems vague whereas there are municipal laws defining the number of persons to a seat. It is 20 persons to a seat. If it is sufficient then there is no meaning in moving it provided of course the Minister feels that the word "sufficient" would cover this. Otherwise, what does "sufficient" mean?

Mr. Speaker: That which is not insufficient will be sufficient.

Mr. R. K. Sidhva: I am not moving my amendment.

Prof. Shibban Lal Saksena: In sub-clause 3 of Clause 19 it is already said that Government may prescribe the number of latrines.

Mr. Speaker: In any case, he is not moving his amendment.

Prof. Shibban Lal Saksena: Sir, I move:

"That in sub-clause (3) of clause 19 of the Bill for the words 'may prescribe', the words 'shall make rules prescribing' be substituted."

I am not moving part (ii) of my amendment. I do not think the Government can prescribe latrines for every factory. So I want the words "shall make rules prescribing....." for the words "may prescribe".

Mr. Speaker: It is understood that "prescribe" means prescribing by rules.

Prof. Shibban Lal Saksena: Then, I move:

"That in sub-clause (3) of clause 19 of the Bill, for the word 'may' after the words 'Provincial Government' the word 'shall' be substituted."

Mr. Speaker: Amendment moved:

"That in sub-clause (3) of clause 19 of the Bill, for the word 'may' after the words 'Provincial Government' the word 'shall' be substituted."

Prof. Shibban Lal Saksena: I beg leave of the House to withdraw my amendment.

Mr. Speaker: Has the honourable member the permission of the House to withdraw?

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

Mr. Speaker: The question is:

"That Clause 19 stand part of the Bill."

The motion was adopted.

Clause 19 was added to the Bill.

Shri Basanta Kumar Das (West Bengal: General): Sir, I move:

"That in sub-clause (3) of clause 20 of the Bill, for the words 'to this effect', the following be substituted:

'containing this provision and the penalty for its violation.'"

Mr. Speaker: Amendment moved:

"That in sub-clause (3) of clause 20 of the Bill, for the words 'to this effect', the following be substituted:

'containing this provision and the penalty for its violation.'"

Shri Basanta Kumar Das: For "provision" we should not have the word "section" as suggested by an honourable member. That would not be better.

Mr. Speaker: "Provision" means the ban on spitting.

The Honourable Shri Jagjivan Ram: I accept it.

Mr. Speaker: In this very form?

The Honourable Shri Jagjivan Ram: Yes, Sir.

Mr. Speaker: The question is:

"That in sub-clause (3) of clause 20 of the Bill, for the words 'to this effect', the following be substituted:

'containing this provision and the penalty for its violation.'"

The motion was adopted.

श्री गोकुलभाई दौलतराम भट्ट : माननीय सभापति जी, मेरी तरफ़ीम यह है—

"That in sub-clause (4) of clause 20 of the Bill, for the words 'with fine not exceeding five rupees', the words 'under rules to be prescribed by the Provincial Government' be substituted."

मुझे याद है कि सिलेक्ट कमेटी में इसके मुताल्लिक कुछ बात थी और उस समय यह आश्वासन दिया गया था कि यह इसमें स उड़ाया जायगा क्योंकि कई जगह हमने जुरमाने वगैरह की बात नहीं रखी है। क्योंकि प्रान्तीय सरकार जो कुछ नियम बनावेगी उनके अधीन सब कुछ रखा जायगा। लेकिन मालूम नहीं कि यह किस रीति से इसमें आ गया है। उस समय शायद यह कुछ ध्यान के बाहर हो गया। मैं चाहता हूँ कि जुरमाना करने की जो बात है वह नियमों के अधीन होनी चाहिये। कौन जुरमाना करेगा, या नहीं करेगा, थकने वाले को कौन पकड़ेगा वगैरह बातें अगर प्रान्तीय सरकारों के ऊपर और उनके नियमों के ऊपर छोड़ दी जायें तो ज्यादा अच्छा रहेगा।

वैसे तो उपधारा २ में यह चीज़ आ भी जाती है कि प्रान्तीय सरकार इसके मुताल्लिक नियम बनायेगी, (* * * *) relating to their maintenance in a clean and hygienic condition वगैरह। तो ऐसी हालत में अगर वह जुरमाने की चीज़ भी दाखिल करना चाहेंगी तो कर सकेंगी। इसलिये मेरी प्रार्थना है कि इस चीज़ को प्रान्तीय नियमों पर ही छोड़ दिया जाय और यहां इस कानून में, इस बिल में इसको न रखा जाय।

(English translation of the above speech).

Shri Gokulbhai Daulatram Bhatt: Sir, I beg to move:

"That in sub-clause (4) of clause 20 of the Bill, for the words 'with fine not exceeding five rupees', the words 'under rules to be prescribed by the Provincial Government' be substituted."

I remember that this matter was discussed in the Select Committee and an assuafance was given that this will be deleted from this Clause, because we have not provided for the imposition of fines at so many places. All these matters would be dealt with under the rules which will be framed by the Provincial Governments. But it is not known how has this crept here. It was perhaps overlooked at that time. What I want is that the levy of fines should be governed by the rules. It would be better if we leave it to the Provincial Governments to frame the rules as to who will impose the fine, who will catch hold of the person while spitting, and for such other matters.

Ordinarily this comes within the scope of sub-clause (2) that the Provincial Government may make rules prescribing the type and the number of spittoons to be provided and provide for such further matters relating to their maintenance in a clean and hygienic condition, etc. So under such circumstances if they consider it expedient to provide for the levy of fines also, they will be able to do this. Therefore, I submit that this matter should be left to be governed by the rules of the Provincial Government and no provision to this effect be made here in this Bill.

Mr. Speaker: Amendment moved:

"That in sub-clause (4) of clause 20 of the Bill, for the words 'with fine not exceeding five rupees', the words 'under rules to be prescribed by the Provincial Government', be substituted."

Prof. Shibban Lal Saksena: If the amendment of Mr. Bhatt is accepted I will not move mine. I feel that it should be left to the Provincial Governments to frame the rules or devise methods to get this done. If the amendment is not accepted I would suggest a fine of one rupee instead of Rs. 5. Even one rupee is too much but I hope it will not be five rupees in any case. Sir, I move:

"That in sub-clause (4) of clause 20 of the Bill, for the words 'five rupees', the words 'one rupee' be substituted."

Mr. Speaker: Amendment moved:

"That in sub-clause (4) of clause 20 of the Bill, for the words 'five rupees', the words 'one rupee' be substituted."

Shri B. Das: Sir, I am in entire agreement with my friend Mr. Bhatt and I do not understand how the champions of labour who were in the Select Committee introduced this sub-clause (4). It is a very irksome provision. If the trial is before a magistrate it would go very hard with the poor labourers. The standard of sanitation in congested places like factories has not reached that level when we can impose such restrictions on the workers. I hope it would be left to the Provincial Governments to frame bye-laws, because provinces in India have got different standards. Today there are 8 provinces but soon there may be 14. The racial characteristics of the people are bound to prevail. The working classes come from people who are less educated or illiterate and they are confined to one place of work and they might commit the offences contemplated in sub-clause (4). I hope the House will accept Mr. Bhatt's amendment.

Shrimati Renuka Ray (West Bengal: General): Sir, I should just like to point out that my honourable friend Mr. Bhatt is wrong. He has misunderstood the discussion that took place in the Select Committee

Mr. Speaker: Let us not go into that discussion.

Shrimati Renuka Ray: I will not go into details. I only want to point out that we decided there and I supported this decision that we should have this clause as it is. It has not been wrongly inserted. I do not agree with my honourable friend who spoke before me that these are racial characteristics. This habit was prevalent in Italy and after Mussolini introduced heavy fines the habit changed very soon. If we too provide a heavy penalty the habit will go out. It is not a racial habit of Indians in particular. It is a habit which has been prevalent in other countries as well. I am very strongly in favour of retaining the clause as it is.

Mr. R. K. Sidhva: Sir, I am unmindful of the opposition raised by Mr. Das, but I am very much surprised that my friends Messrs Saksena and Bhatt should oppose the clause as it is. It is a very desirable clause which has been inserted. Spitting brings dangerous diseases. It is recognised by all that spitting anywhere contaminates the atmosphere and brings diseases to other persons who may be absolutely healthy. In England if a policeman sees a man spitting on the road side he would immediately fine him on the spot. If we are backward in social consciousness we must train the people in it. In a factory if workers are allowed to spit in all sorts of places, in the staircases, etc., it will breed all sorts of diseases. I am surprised that labour leaders should object to this salutary provision. The fine should be Rs. 10 and not Rs. 5. Nobody can say that I am not in favour of the workers. I however oppose the amendment because I want to improve the health of the workers. It is for that purpose that this provision has been put in.

Dr. V. Subramaniam: Sir, I am glad that the provision has been made in sub-clauses (3) and (4) but how far we will succeed is a matter of doubt. There is no provision for a watch and ward peon or person who will see who is spitting and has committed an offence. For propaganda purposes each worker must be educated that he should lead a clean and sanitary life and that he must not spit. How this provision will be enforced is a different matter and I have got my own doubts. Some provision must be made to let in evidence as to who has done it. By examining the sputum one cannot say whether X or Y has done it. I just want to draw the attention of the Honourable Minister that the fine must be a nominal fine and even one rupee is quite sufficient.

आनरेबिल श्री जगजीवनराम: मैं दोनों संशोधनों को कबूल करने की स्थिति में नहीं हूँ। गोकुलभाई भट्ट ने बताया है कि दूसरा जो प्रावधान (Provision) है उससे काम चल सकता है। उनको मैं यह बता देना चाहता हूँ कि दूसरे [Sub-clause (2)] में तो जवाबदेही इम्प्लायर्स (मालिकों) पर है कि अगर वह स्पिटून (बर्तन) को ठीक से नहीं रखेंगे तो उन पर उत्तरदायित्व होगा। और इसमें [Sub-clause (4)] मजदूरों पर उत्तरदायित्व रखा गया है कि अगर वे स्पिटून (Spittoon) को इस्तेमाल नहीं करेंगे, दूसरी जगह थूकेंगे तो वे जुर्माने करेंगे और उस जुर्माने के लिये उनको सजा होगी। मैं सिर्फ फेक्टरी साफ रहे इसके लिये ही यह प्रबन्ध नहीं करना चाहता हूँ बल्कि जैसी कि मजदूरों की हालत है वह जहाँ चाहे वहाँ थूकते हैं उसका भी प्रबन्ध करना चाहता हूँ। वह जहाँ खाना खाते हैं, जहाँ कपड़े पहनने का प्रबन्ध होता है उसी जगह पर अगर वह थूकते रहेंगे तो यह तो मालिकों के लिये नुकसानदेह नहीं होगा बल्कि मजदूरों के लिये ही नुकसानदेह होगा। और कोई भी आदमी जो मजदूरों का हितचिन्तक है उसे तो इसका स्वागत करना चाहिये और इसका विरोध नहीं करना चाहिये। हम इसे इस कानून में रख कर मजदूरों में यह भावना पैदा करना चाहते हैं कि अगर वह ऐसा करेंगे तो उनके लिये दंड का भी इंतजाम है। इसलिये यह चीज तो जरूरी है और मैं उम्मीद करता हूँ कि हमारे दोनों साथी इसे वापिस ले लेंगे।

(English translation of the above speech).

The Honourable Shri Jāgīvan Ram: Sir, I am not in a position to accept both the amendments. Mr. Gokulbhai Bhatt has stated that the provisions of sub-clause (2) can serve the purpose. I would like to state for his information that sub-clause (2) requires the employers to maintain the spittoons in a proper manner. Sub-clause (4) puts the responsibility on the workers that if they do not use the spittoon and spit elsewhere, they will be committing an offence and liable to be fined. I do not want to make this provision simply for keeping the factory clean, but also to stop the present-day practice of the workers to spit anywhere they like. If they go on spitting in the place where they take the meals and change their clothes, then this will not only prove harmful to the employers, but to the workers also. Anyone who champions the cause of labour should welcome this rather than oppose this. By providing it in this law, we want to impress upon the labourers that if they behave like this they are liable to be punished. It is, therefore, necessary, and I hope that both of my honourable friends will withdraw the amendments.

Prof. Shibban Lal Saksena: Will not one rupee be enough?

Mr. Speaker: There is now no further scope for discussion.

श्री गोकुलभाई दौलतराम भट्ट: माननीय मंत्री का खुलासा सुनने के बाद मुझे सन्देह तो है कि इस पर अमल करना दुस्तर होगा लेकिन चूंकि वह एडमिनिस्ट्रेटिव व्यू (Administrative view) से इसे रखना चाहते हैं तो इसे रखें। मैं अपना सुझाव वापिस लेने की इजाजत चाहता हूँ।

(English translation of the above speech).

Shri Gokulbhai Daulatram Bhatt: After having listened to the explanations given by the Honourable Minister, I still have the doubt that it will be difficult to act upon this, but as he wants to retain this clause from an administrative point of view, he may do so. I, therefore, beg leave to withdraw the amendment.

Prof. Shibban Lal Saksena: Sir, in view of the submission by the Honourable Minister I desire to withdraw my amendment.

564. CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) [24TH AUGUST 1948]

Mr. Speaker: Have the two honourable members Shri Gokulbhai Bhatt and Prof. Shibban Lal Saksena the leave of the House to withdraw their amendments?

The amendments were, by leave of the Assembly, withdrawn.

Mr. Speaker: The question is:

"That clause 20, as amended, stand part of the Bill."

The motion was adopted.

Clause 20, as amended, was added to the Bill.

Shri Ajit Prasad Jain: I move:

"That in sub-clause (1) of clause 21 of the Bill, between the words 'and' and 'unless' occurring in line nine the brackets and figures '(iv)' be inserted."

The Honourable Shri Jagjivan Ram: In that case the word "and" occurring after (ii) will have to be deleted.

Shri Ajit Prasad Jain: The word "and" will go to the previous line. That can be done by the draftsman.

Mr. Speaker: The word "and" might go after item (iii).

Shri Ajit Prasad Jain: The "and" at the end of item (ii) might be deleted and this "and" should go after item (iii). As it is only a drafting amendment I would request the Chair to put the amendment for deleting the word "and" at the end of part (ii) of sub-clause (1).

Mr. Speaker: I think the deletion of "and" after (ii) would suffice.

Shri Ajit Prasad Jain: My submission is that that "and" might be deleted and that this "and" occurring before the word "unless" should go to the last preceding line, because these parts are all connected together and the last "and" will govern all parts. The word "and" at the end of part (ii) is unnecessary.

Mr. Speaker: What does "they" after the word "unless" stand for?

Shri K. Santhanam: They refer to (a), (b) and (c) which follow, that is every part of an electric generator, a motor or rotary convertor, every part of transmission machinery and every dangerous part of any other machinery.

Mr. Speaker: Therefore, will not the word "unless" be necessary?

Shri K. Santhanam: The word "unless" is absolutely essential. Mr. Jain wants only "(iv)" to be put before "unless". He wants to make it a separate part so that the final part can govern the entire thing—(a), (b) and (c). That is his object.

Shri Ajit Prasad Jain: This clause relates to fencing. Fencing in the case of (i), (ii) and (iii) is compulsory. If my amendment is accepted, in the case of (iv) unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following, namely: (a) every part of an electric generator, a motor or rotary convertor; (b) every part of transmission machinery; and (c) every dangerous part of any other machinery—shall be fenced etc.

Mr. Speaker: I feel a sort of confusion here.

Shri K. Santhanam: There is none, Sir.

Mr. Speaker: There is none as a matter of fact. I am stating my own state of mind. The first "and" after part (ii) may go.

Some Honourable Members: Yes.

Mr. Speaker: That does not seem to create any difficulty.

Shri K. Santhanam: "and" should then come after the word "lathe;" in part (iii).

Mr. Speaker: The difficulty which I have been feeling so far as the drafting of it is concerned, is that in (i), (ii) and (ii') we are referring to a specific article, a thing, in respect of which we want what is given below.

Shri K. Santhanam: "securely fenced by safeguards....." governs (i), (ii), (iii) and (iv). That is the intention of the amendment. Each one of these should be securely fenced by safeguards.

Mr. Speaker: That I follow. What I was finding difficulty about is that this clause, which governs (i), (ii) and (iii), differs in nature from parts (i), (ii) and (iii). While they describe some parts of machinery, if we take this as (iv) it will be describing a sort of condition in which the machinery is kept.

Shri K. Santhanam: It will be defining the machinery to be fenced under certain conditions.

Shri Ajit Prasad Jain: Parts (i), (ii) and (iii) are to be compulsorily fenced. But here a rider has been added beginning from the word "unless" and ending as "securely fenced". In fact it would have been better if this had been made into a sort of Proviso to parts (a), (b) and (c). But as it is, it is a Proviso which, however, does not come after (a), (b) and (c) but precedes them.

Mr. Speaker: Shall we separate (iv)?

Prof. Shibban Lal Saksena: I think the clause is all right as it is. The first part consisting of (i), (ii) and (iii) is separated from the second portion by the word "unless". The second part begins after the word "unless". I think the clause requires no change.

Mr. Speaker: I think it requires more material redrafting. I am myself not clear yet on the construction.

Mr. Hossain Imam (Bihar: Muslim): The difficulty will be removed if the last portion of this clause "shall be securely fenced...etc." goes before (iv). That is, the first three items—shall be fenced. They will come first. And this will be a Proviso. That is, these three—(a), (b) and (c)—will be fenced if these conditions are not fulfilled. The difficulty might be removed by juxtaposition.

Shri K. Santhanam: (a), (b) and (c) might come first and the clause beginning with the word "unless" might come behind them.

Shri Gopikrishna Vijayavargiya: I think we might hold up this clause.

Mr. Speaker: I think so. In any case we are going to have discussion on this Bill tomorrow because I do not think we will be able to finish it before 5 of the Clock.

Shri B. P. Jhunjhunwala (Bihar: General): (i), (ii) and (iii) must be fenced under all circumstances. So far as these other three are concerned, namely, (a), (b) and (c), unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, they should also be fenced. That is, if they are securely fenced, in that case it is not necessary. But (i), (ii) and (iii) must be securely fenced under all circumstances. That is the intention.

Mr. Speaker: In any case, I am keeping it over with a request to the Honourable Minister that he may consult his draftsmen and then see what is to be done; if at all anything is required to be done we will do it tomorrow.

Shri K. Santhanam: I may also point this out for consideration of the draftsman. The clause says:

" construction which shall be kept in position "

It is the safeguard which is to be kept in position. There is a confusion as to whether the safeguard or the construction shall be in position.

Mr. Speaker: He will try to revise the whole clause. Now I will take up the next clause.

The question is:

"That Clause 22 stand part of the Bill."

The motion was adopted.

Clause 22 was added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That for clause 23 of the Bill, the following be substituted:

"23. *Employment of young persons on dangerous machines.*—(1) No young person shall work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the Provincial Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with."

Sir, this is the same as the existing clause 23. There it covers only adolescents and that has been replaced here by young persons in order to cover children as well. That is the only change that has been made in this new clause.

Mr. Speaker: Amendment moved:

"That for clause 23 of the Bill, the following be substituted:

"23. *Employment of young persons on dangerous machines.*—(1) No young person shall work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the Provincial Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with."

Does Professor Shibban Lal Saksena want to move his amendment?

Prof. Shibban Lal Saksena: Yes, Sir. I move:

"That in sub-clause (1) of clause 23 of the Bill, after the word 'unless' occurring in line 2 the words 'the Chief Inspector of Factories certifies that' be inserted."

This clause is meant generally to protect young persons. I want that there should be some tests to prove that those persons who are put on the dangerous machines have actually satisfied the provisions of this clause. As the clause stands a manufacturer can send young persons for work on dangerous machines and there will be nothing to show that the workers have been properly instructed. So, I have added the words "the Chief Inspector of Factories certifies that" after the word "unless". This would read—

"...shall work at any machine to which this section applies, unless the Chief Inspector of Factories certifies that he has been fully instructed as to the dangers....."

Some authority must satisfy itself that the person has been fully instructed in the use of that dangerous machine. Then alone will this section have been adhered to; otherwise it will remain a dead letter.

Secondly, I may point out to the Honourable Minister that he has used the word "young persons". He should have included women also. In the English Act women are also included. So I would suggest to him that he may incorporate this amendment also.

Mr. Speaker: Amendment moved:

"That in sub-clause (1) of clause 23 of the Bill, after the word 'unless' occurring in line 2 the words 'the Chief Inspector of factories certifies that' be inserted."

I was just wondering as to how this amendment which was tabled to the old section will fit in with the new clause.

Prof. Shibban Lal Saksena: The words sought to be added by my amendment will be inserted after the word "unless" in sub-clause (1).

Shri K. Santhanam: It will not fit in with the new draft.

Mr. Speaker: I think perhaps his object would be served by adding the words like this to sub-clause (2) of the new clause:—

"...unless the foregoing requirements are certified by the Chief Inspector of Factories to have been complied with."

Would that serve his purpose?

Prof. Shibban Lal Saksena: I do not mind.

Shri K. Santhanam: Sir, I think this new clause is inconsistent with sub-clause (2) of clause 22 which absolutely bars a woman or child. A "young person" may be a child or may be an adolescent. A child within certain ages may be a "young person". Under the new clause 23 a child who is defined as a "young person" can work at a machine, while Clause 22 (2) says that a child cannot go near the machinery nor even clean it. I think there is some inconsistency between the two.

Shri M. Ananthasayanam Ayyangar: Therefore the word "adolescents" may continue.

Shri K. Santhanam: Yes, the old clause has been considered already. I think there has been some mistake.

Shri M. Ananthasayanam Ayyangar: The clause may be allowed to stand as it is.

Mr. Speaker: What is the position then?

Prof. N. G. Ranga: Sir, as it is, the new amendment that is proposed by the Honourable Minister is I am afraid likely to worsen the position of children. A "child" means a person who has not completed his 15th year of age. Hereafter children also will come to be employed, if this amendment were to be passed, in those machines which are considered to be dangerous; they will be expected to have attained so much of proficiency in managing these machines as to be able to work by them in safety. That is a very dangerous thing indeed.

As my friend Mr. Santhanam has already suggested, indeed this amendment is inconsistent with sub-clause (2) of clause 22. The House has already passed clause 22. Then, it is well-known that in other countries a "young person" is defined as one who is below the age of sixteen, and young persons are not allowed to work at all in any industrial employment. Only recently the International Labour Office had to consider this problem and they had to make a special exemption in the case of India, and then say, "So far as India is concerned, your Child Employment Act will be recognised according to which those who are children and who are fifteen years of age will also be allowed to work after they have finished their school-going age". Now, when an exception has been made in our case—not in our favour but in our case—in a sort of grudging fashion, I do not see any reason why on top of having got this exemption we should allow our children also to come to be employed by these dangerous machines. Therefore, Sir, I am all in favour of the existing provisions as it is, that is, clause 23. We should not at all bring within the mischief of this particular clause the children also. I suggest to the Honourable Minister that he should not press this amendment at all and he should really withdraw this amendment.

Mr. Speaker: I find that Clause 23 as it is printed in the Bill is a result of the deliberations in the Select Committee. Therefore, if the Honourable Minister would kindly explain why he thinks it is necessary to have this particular amendment, the whole position will be clear.

The Honourable Shri Jagjivan Ram: Sub-section (2) of clause 22 is about the cleaning or lubrication or adjustment of machinery while that part is in motion and there children and women are prohibited from working. This clause covers other machineries.

Shri K. Santhanam: Can it work without being in motion?

Prof. N. G. Ranga: It is even more dangerous.

The Honourable Shri Jagjivan Ram: This refers to certain.....

Shri K. Santhanam: The Minister may consult his advisers.

The Honourable Shri Jagjivan Ram: Yes, I would like again to consult my advisers. This is a technical matter.

Mr. Speaker: I was just going to make that suggestion. So this clause may stand over. There are no amendments to clauses 24, 25 and 26.

The question is:

"That clauses 24, 25 and 26 stand part of the Bill."

The motion was adopted.

Clauses 24, 25 and 26 were added to the Bill.

At this stage, [Mr. Speaker vacated the Chair which was then occupied by Pandit Thakur Das Bhargava, (one of the Panel of Chairman)].

Mr. R. K. Sidhva: Sir, my amendment is in relation to clause 27 regarding the prohibition of the employment of women and children in cotton-openers. These cotton-openers are very dangerous to health. They are combined with press factories. My amendment really arises out of this fact. Whereas the original clause says that unless a partition extending to the roof has been raised, women and children will not be allowed to work in cotton-openers, there is also a provision that the Chief Inspector may in any particular case if he desires that the height may be lower than the roof, he can exempt. I would submit for the consideration of the Honourable Minister that this is a very important matter. It affects the health. Cotton-openers emanate dust, which is liable to lead to diseases. This has been proved. So, if the proviso, "or to such height as the Inspector may in any particular case specify in writing," is deleted, it will serve the purpose, and the object of the clause will be immensely fulfilled. That is my submission and I would like to know the reactions of the Honourable Minister.

The Honourable Shri Jagjivan Ram: I have not personally myself seen the operations carried on in a cotton-opener, but I am told that this is a measure which is adopted as a precaution against fire, not merely dust, and hence if the partition is to such a height that danger from fire is avoided, it is not necessary that it should be a complete wall touching the roof. So if the protection against fire is covered, I do not think any other provision is necessary.

Mr. Hossain Imam: May I know what the position is in the present Act? Is it wall up to the ceiling or not?

The Honourable Shri Jagjivan Ram: It is not.

Mr. Hossain Imam: Then, this is an advance.

Mr. Chairman: I take it that Mr. Sidhva does not move his amendments.

Mr. R. K. Sidhva: Yes, Sir.

Mr. Chairman: The question is:

"That clause 27 stand part of the Bill."

The motion was adopted.

Clause 27 was added to the Bill.

Shri H. V. Kamath: Sir, I move:

"That in part (b) of sub-clause (2) of clause 28 of the Bill, for the word 'efficient', the word 'sufficient' be substituted."

Sir, my amendment turns upon the meaning of the words "efficient" and "sufficient". In part (c) we have got the word "efficient" automatic device. When a device is automatic and when the purpose is to prevent the cage from over running, efficiency comes into play. But, Sir, in part (b) the word "sufficient" is appropriate, because firstly it has got a different connotation from the word "efficient" and secondly the purpose of this device or these devices is to support the cage in the event of breakage of ropes, chains or attachments. As far as I can recollect, this particular change from "sufficient" to "efficient" was effected in the Select Committee. In the original Bill it was "sufficient". But then, at the fag-end, on the last day of the Select Committee meeting—this amendment was suggested by one of the officials. I wanted to speak on it, but we were all in a hurry to go and I did not press my point. But in the context of the circumstances described in this part (b) I think what is intended is sufficient devices. It may be a number of devices. Efficiency does not here come into play so much as in the second one. What is intended is that the devices should be adequate and sufficient in number to support the cage in the event of a breakdown. So I think it is better to retain the original word "sufficient". That is how the clause appears in the original Bill. I am therefore of the view that the word "sufficient" is far more suitable and apt than "efficient" in the context of the circumstances described in part (b). Sir, I move.

Mr. Chairman: Amendment moved:

"That in part (b) of sub-clause (2) of clause 28 of the Bill, for the word 'efficient', the word 'sufficient' be substituted."

The Honourable Shri Jagjivan Ram: Sir, this is a contest between "sufficient" and "efficient" and it is common knowledge which of the two succeeds—efficiency always succeeds. So here we do not require "sufficient" devices. The devices may be sufficient; they may not be efficient. What we require is that the devices should be "efficient" in cases of emergency. I may say, Sir, that it was after great deliberation that the word was changed from "sufficient" to "efficient" and personally, I think "efficient" is better than "sufficient".

Mr. Chairman: The question is:

"That in part (b) of sub-clause (2) of clause 28 of the Bill, for the word 'efficient', the word 'sufficient' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 28 stand part of the Bill."

The motion was adopted.

Clause 28 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I beg to move:

"That part (b) of sub-clause (2) of clause 29 of the Bill, be omitted."

Sir, I would like the House to go carefully into clause 29. It deals with cranes and other lifting arrangements. It lays down some essential conditions specifically in paragraphs (a), (b) and (c) of sub-clause (1) which every factory must observe. In clause 2, it gives the power to the Provincial Government to make rules in addition. The essential conditions laid down in sub-clause (1) are:

"(a) every part thereof, including the working gear, whether fixed or movable, ropes and chains and anchoring and fixing appliances shall be—

(i) of good construction, sound material and adequate strength;

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of twelve months, and a register shall be kept containing the prescribed particulars of every such examination.

(b) No such machinery shall be loaded beyond the safe working load which shall be plainly inscribed thereon.

(c) While any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place."

Now, these conditions do not lay down any concrete details. They simply say that the machine must be of good construction, sound material and sufficient strength, it must be properly maintained and so on. I fail to understand why the Provincial Government should be given any power to exempt any factory from these specifications.

Prof. Shibban Lal Saksena: Does the honourable member refer to 29(a)?

Shri Ajit Prasad Jain: Sub-clause (b) of sub-section (2) gives the Provincial Government power to make rules in respect of lifting machinery in factories, prescribing the requirements to be complied with in addition to those set out in sub-section (1). Now I come to the clause which I want to be deleted. It reads: "exempting from compliance with all or any of the requirements of this section.....". This means that the Provincial Government is being given the power to exempt a factory from the specifications laid down in sub-clause (1) as also any additional specifications which the Provincial Government may choose to lay down. I can well understand the Provincial Government being given power to exempt factories from complying with additional specifications laid down by the Provincial Government, but I cannot see why the Provincial Government should be given the power to prescribe any exemption in case of provisions laid down specifically under sub-clause (1). Then as regards the exemption from the additional qualifications, it is clearly laid down that additional rules may be made in respect of lifting machinery or class or description of lifting machinery in factories. The Provincial Government shall thus have the power to exempt a particular type of machine in the additional rules framed by the Government. Anyway I cannot understand why this exemption should extend to the sub-section laid down by sub-section (1). I hope the Honourable Minister will give a convincing reply to this House, and if that is so, I will be quite willing to withdraw my amendment.

Mr. Chairman: Amendment moved:

"That part (b) of sub-clause (2) of clause 29 of the Bill, be omitted."

Prof. Shibban Lal Saksena: I could not follow Mr. Jain and I do not know if he is referring to the last clauses (a) and (b) of sub-clause (2) of clause 29.

Mr. Chairman: The honourable member was referring to 29 (2) (b).

Prof. Shibban Lal Saksena: Then I support him, Sir, and if you permit me, I may also move my amendment in this connection.

Mr. Chairman: Your amendment is quite different.

Prof. Shibban Lal Saksena: Then I support Mr. Jain and I see no reason whatsoever for exempting the Provincial Government from compliance with any of the requirements of the section. I may say—and it is a very frequent occurrence—that men working on cranes often fall down and die and it is likely that this exemption power may be used. I do not think this should apply to such cases.

The Honourable Shri Jagjivan Ram: The clause reads thus "exempting from compliance with all or any of the requirements of this section, where in its opinion such compliance is unnecessary or impracticable". The rules might have been prescribed, but the compliance of those rules may be unnecessary. There is no use or necessity of a thing which is unnecessary and is impracticable. It may not be possible in that case to comply with those requirements, and the exemptions are only to be given in these two cases, that is, where it is unnecessary and where it is impracticable, I think, if the Provincial Governments will see that these things are necessary or practicable, they will insist that they should be observed. If they find that this compliance is not necessary and impracticable, they will not use this exemption.

Shri Ajit Prasad Jain: With regard to sub-section (1), clauses (a), (b) and (c), is there anything which can be said to be unnecessary? I am not talking of sub-section (2), I am talking of sub-section (1) and is there anything which can be said to be unnecessary?

The Honourable Shri Jagjivan Ram: That will not be exempted.

Mr. Chairman: Is it the desire of the honourable member that I should put the amendment to the House?

Shri Ajit Prasad Jain: Yes, Sir.

Mr. Chairman: The question is:

"That part (b) of sub-clause (2) of clause 29 of the Bill, be omitted."

The motion was negatived.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in part (a) (ii) of sub-clause (1) of clause 29 of the Bill, for the words 'twelve months', the words 'two months' be substituted."

Sir, it is said in the clause that the ropes, chains and other appliances shall be thoroughly examined by a competent person at least once in every period of twelve months. My experience about dock work where cranes and other lifting machinery are used is, that very frequently accidents occur and people fall down because ropes snap. I think a much more frequent examination of the ropes should be undertaken than at present. I think twelve months is too long a period for a rope to last. I think that the examination should be more frequent. This is a simple thing and the ropes etc., can be examined very easily. If there is a provision in the Bill, the factories will take care to see that the ropes etc. are in a good condition. I hope this simple amendment would be accepted.

Mr. Chairman: Amendment moved:

"That in part (a) (ii) of sub-clause (1) of clause 29 of the Bill, for the words 'twelve months', the words 'two months' be substituted."

The Honourable Shri Jagjivan Ram: I am not going to accept this.

Prof. Shibban Lal Saksena: In that case, I withdraw the amendment.

Mr. Chairman: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Chairman: The question is:

"That Clause 29 stand part of the Bill."

The motion was adopted.

Clause 29 was added to the Bill.

Clauses 30 to 33 were added to the Bill.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in sub-clause (2) of clause 34 of the Bill, for the word 'Provincial', the word 'Central' be substituted."

Sir, here is a question of fixing maximum weights. It is provided that the provincial Government may make rules prescribing the maximum weights which may be lifted. I think there should be uniformity in this matter throughout the country. It should not be left to one provincial Government to fix one maximum and for another provincial Government to fix another. I think it would be much better if the rules are made by the Central Government. I think the Honourable Minister would accept this simple amendment.

Mr. Chairman: Amendment moved:

"That in sub-clause (2) of clause 34 of the Bill, for the word 'Provincial', the word 'Central' be substituted."

The Honourable Shri Jagjivan Ram: Sir, it is a matter of common knowledge that a Madrasi cannot be expected to lift as much weight as a man from your province can. I think it will not be wise to fix uniform weights for all and I do not know how my honourable friend thinks it possible to fix the weights from here.

Prof. Shibban Lal Saksena: I do not agree with the argument and do think a certain degree of uniformity is desirable, still as he is not accepting the amendment I will withdraw it, Sir.

Mr. Chairman: Has the honourable member leave of the House to withdraw the amendment?

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

Shri Ajit Prasad Jain: Sir, I am not moving my amendment; but I should like to say a few words on the clause, with your permission. I have tabled an amendment to this clause; but I have not moved that amendment because I think that even under the present section, as it stands, the provincial Government will have the power to exempt certain classes of persons. The section runs as follows: "No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury". The words are sufficiently wide to give power to the provincial Government that a child or a female who is not an adult, that is she is a young person, or a woman in a delicate state of health may not be considered to be fit to lift any weight. I do hope that this provision in its working will be interpreted in a liberal spirit so that any possibility of any injury to any class of persons may be avoided.

Mr. Chairman: The question is:

"That clause 34 stand part of the Bill."

The motion was adopted.

Clause 34 was added to the Bill.

Clause 35 was added to the Bill.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in part (a) of sub-clause (3) of Clause 36 of the Bill, for the words 'a competent person', the words 'the Chief Factory Inspector', be substituted."

Sir, the clause provides for a certificate in writing by a competent person. But it is not defined who is a competent person. I only wanted this to be defined and I have suggested that the competent person should be the Chief Factory Inspector.

The Honourable Shri Jagjivan Ram: I do not accept this.

Prof. Shibban Lal Saksena: Then I do not press this

Mr. Chairman: The question is:

"That clause 36 stand part of the Bill."

The motion was adopted.

Clause 36 was added to the Bill.

Clauses 37 to 43 were added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 44 of the Bill, for the words 'arrangements for sitting the words 'sitting accommodation' be substituted."

Sir, the words in the context do not really fit in with the text. Clause 44 says: in every factory suitable "arrangements for sitting shall be provided". I should think that arrangements for sitting can be made, but cannot be provided. You can provide sitting accommodation; you do not provide arrangements. Arrangement is not anything concrete and cannot be provided. Sir, the words should be, "suitable arrangements for sitting shall be made", or better, "sitting accommodation shall be provided". In these circumstances, I would suggest that either my amendment be accepted, or the other thing that I have now suggested, "arrangements for sitting shall be made", be accepted.

Mr. Chairman: Amendment moved:

"That in sub-clause (1) of clause 44 of the Bill, for the words 'arrangements for sitting', the words 'sitting accommodation' be substituted."

The Honourable Shri Jagjivan Ram: I cannot accept this amendment, for, what is required is not simple accommodation, but arrangements for the workers to sit. We do not want simple accommodation. If my honourable friend will visit some of the factories, he will see that the workers will have to work standing near the machine and there may not be sufficient accommodation for sitting, but some sitting arrangements may be made there, a collapsible seat may be provided so that the worker may sit for some time. What we require is not simple accommodation, but really it is seating arrangement that is required.

Mr. Naziruddin Ahmad: Then, the wording should be, "arrangements for sitting shall be made".

The Honourable Shri Jagjivan Ram: That is for the draftsmen, Sir. I do not claim any mastery over the English language.

Mr. Naziruddin Ahmad: This cannot be left over to the draftsmen. It is not a formal thing. It has got to be accepted or rejected. For the word "provided", the word "made" should be substituted.

Shri Gopikrishna Vijayavargiya: There is also the word "maintained".

The Honourable Shri Jagjivan Ram: I think the clause is quite right as it is.

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 44 of the Bill, for the words 'arrangements for sitting', the words 'sitting accommodation' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 44 stand part of the Bill."

The motion was adopted.

Clause 44 was added to the Bill.

Clause 45 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I move:

"That in sub-clause (1) of clause 46 of the Bill, between the words 'that' and 'any' occurring in line two, the word 'in', be inserted."

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 46 of the Bill, between the words 'that' and 'any' occurring in line two, the word 'in', be inserted."

The motion was adopted.

Prof. Shibban Lal Saksena: Sir, I move:

"That in sub-clause (1) of clause 46 of the Bill, for the word 'may' the word 'shall' be substituted."

This is a provision which is very important and should apply to all provinces and it should not be left to the Provincial Governments to make rules or not to make them. I think it should be made compulsory on them to make rules for the provision of canteens.

The Honourable Shri Jagjivan Ram: Sir, I do not accept it.

Prof. Shibban Lal Saksena: Then I will not press the amendment.

Shrimati Dakshayani Velayudhan: Sir, I move:

"That in sub-clause (1) of clause 46 of the Bill, for the words 'two hundred and', be omitted."

The point is about canteens which have come into existence recently for the purpose of improving the standards of food and providing food at a cheap rate. The Bill provides for a canteen for a factory having more than 250 workers. But now there are very many small factories coming up which employ anything between fifty and two hundred workers. If my amendment is accepted this relief will go to a large number of workers, otherwise a large portion of workers will be excluded from the benefits of this provision. There are many small factories like match factories, leather factories, motor workshops, sawmills, candle manufacturing factories, etc., to exempt whom from the benefits of this clause will be an injustice. Workers in a big factory can organise and put forth their demands and get their grievances redressed; but if the provisions of the Bill are not extended to workers in small factories, it means that Government by legislation are prohibiting the workers from putting forward their demands. In small factories the oppression of the employer is greater whereas in big factories the employer may be a little frightened by trade unions or other organisations of that type. My contention is that any welfare measure brought by Government should be comprehensive and include as many workers as possible and the benefit should not be given to one section of workers only. The benefit should reach each and every worker and the

Honourable Minister should not discriminate between one worker and another. If my amendment is not accepted it would mean that the Honourable Minister is discriminating between one worker and another by legislation, which he says he has no intention of doing.

The Honourable Shri Jagjivan Ram: Why have the limit at fifty? Why not have ten?

Shrimati Dakshayani Velayudhan: Let me take an illustration. We will suppose that in a particular locality there are two factories, one having more and the other less than two hundred and fifty workers. According to this Bill provision is made for a canteen for the first factory but the same benefit is denied to the second factory. The workers in the first factory can get better meals from the canteen and at a cheaper rate, and the food will be fresh, whereas their fellow workers in the other factory will be deprived of the same benefit, the result of which will be that the workers in the second factory will be discontented and will not be as enthusiastic in their work as the workers in the first factory. I will draw attention to the fact that many workers come from very distant places. If there are no facilities for canteens in their factory they will have to bring food from their homes if they find it difficult to buy food from a hotel or a teashop. And if their work begins at about 7 A.M. many of them will have to leave their homes in the early morning between 4 and 5 A.M. If the midday meal has to be carried by them to the factory they will have to keep it for hours together in a place which may not be very healthy. For these reasons I want that the scope of the Bill should be made wider, and it is on a certain principle that I want to insert the amendment. When we want the workers to work and be patriotic and see that they have responsibilities too, we must not forget that it is the duty of the Government and of the employer to provide facilities for the workers. This provision of a canteen is a right of the worker and on the other side it is the duty of the Government and the employer to establish such canteens for the workers. So I hope the Honourable the Minister will accept my amendment.

Prof. Shibban Lal Saksena: Sir, I move:

"That in sub-clause (1) of clause 46 of the Bill, for the words 'two hundred and fifty', the words 'one hundred' be substituted."

The honourable member before me has argued for a limit of 50 workers. The Honourable Minister was heard to say, 'Why not 10? Probably he wanted to show that some limit had to be fixed somewhere. So the question is: Which is the proper limit? We ourselves have not mentioned the number but we want it to be a substantial figure so that a canteen can be run. I think 100 should be accepted. After all, if we want to give this benefit, it should be given to as many as possible. I think factories with a hundred employees should be able to run a canteen. I therefore implore him to accept 100 instead of 250.'

The Honourable Shri Jagjivan Ram: I was just waiting whether after 50 or 100 were suggested there were going to be any further suggestions. One charge has been made against me that I have been discriminating against the workers. I do not know how discriminating will disappear if the numbers are reduced to 50 or 100. I admit that this number has not been fixed on any strict principle. It is an arbitrary figure no doubt but some consideration has been given to the fact that we should arrive at a number which would make practical the running of a canteen. It is common knowledge that in India we have so many social prejudices and in a factory where workers of different castes are working, it has been the experience of those who are in charge of running these canteens that questions of separate kitchens and dining rooms always come up.

Shrimati Dakshayani Velayudhan: I know of the example of a canteen run by Tata's which is conducted without discrimination and no one refuses to take food.

The Honourable Shri Jagjivan Ram: If the honourable lady member has the patience, I may tell her that while she has the experience of one canteen, I have reports of a large number of canteens where common kitchens and dining rooms are maintained. But even those friends who are working among the workers will tell you that not more than 30 to 35 per cent. of the workers avail themselves of these canteens. So far as my knowledge goes, not more than 30 per cent. of the workers, even in the most successful canteens go and take meals in the canteens. If 30 per cent. of the workers go to the canteens and if we fix the number at 50 or 100, it means we will have to maintain the canteen for 16 persons or 32 persons. Any practical man can say that it is not economical and it is not desirable even to run a canteen only for 16 or 32 persons.

So, I say let us try. Let my friend, Prof. Shibban Lal Saksena exert his influence with the workers in factories with more than 250 workers. Let him see that in such factories canteens are started. Let him come to me next year after establishing canteens in all such factories to amend this Bill and make it applicable even to those factories where less than 250 workers are employed.

Mr. Naziruddin Ahmad: The success will depend on the quality of the meals supplied and other things!

Prof. Shibban Lal Saksena: I wish to withdraw my amendment now that the Honourable Minister has assured me that he is prepared to amend the Bill if need be.

Shrimati Dakshayani Velayudhan: I also wish to withdraw my amendment on the assurance given by the Minister. If there are people who will not take meals from the canteens, they should make their own arrangements. Though I am withdrawing, it does not mean that the workers ought to suffer because such a social evil prevails. Since the Minister is not prepared to accept my amendment, I am prepared to withdraw it.

Mr. Chairman: There is no question of withdrawal as yet as the amendments have not yet been put to the House.

Shri Upendranath Barman (West Bengal: General): Sir, I move:

"That in sub-clause (1) of clause 46 of the Bill,—

(i) the words 'by the occupier' be omitted; and

(ii) the following be added at the end:

"and the occupier shall contribute towards costs of maintenance a monthly sum to be calculated at a reasonable rate per head of workers, employed in the factory. The contribution shall be payable every month in advance to the managing committee of the canteen or canteens, and in case of default shall be recoverable under Public Demands Recovery Act."

This clause was non-existent in the original Bill and it has been inserted by the Select Committee. I do not know whether my amendment will be carried or not. But in spite of that I think it my duty to place a few facts before Government, so that even if the amendment be not carried, the Government in its executive capacity may take these difficulties into consideration and deal with them with justice and equity.

Sir, my submission is that it will be much more difficult for the factory owner to be fully responsible for maintaining the canteen rather than if there were a managing committee composed of the manager or an officer of his and representatives of labour and any Government official that might be present

to run and maintain the canteen. In that case all of them being responsible for running it, they would be able to find out any difficulties that existed. I am conversant with certain factories that exist in my district. There are more than 400 factories in the Jalpaiguri district and I say from my own experience of recent days that if we suddenly put the responsibility of running the canteen upon the occupier, it will be a very handy weapon in the hands of those who want to create dissatisfaction in plantations. Not only that but at present the owners of these gardens are charged with the duty of supplying rice to the labourers at a certain price and in certain quantity. Government itself could not supply this rice at the proper price and in sufficient quantity and this has led to disturbances last year and ultimately resulted in police firing and a number of deaths. That difficulty has got to be overcome. Both labour and the factory-owner are carrying on somehow. Once this whole responsibility of running the canteen is saddled upon the occupier he will find it almost impossible to strictly carry out his duties in the face of agitators inside the factory. Particularly I find that the Government will prescribe the food-stuffs and the charges to be made therefor. Government as a rule will certainly prescribe a uniform kind of meals in a particular area and they cannot consider the difficulties that obtain in the locality of each and every factory. For instance, there are factories which are situated near about towns. If money is spent foodstuffs can be had in these places. But in outlying areas situated inside dense jungles, where even a certain quantity of rice cannot be supplied at proper times, once the Government makes a uniform standard of food to be supplied in the canteens, it will be much more difficult in those gardens in the outlying areas than perhaps in factories situated near Calcutta or other cities.

If the law is to be as it is, if any rule is infringed by any person, particularly by the occupier, he will be prosecuted and not only fined but imprisoned also. But there is a greater menace than prosecution. Before the Government official or the court lays hands upon the occupier so far as negligence is concerned, any time the occupier fails to supply the prescribed food the labour force themselves will fall upon him. If such instances occur in scattered places it would be very difficult in those areas to find the proper type of man to run those factories even. Not only owners will be put into difficulty but even Government itself will be in many cases in difficulty. There are for instance, chinchona plantations and it so happened that in the recent past because the Superintendent or the officials could not supply a certain quantity of rice to the labourers (it is said that they were instigated by persons but whatever it might be) they went near the bungalow of the Superintendent. He was the highest executive officer so far as chinchona plantation is concerned. After one or two words, the labourers who had gone prepared assaulted him, the chief chemist and also the lady members of his family. They were severely beaten and the chief chemist had to lie in a hospital at Calcutta for three months. These are the circumstances that obtain in outlying areas. In these areas foodstuffs which are required for running a canteen are very difficult to obtain. I think it my duty to place before Government that there are cases where it would be impossible for the occupier to discharge his responsibility. They may have to be in default without any blame on their part. They are ready to give any amount of money in order to maintain a canteen but because of difficulty of supply they may be prosecuted and imprisoned. But before all these penalties fall on them their lives will be in jeopardy. I have therefore added a paragraph whereby the occupier is not allowed to go scot free. There are many cases where the labour force run their own canteens and the owner makes a contribution per head, per meal. That would be a more salutary provision from both sides. The occupier will not be scot free and it will minimise the cost of running the canteens. The labour force are now-a-days able to manage their own affairs. If they run their canteens they

[Shri Upendranath Barman]

will know how much they can afford per meal and with the contribution made by the occupier they can manage their affairs. If the occupier runs the canteen a part of the labour force may somehow become dissatisfied and try to put the occupier in difficulty. They may not give the number of persons who are going to take their food in the canteen. In that case it would be impossible for the occupier to make the necessary arrangements and then there will be difficulty. These difficulties will occur and in these days when Government itself cannot supply even rice of sufficient quantity it would be unfair to make it a compulsory duty of the occupier to run the canteens on his own responsibility. Let all of them be responsible. Let the Government official go there and form the managing committee. Government can make the rules as to how much shall be paid by the occupier and the labour force can run the canteens. I hope that the Honourable Minister, if he is not prepared to accept the amendment, will at least bear these difficulties in mind. Otherwise the occupier will be placed in a disadvantageous position. The whole industry will suffer then and the Government itself would suffer, which is neither to the interest of the Government nor to the interest of labour.

With these words I commend my amendment.

Prof. Shibban Lal Saksena: I have very carefully heard the speech of my friend Mr. Barman.....

Mr. Chairman: Does the honourable member want to speak on this amendment?

Prof. Shibban Lal Saksena: Yes.

Mr. Chairman: Then I want to know the position from the Labour Minister if he is going to accept the amendment or not.

The Honourable Shri Jagjivan Ram: Sir, I do not propose to accept the amendment and I do not think that any reply to the points made is necessary.

Mr. Chairman: Does the mover of the amendment wish that I should put his amendment to the House?

Shri Upendranath Barman: No, Sir.

Prof. Shibban Lal Saksena: On this aspect of the question referred to by my honourable friend Mr. Barman I wish to say.....

Mr. Chairman: The amendment has not been put to the House as the honourable member does not want to press his amendment. Therefore, if the honourable member (Prof. Saksena) wishes to say something relating to the amendment he may do so when the clause is put to the House.

Prof. Shibban Lal Saksena: I want to speak on the clause itself.

Mr. Chairman: Does the honourable member propose to move his amendment to this clause?

Prof. Shibban Lal Saksena: I am not moving it.

Mr. Chairman: What about Mr. Barman's next amendment?

Shri Upendranath Barman: I am not moving it.

Mr. Chairman: The next amendment is that of Mr. Sidhva.

Mr. R. K. Sidhva: My amendment relates to part (d) of clause 46. It runs:

"That in part (d) of sub-clause (2) of clause 46 of the Bill, after the word 'and', occurring in line one, the word 'major' be inserted."

It is a simple amendment. You will see that the constitution of a managing committee is provided in this clause. The canteen will be mostly meant

for the workers and the foodstuffs and other articles which are ordinarily consumed by them will be saleable there. In my opinion the view of the majority of the workers should prevail there. After all, they are the purchasers who will be really benefitted by these canteens. If they have not got a predominant voice in its management the result will be that the occupier will fix high prices as he likes and the object of the canteen itself will be frustrated. 'Occupier' means the owner of the factory and if the owner wants to avoid this kind of facility being given he may create many hitches and nullify the very object of this clause. It may be argued that a provision has been made for making rules and that the Chief Inspector has been authorised to frame the rules. Well, Sir, if that argument is going to be accepted, then this number of two hundred and fifty also should not have been provided here and the Provincial Government might have been left to fix any number in each factory. I do feel that the Honourable Minister will bear with me when I say that if the canteen is provided for the good of the workers then their voice should dominate in its management. Otherwise it is a question of money that is to be paid by the workers for the purchase of foodstuffs. And if the prices are prohibitive, there will be always conflict between the workers and the occupier, and the result will be that eventually the object would not be served. I therefore move the amendment and I hope the Honourable Minister will accept it.

The Honourable Shri Jagjivan Ram: I do not accept it.

Mr. R. K. Sidhva: Then I do not press it.

Prof. Shibban Lal Saksena: I shall speak on the clause itself. I am sorry that the Honourable Minister has not accepted this amendment moved by my friend Mr. Sidhva. I also wanted to say something about the point to which attention was drawn by my friend Mr. Upendranath Barman. I do not agree that the occupier should not be held responsible for running the canteen. But I do feel that the omission in the clause is really contained in the second part of Mr. Barman's amendment which he has not moved. I think the canteen should be run by the factory owner and he should be required to contribute towards the cost of the canteen to some extent. That was the point which my friend Mr. Barman suggested. I think that is a point which should be considered. Otherwise the workers will suffer. The factory owner should run it and should also be required to contribute something towards the cost. When he is allowed to run it, it will be necessary to do so.

What my friend Mr. Sidhva has said only means that the management of the canteen should be entrusted to a committee where the workers shall be in a majority. I think that if our friend the Honourable Minister is serious that this should be run properly, and if he wants that it should benefit the workers, he should make the foodstuffs come within the easy reach of the workers who, he knows, are very poor. I therefore hope that, although there is no amendment before the House, he will try to modify the provision in such a manner that the foodstuffs in the canteen are purchasable by all the workers and also that the canteen is managed in such a manner that it really benefits the workers and they do not find any difficulty in getting the foodstuffs. I hope the Honourable Minister will revise his views about the amendment and say something on it.

The Honourable Shri Jagjivan Ram: As we will be rising in a few minutes I would like to say a few words on this matter. I may say that Prof. Saksena's pleadings are not going to induce me to revise my views. As the provision stands, the cost of the canteens is to be borne first by the employers and it will be recouped by selling foodstuffs to the workers. Mr. Sidhva says that the employers may profiteer in that also. I think he has not read sub-clause (c) which mentions "the foodstuffs to be served therein and the charges which may be made therefor" about which rules may be made. The charges

[Shri K. C. Ngogy.]

Sir, I obtained an extension of time from the House the other day up till today, but unfortunately it has not been possible for me to find the time to continue the meetings of the Select Committee beyond half a day. In view of my physical incapacity, so to say, to handle this measure in the present circumstances, I seek the indulgence of this House, and I trust that they will grant me the extension of time that I am asking for.

Mr. Speaker: The question is:

"That the time appointed for the presentation of the Report of the Select Committee on the Bill to consolidate and amend the law relating to banking companies be further extended up to the last day of the first week of the next Budget Session."

The motion was adopted.

1. CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL

(Amendment of Sections 3, 4, 5, 6 and 10)

2. CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL

(Amendment of sections 2 and 4)

3 CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL

(Amendment of sections 10 and 11)

Pandit Thakur Das Bhargava (East Punjab: General): Mr. Speaker, Sir, with your permission I beg to move:

"That the Bill further to amend the Child Marriage Restraint Act, 1929 (Amendment of Sections 3, 4, 5, 6 and 10) be referred to a Select Committee consisting of Dr. Bakshi Tek Chand, Shri Prabhudayal Himatsingka, Shrimati G. Durgabai, Begum Aizaz Rasul, Shrimati Dakshayani Velayudhan, Shri M. Ananthasayanam Ayyangar, Shri Krishna Chandra Sharma, Sardar Hukam Singh, Shri Ajit Prasad Jain, Shri P. Kunhiraman, Shri Deshbandhu Gupta, Shri Upendranath Barman, Dr. B. Pattabhi Sitaramayya, and the Mover, with instructions to report not later than the last day of the first week of the next session and that the number of members whose presence shall be necessary to constitute a meeting of the committee shall be five."

میں اس تحریک کے ساتھ ہی نہایت ادب سے جناب والا کی خدمت میں یہ عرض کرنا چاہتا ہوں کہ موشن نمبر ۱۲ اور موشن نمبر ۱۶ جو کہ Child Marriage Restraint کے متعلق ہیں وہ دونوں موشن بھی آج ہاؤس کے سامنے ہیں۔ اس لئے میں ہاؤس کی اجازت چاہتا ہوں کہ ان کو بھی ساتھ ہی move کرنے کی اجازت مجھے دی جائے۔ کیونکہ یہ سب ایک ہی چیز کے متعلق ہیں۔ اور جو بحث ان پر ہوگی وہ تقریباً وہی ہوگی جو کہ میری موشن نمبر ۱ پر ہوگی۔ اگر مجھے اس امر کی اجازت دی جائے کہ میں ان سب کو اکٹھے موو کروں تو ہاؤس کا بہت سا وقت بچ جائیگا اور بہت سے ممبران جو کہ اس پر تقریر فرمائیں گے ان کو دوبارہ تکلیف کرنے کی ضرورت نہیں پڑیگی۔ اس لئے اگر مجھے اجازت ہو تو میں ان دونوں موشنوں کو بھی اس سٹیج (Stage) پر موو (Move) کروں۔

(English translation of the above speech)

While moving this, I would very respectfully submit, Sir, that I beg leave of the House to combine both the motions Nos. 14 and 16—which also relate

to Child Marriage Restraint and are before the House today—because all these relate to one and the same subject. The discussion that will follow will almost be the same as on Motion No. 1. If I am granted leave to move them together it will save a lot of time of the House and many honourable members who may speak on this, will not have to take the trouble of speaking again. So, if I am permitted, I may move both these motions at this stage.

Mr. Speaker: I think it is desirable that the motions on these three Bills should be consolidated. In that case, I take it that the reference of all the three Bills should be to the same Select Committee. The honourable member might include motions Nos. 14 and 16 in this motion and I will put them in the amended form to the House. In the meantime he can have his say on the motion.

Pandit Thakur Das Bhargava: Sir, with your permission I will move motions Nos. 14 and 16 also. I move:

"That the Bill further to amend the Child Marriage Restraint Act, 1929 (Amendment of sections 2 and 4) and the Bill further to amend the Child Marriage Restraint Act, 1929 (Amendment of sections 10, 11 and 13) be referred to a Select Committee consisting of Dr. Bakshi Tek Chand, Shri Prabhudayal Himatsingka, Shrimati G. Durgabai, Begum Aizaz Rasul, Shrimati Dakshayani Velayudhan, Shri M. Ananthasayanam Ayyangar, Shri Krishna Chandra Sharma, Sardar Hukam Singh, Shri Ajit Prasad Jain, Shri P. Kunhiraman, Shri Deshbandhu Gupta, Shri Upendranath Barman, Dr. B. Pattabhi Sitaramayya, and the Mover, with instructions to report not later than the last day of the first week of the next session and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

میں جناب کا اور اس ہاؤس کا نہایت ہی شکریہ ادا کرتا ہوں کہ مجھے ان تین موشنوں کو کنسولیڈیت (Consolidate) کرنے کی اجازت عطا فرمائی ہے۔ جہاں تک کہ ان موشنوں کا تعلق ہے میں اس بارے میں آج ہاؤس کے سامنے لمبی چوڑی تقریر نہیں کرنا چاہتا ہوں۔ کیونکہ پہلے جب میں نے سرکیولیشن (Circulation) کا موشن پیش کیا تھا تو اس وقت بہت ضروری اور اہم باتیں عرض کر چکا ہوں۔ لیکن اس ہاؤس میں جو کہ سارے ہندوستان کے حالات سے واقف ہے کچھ ضروری باتیں نئے سرے سے دہرائی جانی لازمی ہیں۔

(English translation of the above speech)

Sir, I am grateful to you and the House for granting me the permission to consolidate these three motions. So far as these motions are concerned, I do not want to make any lengthy or detailed speech before the House today, because I have already explained the vital issues at the time of moving the circulation motion. But in this House which is aware of the conditions prevailing in the whole of India, I feel it necessary to recapitulate some points *ab initio*.

Shri M. Ananthasayanam Ayyangar (Madras: General): I would request the Honourable Mover of the motion to make his speech in English so that we can know the contents of the speech of at least the Mover.

Pandit Thakur Das Bhargava: Sir, in obedience to the wishes of our Secretary I shall deny myself the pleasure of talking in my own language and put myself to a certain strain in making my speech in English.

After the Bill was circulated we have received opinions from various parts of India. Before I proceed with the Bill, I would with your permission, Sir, say a word about the opinions received. As advised by you, Sir, on a previous occasion I shall not read portions of the opinions which have been received,

[Pandit Thakur Das Bhargava]

because I take it that Honourable Members who have been supplied with the opinions must have gone through them. I will take this opportunity of reviewing the trend of the opinions which have been received.

In the first place the Panth Piploa people have supported this measure. In regard to Coorg there is general support but there is a discordant note by the Judicial Commissioner. Anyhow he has also accorded support to the measure in regard to Section 6. As regards Orissa there is full support to the Bill. Delhi gives full support. The Chief Commissioner, the District and Sessions Judge and others have supported the Bill fully. The same is the case with Ajmer-Merwara. The Judicial Commissioner, the District Judge, the Bar Association and everybody else have supported the measure except Mr. Harbilas Sarda, whose opinion I value very much, as he was the original author of the Sarda Act. He supports the provision about compulsory imprisonment in the Bill but opposes the other measures. As regards Madras Government and people Mr. Ananthasayanam Ayyangar when he spoke last on the Bill made certain observations which have been taken up by those who have given their opinions and they have said ditto, so that if I quote Mr. Ayyangar's opinions expressed on that day I will be giving the opinions of the Madras gentlemen. Mr. Ayyangar was not opposed to the Bill even then and he said that in Madras there were no child marriages. My reply was that in that case nobody would be adversely affected. In regard to Madras there are about 6 or 7 opinions in support and 10 against. The Assam Government opinion is not very helpful either way, because they regard all legislation in this regard as useless. Bihar gives general support. C.P. supports the Bill. In Bombay 23 opinions are in support and about 6 or 7 against. The U.P. support has been extensive. East Punjab has thoroughly supported it. With this support I am bound to submit that the House should refer this Bill and the other Bills to the Select Committee.

What I maintain is that this is not a case in which any support is required. If there are child marriages in the country it is the duty of this Government and this House to see that they are abolished. If such marriages are less in number on account of the operation of the Sarda Act I would be very happy and the House should also be happy. But unfortunately that is not my view. In my opinion in regard to cities there is an improvement but in regard to backward communities and the rural areas there has been no rise in the marriageable age and even now marriages of children are performed and betrothals take place even before a child is born. Those who look at things superficially may feel that there is no need for such a Bill but I claim to have roamed all over the country for 10 months as a member of the Age of Consent Committee in 1929 and since then also I have been going through the country with my eyes open and I know as a matter of fact that there is a great deal of child marriage in the country. And it is idle to suggest that child marriage is not to be found any more in this country. Even if that were so, I would still think that there is room for a Bill like this. But in my humble opinion the evil is too great to be ignored. Since you have allowed me, Sir, to move the two other Bills also, if all the three Bills are taken together I claim that all that the law can do is being attempted to be done by these three Bills in regard to the stoppage of child marriage.

At the last time when this Bill was being considered for circulation Mr. Ananthasayanam Ayyangar told us in his criticism of the Bill that the Bill should be made cognizable. And he was perfectly right. There were other opinions also. In 1929 there was a mass of opinion that this Bill should be made cognizable. At that time, in 1928, that was the first measure and the country was not ripe for that kind of change. After eighteen years when the social consciousness of the country has been roused to a great extent it is high time we took courage in both our hands and made the offence cognizable. I

know that even now the police has not improved, but at the same time I know that the police is improving. And I know that at the helm of affairs there is a national government. It should look to the evils, if any, arising out of the offence being made cognizable. Unless the offence is made cognizable it is very doubtful if this attempt of ours shall succeed in stopping early marriage.

The real gravamen of the evil in regard to child marriages is that they bring about conditions in which pre-puberty consummation as well as post-puberty consummation before the girl reaches the age of sixteen do take place. It is impossible to stop the two evils if the marriages are allowed to go on as they are now going on. Even if the Sarda Act is successful in its operation and the age is fourteen, my humble submission is that it is most difficult to stop these two evils—the evil of pre-puberty consummation and the evil of post-puberty consummation before the age of sixteen. These are the main evils and the proper remedy for these evils is to raise the age of marriage from fourteen to fifteen and the age of consent from thirteen to fifteen. There is another Bill before the House today which is the subject of my second motion on this subject and which deals with the age of consent. I am not however going to deal with that Bill today because it has already been circulated and the opinions have not been received. But what I am submitting is that even that Bill will not be successful unless we raise the marriageable age. If the age of marriage is raised to fifteen, then the provisions of the other Bill also will be quite successful. In the second Bill I am providing for another contingency, namely that persons above the age of forty-five should not be allowed to marry young girls below the age of eighteen. This is a new provision and I do not know what the reactions in the country about this provision will be and how different persons think about it, but I have given good thought to the question and I think it is a very necessary reform. In regard to procedure also the third Bill, which is the subject matter of motion No. 16, deals with the question. Clause 3 of the proposed Bill provides for bonds and clause 4 deals with the registration of marriages. I do not want to deal with these two aspects of the question in very great detail because these two provisions have been before the country for the last eighteen years. The Age of Consent Committee recommended these provisions. The Report of the Age of Consent Committee was quite unanimous in regard to these two points. They submitted to the Government that these provisions should be enacted, but for the last seventeen years no heed has been paid to these provisions and I have therefore brought them before this House in that Bill. When they go to the Select Committee the Select Committee will have enough time to consider these provisions and pronounce upon their merits. At present the need for these Bills is quite apparent and the whole country, as I have shown to the House from the opinions received, is behind these two measures.

I know that the Hindu Code is also coming and that there are certain provisions which are to a certain extent common. But these Bills are All-India measures. They apply equally to all communities, to Hindus, Muslims, Christians and all others. And I may inform the House that the evil of early marriage or child marriage is not prevalent only among the Hindu community. Among Muslims, particularly in Bengal and other places, the evil was equally great. But the unfortunate part of the whole affair is that those entrusted with the destinies of this country did not realize, and do not realize, the enormity of the evil. I remember when the Committee went to Assam and when we examined Sir Mahomed Sa'adullah in the matter he did not know much about the evil. He said that the Muslims do not want it because there is no child marriage among Muslims. When we brought to his attention the fact that among the Muslims the evil was as great as among Hindus in Bengal according to the evidence before us, he changed his opinion. Similarly, as I had occasion to observe before, our best leaders even did not know about the enormity of the evil before the Committee roamed over the country and found

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that the vitals of the nation were being eaten into by this bad custom. Now, since the Sarda Act has been before the country since the last seventeen years we have seen that the country is reconciled to the fact that child marriage should not be there. There has been no great opposition. Now that the rubicon has been crossed there is no point in keeping fourteen as the age. When fourteen was fixed, by the Age of Consent Committee and the House accepted it, it was as a compromise measure. Those who wanted progress wanted sixteen whereas those who wanted less were of the opinion that twelve should be the proper age so that the *shastras* would also not be violated. So fourteen was a compromise age. Fourteen having been accepted there is good reason to think that now we should proceed to the right age according to medical evidence. And medical evidence is almost unanimous on this point. Maternity is not safe before the age of sixteen. And if maternity is not safe before sixteen no marriage should be allowed before the girl attains the full age of fifteen. That is the logical conclusion. Now, Sir, I would not care for public agitation or for anything in the world when from the physical and physiological point of view, the proposition is absolute and unanimous that in the case of girls below the full age of fifteen years no consummation should be allowed.

I need not refer to the effects which I foresee if these three measures are adopted by the House. I know that in regard to education our girls shall get better opportunities; in regard to physique I have not the least doubt that we shall improve. It is said that our labourer does not stand in comparison with the labourer of other countries. And our labourer is not paid well. Our professors, our legislators and all persons living in India are regarded as, in a measure, inferior to the nationals of other countries. Why? Because many of us are the children of child mothers. When a girl gives birth to a child at the age of fifteen, certainly the child will not be so healthy as when the mother is, say, eighteen years of age. I should say that the proper age for motherhood is eighteen and the safe age for motherhood is sixteen. In regard to this, the demands of social justice—ordinary justice—are that we should not be cruel to our own girls.

I for one am very much enamoured of this kind of social justice and I wish that so far as girls are concerned, we concede this justice to them. When a girl is below 18 and she is not even major enough to part away with any part of her property, she should not be dealt with in such a manner that another person who is in charge of the girl should behave in regard to her person as if she were a chattel. Do we not know that many people, for filthy lucre, for social gain and for many other reasons, marry their girls before they attain the age of 18? If the girls attain the age of 18 then they shall be able to choose for themselves, though full discretion will not still be there. But when the girl is below 18 years she should not be dealt with by a guardian in this manner that her wishes are not consulted; if the marriageable age of a girl rises, I have no doubt that the girl will be consulted before her marriage, and therefore some sort of social justice will be done to the girls.

Now, in regard to the provision about imprisonment, there has been a general complaint that in regard to Section 3 the provision should not be changed because many of the opinions say that the boy of 18 should not be sent to jail. I quite agree. As a matter of fact, the proposed amendment was not that the courts are bound to send the boy to jail—only a discretion was given because I wanted that the boy should be armed with powers to resist overtures on behalf of the parents to marry him. All the same, in a matter like this I would not insist and I would readily agree if the Select Committee agrees that Section 3 need not be changed. What I want is that in regard to Sections 4, 5 and 6 the punishment should be compulsory. We know that according to the provisions of section 87 of the Indian Penal Code,

no person can be allowed to inflict injury on another even in any small measure. The amount of injury which child marriage involves is of such an enormous nature, though it is not so visible to an ordinary eye, that under ordinary canons of justice no person should be allowed to behave towards his own daughter in such a manner that he inflicts injury while the recipient of the injury does not know how much injury has been received.

I do not want to dilate very much upon this Bill as I have already taken too much of the time of the House before. I would only submit that as a matter of fact, according to my view, this reform is very necessary and should at once be effected, and our National Government should lose no time in seeing that effect is given to it after the law is passed in regard to the stoppage of child marriages.

It has been urged in many quarters—and I for one do not doubt the efficacy of the argument—that education, social reform and all these measures should be resorted to so that in the public mind the enormity of the evil may be realised. I am not opposed to them, but I know that so far as social reforms are concerned we shall have to wait till doomsday if we want to see results achieved. The first meeting in regard to this child marriage question was held in 1830 and for the last 17 years the Sarda Act has been before the country, and we know the results. My submission is that it is absolutely necessary today that there should be an Act and the Government should also do propaganda and adopt measures to bring home to every person the evils of the custom of child marriage. We have been doing our duty, but we know at the same time that there are other forces which are very strong and which will not allow us to succeed if the arm of the law is not with us. Therefore, with regard to all these three Bills I would beg of you and the House to agree to the motion that I have made.

Mr. Speaker: Instead of putting the three motions separately I am thinking of combining the motions into one.

Motion moved:

"That the Bill further to amend the Child Marriage Restraint Act, 1929, (Amendment of Sections 3, 4, 5, 6 and 10), the Bill further to amend the Child Marriage Restraint Act, 1929, (Amendment of Sections 2 and 4), and the Bill further to amend the Child Marriage Restraint Act, 1929, (Amendment of Sections 10, 11 and 13), be referred to a Select Committee consisting of Dr. Bakshi Tek Chand, Shri Prabhudayal Himatsingka, Shrimati G. Durgabai, Begum Aizaz Rasul, Shrimati Dakshayani Velayudhan, Shri M. Ananthasayam, Ayyangar, Shri Krishna Chandra Sharma, Sardar Hukam Singh, Shri Ajit Prasad Jain, Shri P. Kunhiraman, Shri Deshbandhu Gupta, Shri Upendranath Barman, Dr. B. Patitabli Sitaramayya, and the Mover, with instructions to report not later than the last day of the first week of the next session and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I rise to support the general principles of the Bill. I should however point out that the opinions which have been received in support of the Bill, are generally from the educated classes; the backward classes who, as pointed out by Pandit Thakur Das Bhargava in his speech, require the greatest amount of protection in this respect, are not behind this opinion. By that I do not wish to suggest that no law should be passed to affect them. I know that amongst the backward classes there is a vicious practice of marrying their girls rather too early. I merely suggest that with respect to these classes, the age should not be so raised as to be much above the usual age at which they are married. I merely suggest this for the consideration of the Select Committee, that if we insist upon too high a standard in the case of backward people who form the bulk of the people, there would be the danger of wholesale violations of the law by a kind of general agreement among the backward classes in the villages. I merely submit this as a precaution, so that the law may not be very much against the general sentiments and the general practices in the villages. I should submit that we should proceed in such cases rather in a statesmanlike manner and with due caution.

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I submit that the punishment in those cases should not be very drastic. Sir, child-marriage is due to age-long prejudice which is deplorable, which we are fighting against. It is not the ordinary crime, as we understand it, involving moral turpitude as is commonly understood. It is rather a social evil which is almost a part of the social life amongst the backward classes that we are fighting against. The offences should not, therefore, be punished very severely; in fact, lenient punishment is all that is called for. Again, the offences, to my mind, should not be made cognisable because that would introduce the police into the scene and this will lead to abuses.

Then, again, poor working girls who are almost friendless have got to go about seeking livelihood. It would perhaps be a little risky on our part to leave them alone without the protection of a husband. Under these circumstances, the age with regard particularly to the backward classes should be carefully considered and adjusted so as not to go much against the widespread sentiments among the very classes whom we want to protect. While making these observations, I do not in the least go against the Bill but rather would ask the Select Committee to go fully ahead, but remembering that the social evil which we desire to eradicate, exists on a very large scale in this country. The success of the law would depend upon the co-operation it evokes among the people whom it intends to benefit and should not therefore appear unduly harsh or coercive. With these few words, I hope the Select Committee which is composed of some of the ablest members of the House would take into consideration these matters and adopt such measures as, to them, would seem fit and proper.

Srijut Rohini Kumar Chaudhuri (Assam: General): Sir, I have no doubt that the House is grateful—and by the House I mean particularly the female section of this House—to the industry and labour which my Honourable friend the Mover of this Bill has always devoted to the improvement of the social condition, particularly the protection of female interests. But, I am afraid that certain provisions of this Bill are not quite clear to me and when I read them with certain other provisions of legislative measures which my Honourable friend is seeking to introduce or has introduced, I confess his attitude becomes inexplicable to me. For instance, Sir, take this demand of making the offence a cognisable one. The legislators of the days of the Sarda Act fully realised the fact that if this offence is made cognisable, then society would become a prey to police oppression and intimidation. My Honourable friend does not deny that the Police is still in the same state as before, notwithstanding the fact that our Honourable and revered leader, Sardar Vallabhbhai Patel is in charge of it. My Honourable friend, in his Statement of Objects and Reasons in the Bill further to amend the Code of Criminal Procedure has said:

"Many accused persons abscond for fear of Police apprehension or torture and would gladly stand a trial and vindicate themselves before a Court of law if they were assured they will not be unnecessarily remanded to Police custody..."

Pandit Thakur Das Bhargava: May I submit for the consideration of the Speaker that the honourable member is referring to the objects and reasons for another Bill?

Srijut Rohini Kumar Chaudhuri: Yes, I am referring to another Bill. That is the opinion which the Honourable Member entertains so far as Police is concerned and he cannot have one opinion about Police in respect of one Bill and another opinion about Police in respect of another Bill. He goes on:

"The present Police methods of investigation and interrogation from accused are in many places anything but desirable and it is notorious that confessions made by accused while in Police custody are but seldom stuck to in courts. It is not unheard of that the Police abuse the provisions of Law with regard to bail even in bailable cases. Many

honest and respectable persons would prefer ignobly flying away from justice rather than subject themselves to the ignominy and indignity of police arrest and custody. When it is remembered that a very large percentage of persons prosecuted is discharged or acquitted by courts and malicious prosecutions and false implications by enemies in bailable and non-bailable offences are not rare and under the law as at present interpreted by some courts the ordeal of Police custody is necessary to be undergone by every accused howmuchsoever innocent. The need of a change in the Law or to get the doubt at rest in this regard becomes imperatively necessary."

So that is his opinion about the Police, and for all kinds of offences—bailable or non-bailable, heinous or non-heinous,—my Honourable friend suggests that instead of placing any man in the rigidity of custody, he should be allowed to go to the court and make an application for bail. If that is so with regard to bailable offences, why does he want that these social offences should be made cognisable? Why should he expose these people who sometimes believe erroneously or otherwise that it is a part of their religion to give their daughters in marriage before they attain puberty? Why should he expose these persons of high position to the tender mercy of the Police, in spite of the fact that he has not done so in the case of more heinous offences? This is a demand which I do not understand. I would rather have wished him to make it a non-cognisable one, but make it a non-bailable one, because even in non-bailable cases, except where the offence is punishable by capital sentence, bail is generally allowed and in all cases where the punishment involved is not a capital sentence, it may be necessary to make it a non-bailable one. The Magistrate should have the discretion not to grant bail in cases where he has definite information that a marriage of an objectionable kind is going to take place. If the accused is arrested and if the Magistrate has the discretion to refuse him bail, that would be a greater service for prevention of objectionable marriages. If, for instance, a Magistrate has reliable information that a marriage which is infringing the Sarda Act is going to be celebrated on such and such a day he may issue a warrant and arrest him; he must have discretion not to grant bail. In that case it will be much better to make the case a cognisable one than to expose the man to police custody. I hope, Sir, the Honourable Mover will take this aspect of the matter into consideration.

Then, I do not understand why he has introduced this provision of 562 of the Code of Criminal Procedure. That section enjoins the court to release a man without any punishment provided he gives a security to see that such offence will not be committed again.

An Honourable Member: It is something like the first offence being condoned.

Srijut Rohini Kumar Chaudhuri: That is to say, the honourable member does not go to the length of punishing an offender under this clause.

Then, Sir, he has also under clause 3 prescribed the execution of bonds under certain circumstances even after the celebration of marriage. I submit, Sir, that this is an inhuman and impossible condition which he wants to retain. He has himself admitted it in the Statement of Objects and Reasons where he has been more explicit than necessary and taken into consideration the human weakness.

In paragraph 3 of the Statement of Objects and Reasons, he says:

"The provision of bonds will at once serve as a preventive check upon commission of crime of marital misbehaviour and as a serious deterrent for offences under the Child Marriage Restraint Act. These provisions were recommended by the Age of Consent Committee and proceeded on the lines of the preventive sections of the Code of Criminal procedure."

It is common experience that it is impossible to prevent the commission of the crime of marital misbehaviour and to punish the offenders if the husband and the child-wife are allowed to cohabit with each other. It is as idle to expect that fire will not burn or air would not dry as to expect that crime will not be committed if the husband and the child-wife are

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allowed to be closetted in the bed chamber. Ascetism cannot be enforced by legislation and the creation of conditions in which crime cannot be committed is the only solution of the difficult problem.

Moreover an attempt to punish the offenders and abettors of the crime of marital misbehaviour will be much more irksome and annoying to the public than the attempt to prevent the crime from being committed through the instrumentality of the provision of bonds."

This is his opinion, but what is the legislative provision he has laid down? He says:

"Whenever any person accused of an offence under sections 3, 4 and 6 of the Act is convicted and the Court is of opinion that consummation of marriage or cohabitation with the wife before the completion of the statutory age of consent in married life is not unlikely, the Court may order him to execute a bond with or without sureties for a sum proportionate to his means."

What is the sentence prescribed? Imprisonment for three months. The man has already married and he is asked to give a bond with or without sureties and he is merely to give in writing that he will not visit his wife; otherwise, he is sent to jail. Such a promise can be very promptly given and such a promise which is not backed by any forfeiture of security can be easily infringed, will never be kept. I do not think a man of much older age can give a promise of this kind. Otherwise, there would not have been any necessity of introducing birth control in India. I think that this is an absolutely nugatory provision. Then he says:

"The bond to be executed shall bind the person convicted under section 3 or 4 of the Act to abstain from consummating the marriage or cohabiting with the wife till she completes the statutory age of consent in married life, and the person convicted under section 6 to be responsible for such abstinence by his son or ward as the case may be, and to that end impose such conditions as the Court considers suitable for making provision for separate living, proper custody and maintenance of the wife."

The parent will be proceeded against if he does not provide for a separate bed room for his son, separate bed room for his daughter-in-law and if after having done that, he has to see that they do not mix; otherwise he would be liable for forfeiture of the security bond. May I ask the honourable mover of this Bill, will that be a sufficient check, the mere giving of a bond by a parent that their wards, will not mix with each other, will that be a sufficient prevention against the breach of this law which he wants to impose? I submit, Sir, these are merely theoretical precautions which the honourable member wants to make and that it will surely defeat the very object for which it is intended. On the other hand the remedy is to introduce social measures. In our part of the country, there is a strict injunction that after the marriage, whatever may be the age of the girl or the boy, they cannot mix with each other until a second ceremony is performed after the attainment of puberty and that acts as a sufficient check and no amount of legislation which you can introduce can help you in keeping the man or the boy away from the girl whom he has married and in these days the boys and girls are married as a result of previous negotiations between themselves. When it is so, it is very difficult to estrange them from coming around together and it is very cruel to punish the old parents for this breach of law by their children.

I would submit, Sir, in the part of the bill which seeks to amend sections 10 and 11, the offence should not be made cognizable but it may be made non-bailable. The whole matter of giving bail may be left to the discretion of the Magistrate and these nugatory clauses should be done away with. It is meaningless and will only lead to subterfuge and dishonesty and nothing else.

Sir, as regards the age of consent, I submit that the proposition which my honourable friend has laid down is more mathematical than realistic. He has himself given the reasons why he has put down that when a man attains the

age of 45 years, he should not marry a girl who is less than 18 years old. I do not know, Sir, on what authority of medical men or of public health he has introduced this particular barrier? I will just invite the honourable members of this House to refer to the reasons which he has given and find out whether there is any substance in it. I want to ask the honourable members of this house whether they endorse the views which he had expressed in the Statement of Objects and Reasons. He says:

"The Bill further seeks to afford protection to young girls under eighteen against ill-matched marriages, say with males over the age of 45 years usually widowers (*Why he is particularly hard against widowers, I don't know*) with children perhaps older than or equally old as these young girls.

Not unoften greedy and indiscreet parents and guardians barter away the future happiness of their daughters and wards for filthy lucre or other alluring prospects by marrying them with elderly people who have one foot in the grave while the girls are, owing to their minority, unable to resist and safeguard their interests. Many cases have come to courts in which the lust of impatient husbands had ruined the physique of the young girls or caused irreparable damage to their health. It is common experience that such marriages are generally attended with very unhappy consequences and spread morbidity, immorality and misery all round.

The relative ages and consequent outlook on life of the couple being so desperate and dissonant the period of married life is short and seldom happy. The young girl in her early teens does not respond alertly to the violent bursting forth passion of the impatient and elderly husband whereas in later life the dotard husband is far too sluggish and incapable to fully reciprocate and satisfy the yearnings and promptings of the youthful and fully grown woman....."

Wherefrom does he get all this opinion, Sir? Whether he has any authority, medical or otherwise on which he relies or whether he speaks from any personal experience, I am not aware. By personal experience, I do not mean the experience of himself, but by seeing the examples of other people.

"... In a fairly large number of cases the young wife becomes a widow after enjoying a short span of married life even before she has grown to full womanhood. The condition of widows in communities which prohibit remarriage is extremely deplorable and there is nothing but unredeemed misery and trouble in store for such long lived widows. In other communities also the fate of the widow is full of great hardships and misfortunes."

He is not relying on these arguments, now he comes to the real argument.

"Anyhow, the normal happy matrimonial felicity and companionship, characteristic of suitable matches, which invest married life with enchantment and mutual devotion and make it worth living are wanting in such marriages which should be discouraged and interdicted. It is really cruel and unjust to mar for good the future well-being of a young girl at a time when she is dependent and unable to defend her own interests, and other considerations apart, the barest justice demands that young girls be protected against social tyranny of such reprehensible type."

I hope there is really such thing as an enchanted married life. Those who have recently married will be able to tell us from their experience if any such enchanted life exists and whether marriage really brings enchantment or not. According to my honourable friend, a really enchanted married life can only take place if the girl is above 18 years or above 16 years of age and the man is under 45 years. I leave it to the Honourable members to judge for themselves if they have had an enchanted married life under those conditions or even still they are having an enchanted married life under different ages. My point is this. I do not want to deter my honourable friend for one moment in his zeal for social reforms; but I would ask him not to be led away by sentiments like this: the dotard old husband, grown up young woman unable to get satisfaction, and all that kind of argument. That sort of argument should not be used to support a legislative measure of this kind, because, it will bring distrust and unhappiness in many families which are otherwise happy. What will happen if a woman were to think that her husband is more than 45 years of age and therefore her enchanted married life is at an end, when we know and I think several Members in the Government Benches also know that an enchanted married life is possible even under different age conditions. At this

[Srijut Robini Kumar Chaudhuri]

moment, to bring legislation of this kind and to tell them that there cannot be an enchanted married life because the age is such and such is only to bring unhappiness and misery to families otherwise happy.

श्री राम साहाय : स्पीकर महोदय, यह तीनों बिल जो अभी हाउस के सामने हैं और जो सिलेक्ट कमेटी में जाने के लिए हैं, मैं इन तीनों बिलों की तारीफ करता हूँ और मैं यह अर्ज करूँगा कि जो पहला ऐक्ट बना हुआ है उस पर कोई अमल नहीं हो पा रहा है और तमाम ऐसे जुर्म होते जा रहे हैं और छोटी उम्र में बराबर शादियाँ की जा रही हैं। खासकर ग्रामीण जनता को उससे कोई भी फायदा नहीं पहुँचा। वह अपने पुराने उसूलों के मुताबिक उसी तरह से छोटी छोटी उम्र में शादियाँ करते हैं। मैं समझता हूँ कि जब तक यह जुर्म काबिल दस्तअन्दाजी पुलिस न होंगे तब तक इस छोटी उम्र की शादियों की रोक किसी तरह पर नहीं हो सकती। आजकल पुलिस के बढ़ते हुए करप्शन (Corruption) को देखते हुए इस बात में डर मालूम होता है कि इस तरह के जरायम का पुलिस के हवाले कर दिया जाय, लेकिन जहाँ हमारी जान और माल हर तरह से पुलिस के हाथों में सौंपी हुई है वहाँ कोई बजह नहीं है कि इस किस्म के जरायम को भी पुलिस के सुपुर्द क्यों न कर दिया जाय और उनको काबिल दस्तअन्दाजी पुलिस करार दिया जाय। मैं समझता हूँ कि इन जरायम की रोक उसी वक्त होगा जब यह काबिल दस्तअन्दाजी पुलिस करार दिये जाये, एक बिल में ऐसा चाहा गया है कि उम्र १४ से १५ साल और १८ से २१ साल कर दी जाय, मैं समझता हूँ कि यह भी मौजूद हालत में मुनासिब है क्योंकि वैसे भी हर एक कम्युनिटी (Community) में शादी की उम्र कुछ न कुछ बढ़ ही गयी है। इस तरह से अगर कायदे से रोक कर दी जाय तो उसमें कोई बुराई नहीं है। बाकी जो ऐतराजात अभी मिस्टर चौधरी ने हाउस के सामने रखे हैं, मैं समझता हूँ उनपर सिलेक्ट कमेटी अच्छी तरह गौर कर सकेगी। यह उन माइनर डिटेल्स (minor details) में जाने की जरूरत नहीं है। बहालत मौजूदा यह तीनों बिल इस काबिल है कि यह सिलेक्ट कमेटी के सुपुर्द कर दिये जाये।

(English translation of the above speech.)

Shri Ram Sahai (Gwalior State): Mr. Speaker, Sir, while supporting these three Bills which are just now before the House for reference to the Select Committee, I would like to point out that the existing Act has become a dead letter—all such crimes are being perpetrated and early marriages are continually performed. Particularly the people in the rural areas have not been benefited by this. They are still performing early marriages according to their old customs and traditions. I feel that unless these offences are made cognizable, early marriages cannot be stopped in any other way. Considering the present-day increasing corruption in the police, it is feared that such offences should be brought within the cognizance of the police. But when our life and property have been solely left in the hands of the police, there is no reason why such offences should not be made cognizable. I think these offences can be prevented only when they are made cognizable. The object of one of the Bills is to raise the age from 14 to 15 years and from 18 to 20 years. I feel that this is quite appropriate in the present circumstances because in every community the age of marriage has already been raised to some extent. There will be no harm if this is raised according to law. Further, I think that the Select Committee will carefully consider the objections raised by Mr. Chaudhuri. It is no use going into minor details here. Under the present conditions, these Bills may be referred to the Select Committee.

CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL

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The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I accept the motion referring these Bills to the Select Committee. In doing so, I must safeguard my position. I felt bound to accept the motion because last time when the Bills were on the agenda, I made a promise to my honourable friend Pandit Bhargava that I would bring in a Government Bill myself to cover the various points raised by him in the Bills which he had sponsored. Unfortunately, owing to other preoccupations, it was not possible for me to give effect to the promise which I had made. In the circumstances, I felt that I should not stand in the way of his making the motion which he has made.

At the same time, I must say that while I appreciate the objects and motives which have led him to bring these Bills before the House, I do not at all accept either the means or the methods which he has suggested in the various Bills to bring about the result. In fact, I cannot help saying that the second Bill sponsored by him is utterly misconceived and fails altogether to realise the reasons why the Legislature when it first enacted this measure, declined to make the offence cognisable. He does not realise that the foundation for the administration of this Act is a valid, proper and accurate register of births and deaths. It is because the parties may get their children married without fully realising that they are below the age that the Legislature did not make this offence cognisable. That fact unfortunately still remains. However, as I told my honourable friend Pandit Bhargava, I had thought of some other methods of bringing about similar, if not the same, results. For that purpose, as I said, I must safeguard my position by saying that while I accept the motion for referring these Bills to Select Committee I reserve to myself the entire liberty of changing the Bills altogether, not having three Bills but having probably one single Bill covering all the points. It is only on that understanding and that expression of view before this House openly that I accept this motion.

Shri M. Ananthasayanam Ayyangar: Sir, lest it should be said that we may not be entitled to make some radical changes in the Select Committee I am trying to place my views before the House at this moment. I agree with my Honourable friend the Law Minister that so far as procedure and making the offence cognisable are concerned, I am not much in favour of this procedure or making it cognisable. I am afraid making it cognisable would place in the hands of the police or other authorities a very valuable weapon of harassment even in proper cases. No doubt the complaint has to be laid before the District Magistrate and a preliminary inquiry is also to be held; but all the same whether it ought to be cognisable is a matter which may be considered. It should not be taken as a principle which this House has accepted at this stage.

As regards the principle the first Bill extends the period of childhood from 14 to 15 in the case of a girl and 18 to 20 in the case of a boy. I agree so far as that is concerned. The objection to the Sarda Act originally was that 12 or 13 was the age of puberty and under the *Shastras* no girl should be married after that age. On the other side it was argued that it might lead to a better progeny. I do not see any serious objection to raising the marriageable age from 14 to 15. In my part of the country people who were originally under the impression that girls must be married before the age of puberty are now reconciled to the higher age. Therefore in high class families girls are not married just after 14 but long after they are 16 or 18. My fear is the other way; we may develop a body or regiment of spinsters in this country. Till now there was not that risk. Everybody felt it was his duty to perform pre-puberty marriage and therefore he would beg or borrow or steal or sell himself to get his girl married. Today that religious sanction has gone. Therefore if a girl is married after 14 she can remain till a good husband comes. A girl who has passed the B.A. wishes to pass the M.A. also and unfortunately

[Shri M. Ananthasayanam Ayyangar]

English education has a market value today. And even an educated, a cultured man says, "I do not know, ask my mother" about the terms. And she says, "I want a small pot of gold and just ten acres of land out of your hundred acres, and a bracelet, and nothing else" and so on. Each member of the family goes on adding to it. For various reasons, because the girl expects an I.C.S. husband and therefore cannot ultimately marry, and the boy goes on demanding more and more money, poor people are not getting married. Formerly there were not many spinsters in the country but now they are coming into existence, and raising the marriageable age from 14 to 15 is not going to make any change. But among the lower classes marriage before 15 is prevalent. To make the provisions stringent a kind of imprisonment may be a better punishment, and that is the object of the Bill. Instead of making imprisonment optional the Bill seeks to make it compulsory and raise it from one month to three months. The richer man can easily pay the thousand rupees fine; he adds it to the marriage expenses and pays it to the State while giving Rs. 2 to the priest. A high class man is afraid of going to jail while a thousand rupees fine may be nothing for him. A boy who marries between 18 and 21 should undergo compulsory imprisonment and imprisonment is included in the terms of punishment. Hitherto it was not obligatory to impose punishment nor was imprisonment contemplated as a punishment. It is a proper addition to the section under the Bill.

I do not agree with the amendment sought to be made in section 10 of the original Act which makes a preliminary inquiry obligatory before further steps are taken. The Mover wants to do away with this wholesome provision by substituting "may" for "shall". I do not agree with it and we may consider whether we should alter it.

Then I come to the second Bill. There is a disparity of age between 45 and 18. A person of 45 is not prevented from marrying a young woman. We are in favour of getting marriages celebrated, otherwise creation itself will go to the wall. So people must get married. But the difficulty is this.

There is no advantage in quoting the analogy of some of our friends. Forty-five years and over is different. Eighteen years is the age limit prescribed under the original recommendation of the Committee which went round before the Sarda Act was passed in 1929. My friend, Mr. Bhargava, has the idea of raising the age from 15 to 18 in the case of girls. If a man wants to marry for the second time or for the first time in his 45th year of his life, that marriage with a girl of 18 will be unhappy. He must have some woman nearer his age.

Some time ago I heard that such a Bill was introduced in the Legislative Assembly of Bombay or the Central Provinces. But the disparity in the ages between husband and wife should not be more than 15 years.

Therefore this is a very wholesome provision and I welcome it.

Then about making it cognizable. I am objecting to that. I hope my honourable friend, Mr. Bhargava, will be a little flexible in the Select Committee and try to agree to make this workable and not make it a harassment while being anxious to introduce this reform. I do not want this to be a cause of trouble and power to harass left in the hands of the police.

I agree with the objects in the Bill and as the Honourable the Law Minister has said we must have freedom to modify them so as to make all the Bills useful and thereby bring about a useful addition or improvement to the existing law.

I support the motion for reference to the Select Committee.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Babu Ramnarayan Singh (Bihar: General): Sir, when I look at these measures I am persuaded to welcome them and to thank and also congratulate my honourable friend Pandit Thakur Das Bhargava. The measures are so very good but when I look at the circumstances obtaining in the country I am greatly discouraged. The Sarda Act has been on the statute book for so many years but no good result has come out of it. Before the Act was passed almost all the children in the country were married. I do not know what to do in this House or in the country. We are passing measures after measures but so far as the real good of the people is concerned there is nothing. Two things are most essential—Education of the masses and purification of the governmental machinery. Unless these two things are fully assured no measure will do any good to society.

It has been said that when a measure is sent to the Select Committee the House is committed to the principles of the Bill. There was a discussion on this point in one of the select Committees meeting in which I was also a member. The House is committed no doubt but not to every particular item of the Bill but only to the general principle that there is a condition in society which ought to be reformed. Prevention is better than cure. I would therefore request the members of the Select Committee to so amend the Bills as to make such marriages impossible, so that child marriages cannot take place. Supposing such undesirable marriages take place then provision should be made so that each and every such case may be brought before the court and the court should declare them invalid for all time to come. Unless we do something like that I do not think this measure will be of any use. If such a marriage takes place the bridegroom or anyone belonging to his party will be sent to jail for three months and as Mr. Ananthasayanam Ayyangar said, they will say "Let the marriage take place but after three months we shall be all right." This will not do. The first thing is that we should see that we can prevent such marriages.

As regards marriage between a man above 45 and a girl under 18 I welcome the measure in this regard. This kind of marriage should not take place. But the question is how to prevent it. The marriage has taken place and the matter has been brought before a court. The girl will be asked to say that she is above 18 and the man will be asked to say that he is below 45. The margin is so very small that it will be difficult to deal with such cases. There are so many loopholes. All of us in this House and outside should be anxious to educate the masses and to purify the administration. I think Pandit Thakur Das Bhargava said that there has been some improvement in the police department. I do not know how he had the courage to say it. I wish there had been some purification in the police department. Besides passing such Bills we should be anxious to see that good education is given to the people in the country, so that society may be sufficiently educated and the first and most important thing is to see that there is purity in the administration of the government. With these words, Sir, I again support the measure.

Shrimati Renuka Ray (West Bengal: General): Mr. Speaker, in as much as the three Bills that my honourable friend has brought forward try to make more effective the provisions of the Child Marriage Restraint Act I fully support them. I think all those who have worked for social reform in this country are well aware of the very great difficulties they have encountered in getting the Child Marriage Act as it stands now to be effective in the country. I have seen the opinions that have come from the south, about which my honourable friend Mr. Bhargava mentioned. I can only say that the South must be particularly fortunate if even in the villages child marriages have disappeared.

[Shrimati Renuka Ray]

I am afraid I cannot claim that that is so in my Province or in any of the neighbouring Provinces to the villages of which I have been. I should like to say that when we went to Noakhali and Tipperah after the disturbances there, we were in fact shocked to find the tremendous number of child marriages that took place. We went there for rehabilitation work, but found that we had to do social reform work also in those places, to prevent children from getting married.

One of the difficulties which we have encountered right through the years is that the infringement of the act is not a cognizable offence. There are other difficulties. For instance there are many people, who are genuinely ignorant of the age of their sons and daughters. It is not always that they go against the law deliberately. In villages you ask the age of a girl who can't be more than nine or ten and you will be told 'Oh, she is sixteen'. In the same manner if you ask a woman's age, she would look fortyfive but she would say that she is twentyfive. These things do occur. I think that one of the most essential provisions is that we must have compulsory registration of births and of marriages to make this Act effective.

My honourable friend Pandit Bhargava said that this is a measure which will bring in social justice for women. I think that he is being rather over-ambitious. It is quite true that if we can make the operation of the Child Marriage Restraint Act effective it will protect girls, and prevent many grievous abuses but at the same time, the greatest measure of reform that it will bring about is that it will help towards bringing in a healthy, virile and a strong nation. Now that we are a free country we cannot afford any longer to ignore these basic factors which have gone against the health of the nation. It is from that angle that we have to primarily support this measure and I hope that when it emerges from Select Committee it will become very much more effective, so, that the Child Marriage Restraint Act will really become operative in this country. But, as I said, my honourable friend has been over-ambitious in using the words 'social justice'. I do hope that he does mean that all measures of social reform which will bring in equality, which will bring in social justice, such as the Hindu Code which is shortly to come up before this House, will meet with his full concurrence. Because, social justice has a wider context than what this Bill can provide. This Bill is not a Bill by which you can bring social justice to women though it prevents the maluse of children and girls. It is a Bill whereby you help to bring in a better and a healthier nation by not allowing women to become mothers at an age when they are not fit to be mothers, and prevent the maluse of young girls.

I do not want to go into the details of the provisions. I agree with the Honourable the Law Minister that the powers of the Select Committee should be made wider so that they can cover the whole ground and find out what would be the best means of making the Child Marriage Restraint Act effective. I think one of the provisions in the Hindu Code whereby marriage under certain age is going to be prevented will also be very effective towards achieving this. I hope that it will not be long before this Bill, having emerged from Select Committee, will be passed in the House; this, together with the provision in the Hindu Code preventing marriages under a certain age, whether civil or sacramental will enable us to stop child marriages in this country once and for all.

Prof. Shibban Lal Saksena (U. P.: General): Sir, I must thank—and I think the whole country will thank—Pandit Thakurdas Bhargava for having brought forward these Bills. In fact these Bills have been long overdue. And credit shall no doubt go to my friend Pandit Bhargava for having forced the Law Minister to promise him that he would try to bring forward a comprehensive

measure incorporating all that these Bills provide for. I fully agree with the Honourable the Law Minister that the Bills, as they are drafted, cannot be accepted. They have to be modified and brought up to suit the needs of our country. The Law Minister has pointed out rightly that one of the great obstacles in enforcement of the provisions would be the actual age. We know the difficulties we find in respect of the actual age. Even in schools when certificates are given we sometimes say that the age is wrong and we have to fight for its correction by saying that the father was ignorant and he gave the wrong age. So, until correct birth registers are maintained it will not be possible to say what the exact age of a girl is. Some time will elapse before machinery for keeping these registers can be perfected. I would say that at least henceforth the Law Minister and the Government ought to see that arrangements are made by which registration of births and deaths is made accurately so that this excuse, or this difficulty, may not have to be faced in the future. I know that in this Bill provision has been made for registration of marriages. But I wish that more effort is made to get the law acted upon. Before this Bill can be really effective we must have a correct register of ages. Our experience in the villages is that many people do not know their age, and about girls it is almost impossible to know the age. Under such conditions, to make the offence cognizable is not proper, especially in the present temper of our police. I wish that very soon we change the temper of the police. While saying that the offence should not be made cognizable under present conditions I would say that punishment of imprisonment, should be provided for this offence. I hope the Law Minister and the draftsman will see to it that the offence becomes difficult to commit and that the punishment is severe. I hope also that he would try to see that the Bill does not give rise to other evils like harassment by the police of the poor people of the village by saying "Well, your girl is only thirteen years of age and you have got her married."

As my honourable friend Mr. Chaudhuri said—and many of us agree with him—we must proceed carefully with regard to this measure, especially when statistics are not available. I personally think that the minimum ages for marriage which have been prescribed at present fifteen for the girl and twenty for the boy—are not high enough. Of course in our illiterate and superstitious country they are proper and suitable ages now as a first step. But very soon our country will come up in line with other countries, and then the ages of sixteen for girls and twenty five for boys shall be prescribed as the minimum which is the intention of our *shastras* also. But I fully agree that we cannot suddenly jump to legislate for these minimum ages for marriage.

This is an important measure and the Bill is a very useful one. I hope that my honourable friend Pandit Bhargava will achieve success which he deserves for his efforts and I hope the Honourable the Law Minister will take pains to see that the Bill is made into a fine piece of legislation which will give birth to a really virile and strong nation.

Lastly I would like to say that I was surprised to hear from Shrimati Renuka Ray that this Bill does not bring in social justice. I do not know whether she considers only Bills and measures relating to property as bringing in social justice, like the Hindu Code.

Shrimati Renuka Ray: The Hindu code does not deal only with property though of course I realise that it is the question of £. s. d. which the vested interests dislike most.

Prof. Shibban Lal Saksena: In regard to social justice it is the biggest crime to force a girl to marry when she is below the proper medical age. When this Bill is making such marriages a penal offence it is surely bringing in social justice. I think she also would agree that this is a measure of real social justice.

[Prof. Shibban Lal Saksena]

I do not grudge her the share in the property also which she wants and which should be given to her in justice, but I only say that Mrs. Ray's criticism of this Bill is not proper.

Sir, I hope this Bill will soon be passed and properly enforced. I have seen how the Sarda Act has worked in our villages. I can say it had been worthless; if it has been used, it has been used only as a menace—somebody wants to take vengeance upon somebody else and tries to harass him by the Sarda Act; but it has not resulted in any justice. But this Bill, if properly enforced, will be able to stop child marriages and bring to birth a really virile nation.

Sir, I support the motion.

Syed Muhammad Sa'adulla (Assam: Muslim): Mr. Speaker, Sir, I do not know whether I should congratulate the honourable member Pandit Thakurdas Bhargava who has laboriously introduced these Bills for the betterment of the future generation of an independent India, but I must congratulate his tenacity of purpose and his effort at improving the social status amongst the rural masses by inculcating in them this idea of a model, healthy future generation.

He has been kind enough to refer to my name twice during this debate and he first branded me as one of the world's ignoramuses for not knowing the conditions in the neighbouring Provinces, although giving me the credit that I am open to conviction. Sir, I plead guilty to this charge for I am at a disadvantage. I have all along passed my time in the Province of Assam and I am conversant only with the social conditions that prevail therein. I had not had the advantage like him of going in a roving commission for ten months throughout India examining witnesses and learning the state of affairs in those places.

When the Age of Consent Committee went to Shillong I was one of the Ministers, and I appeared before them. So far as Assam was concerned, I knew everything at my fingers' end and I could tell them that this piece of legislation was unwanted by the Assam society, either Hindu, Muslim or Tribal. I think most Honourable Members here are not acquainted with an analysis of the population figures of Assam. At present as she is constituted, roughly we are 72 lakhs of people of which my own community, the Muslims, form one-fourth, or 18 lakhs. I can state without any fear of contradiction that child marriages are unknown in the Muslim society of Assam. According to the figures which the present Ministry has submitted to the Drafting Committee, the Tribal people of Assam number 26 lakhs. We have got a representative from that Tribal community in the person of our friend Mr. Dharanidhar Basu Matari. I know from my personal experience of Assam and fortified by the assurance of my friend that in his community there is no child marriage. So, out of 72 lakhs in 26 lakhs of his community and 18 of my community, that is 44 lakhs, there is no sign of this problem at all. All amongst the Hindu community, barring Brahmins child marriage is not in vogue in Assam.

Assam is an entirely agricultural country—at least 95 per cent. of our population are agriculturists. To an agriculturist, a wife literally means one hand more in the pursuit of his cultivation. Therefore, the question of a child marriage, introduction of a girl-wife in the family, instead of being a help in agricultural operations will be a liability and as such no agriculturist in Assam will think of resorting to child marriage. From that angle also it is unknown in our country that even the Hindus, except the Brahmans, feel the necessity for any such legislation. And the Brahmans at the highest computation form only one per cent of the total population of Assam. Even as regards the Brahmans, I can say from my personal and intimate knowledge that this curse of child marriage is getting scarcer every day and in the towns and amongst the educated in the Brahman community this system does not prevail now; it is limited to very orthodox and rural Brahman society up till now. But the greatest offenders

about child-marriage was the Marwari community. I was looking to my friend Sriji Himatsingkha. He was for some time a member of the Assam Legislative Assembly and he knows about the conditions of his own community; but here too I am very glad to say that there has been a marked improvement during the last thirty years. Even amongst that community there is hardly a marriage of a girl below 14 years of age. So, from every point of view this problem is almost negligible in Assam.

While my friend went to Assam somewhere about 1929, two of his colleagues, the late Mr. Shah Nawaz, a Member of the Central Assembly, and my friend Sir Mian Mahboob Baksh Qadri of Ahmedabad, who was a Sessions Judge in Bombay and later on the Dewan of Junagadh State, accompanied him to Shillong. These two gentlemen were my guests and whatever I learnt from Pandit Bhargava in the open session of their inquiry, these two friends of mine, and my guests, told me about conditions that they had found in other parts of the country in the home atmosphere. Therefore, in the open session as well, I admitted to Pandit Bhargava that, "although this measure is unwanted in Assam, if the other parts of India require it, I wish you God speed and go ahead."

We in Asam even now have the same opinion. The Honourable Mover Pandit Bhargava has complained that the opinion from Assam is colourless, that they did not either commend his efforts nor condemn them. Well, the thing is that the Assam politician, not finding the necessity for such a legislation, has not given much thought to his Bill. Unfortunately for him, although the public in general according to him is rather callous, the most devastating criticism has come from a friend and a countryman of mine, Mr. Rohini Chaudhuri; but in a sense I agree with him because Mr. Rohini Chaudhuri commended the principle of the proposed legislation. Nobody need quarrel with it; everybody has nothing but praise for the lofty ideals of Pandit Bhargava. It is only the method of approach, of how to remove this curse, wherein there is difference of opinion. I think that our society being what it is, our villages being riddled by party factions, and our police being what it is now—I need not give my own description of it, but even the author of these Bills had something to say about it—I think the Select Committee will do well in considering whether this offence should be made cognizable.

I find in the Statement of Objects and Reasons of the Bill further to amend the Child Marriage Restraint Act of 1929 the learned author was constrained to admit: "The provisions making the offences and cases cognizable are of drastic nature in so far as the police is even at present neither efficient nor free from corruption." So, when we have got this admission from Pandit Bhargava himself, it will be up to the Select Committee to see that this drastic nature of the provision is done away with.

Apart from the expediency point of view, I would like to place before the House the utility side also about the province of Assam. As I said, I do not know the condition in other parts of India, but there is in Assam only one Police Station for two lakhs of population on an average or an area of 600 square miles. Now, even if this offence is made cognisable, is it possible that all the offences under this, marital law will be brought before the Police or the Police would learn of them? I have been rather liberal in the estimate of the location of Police stations, but you have to remember that that is with regard to the plains only and half of Assam is hills. In the Naga Hills with an area of 4000 sq. miles we have got two police stations only and in the Khasi Hills wherein is situated Shillong, the capital of the province, with an area of over 3000 sq. miles and about 2 lakhs population, there are only 4 police stations. This is the condition in the hills. So I say that even on the plains there is very little hope of the police utilising this power, unless it were prompted by evil spirits of party faction in the village to take cognisance of such offences.

[Syed Muhammad Sa'adulla]

One word and I will finish. The provision that no person over the age of 45 should be allowed to marry a girl below 18 is a product of the over-jealousness of social reform in the Pandit. In the first place, as has been pointed out just now, these two age limits will flood the country with manufacture of lies. I know that in spite of the fact that the great Hindu community has the institution of drawing up a horoscope for each child, it has been found by me personally as an administrator of twenty years experience that the horoscope can be changed according to the sweet will of the persons concerned. Whenever there is a question of over-age for Government service.....

Shri M. Ananthasayanam Ayyangar: What about the birth register?

Syed Muhammad Sa'adulla: The candidates who are normally over-age for purposes of Government service were every time able to produce a new horoscope pointing out some mistake in the previous horoscope. Mr. Ananthasayanam Ayyangar has referred to the birth and death register. I agree with him that if possible we must have such a register and we must adhere to it rigidly, but we must remember what has been said by the Honourable Member Mrs. Renuka Ray that from her personal knowledge she has found that women of 45 give their age as 25 and a girl of 9 is produced as a child of 16. So long as we cannot educate our people, so long as we do not change the mentality of our society, even this birth register, however rigidly it is followed, will not help us. In this matter, I would request the social reformers to follow the model of *Festina lente* or "hasten slowly". You cannot bring about a change in a society which is steeped in the darkness of superstition and illiteracy; you cannot bring about a change in the mental outlook by a piece of legislation like this. Give them time to educate themselves. Give them time to accommodate themselves to the changed circumstances and don't make this legislation so very drastic as is proposed by our over-zealous friend, Pandit Bhargava. I request him as well as Honourable Members of the Select Committee to tone down the drastic measures in such a way that the law will be applicable to all and acceptable to all. One little complaint. As usual, even in the Select Committee Assam has not found a place. I hope the House will see that the drastic critic, my friend Sjt. Rohini Choudhury is brought on to the Select Committee.

Shri Gopikrishna Vijayavargiya (Gwalior State): Sir, the previous speaker has cautioned us against hastening. I rather think that we should hasten even more. In the Hindu society in particular and in some of the other societies also child marriage is very much prevalent and I am glad that this measure has been brought now that we are coming out of the age of the old saying "*Ashta varsha bhaveth kanya*" and other things. These things must be uprooted now and I would rather like that the age should be increased by one or two years more so that the nation which will be born now will be more healthy and better citizens. The three Bills which are being sent to the Select Committee will, I hope, come as one Bill. I also hope that they will be very well drafted then. About provision for making the offence cognisable, there are other things also. The offence will be compoundable and also bailable. Therefore, there is no harm in making it cognisable. There need be no controversy about this. The reform is long overdue and we must really hasten to legislate on it.

Shri Krishna Chandra Sharma (U.P.: General): Mr Speaker, Sir, there is no gainsaying the fact that this piece of legislation has been long overdue. There has been criticism with regard to certain provisions, namely, making the offences under the act cognizable, raising the punishment and asking the husband to execute the bonds. It is an accepted principle in evaluating the evolutionary growth of a community the main factor is the development of individuality of its citizen and with the development of the individuality of a citizen the independence of selecting things important to his individual life is a matter of far more importance. Taking that view of life, it is rather a pity

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that we should be sitting here discussing the matter that the age of a girl should be raised to 15 years or the age of a boy should be raised to 20 years. No man and no woman who is not mature enough to form a judgement to select the partner can be said exercise the free choice of selections, so very necessary for constituting a civilized society. Anyhow we have been placed under circumstances in which it was not open to us to grow freely along with the other communities in the world. An Act was passed long ago in which this social measure was taken up, the social conscience was awakened and much improvement made. Now having attained to the state we have come, it is quite proper to raise the age of the girl and the boy and to make the punishment harsher and to make the offence cognizable and provide for improvement.

Regarding the criticism against making the offences cognizable, it need be said that at this stage the marriage of children is a social crime. It is much more serious a crime than stealing away things worth a few rupees and if theft is a cognizable offence and a man can be harassed and arrested and caught by the police for theft of articles worth Rs. 5 or Rs. 10, there is no reason why a man should not be harassed, arrested and caught by the Police when he does commit after such a long interval of period in which this Act has been in existence to commit a social crime and a very serious crime for the matter of that.

It is rather fashionable to say that the Police are acting as if they were blood hounds. The Police officers come from amongst us and in serious cases of dacoity, murder and other such crimes, honourable members know co-operation from all sheds of society is essential for getting the offenders convicted. Under the present circumstances, no man could do better than the present Police Officer is doing. We must know that our officers have to do duties which are very necessary for the existence and improvement of society under circumstances which are not prevalent in other countries. They lack co-operation; we seldom give co-operation, even our political struggle has been on the basis of non-co-operation. So under the circumstances, the Police officers have to do the unpleasant job and they have not very much improved along with the other police in the world, but to stigmatize them as blood hounds is not doing justice to our own men and I have no doubt that in a measure like this, they would behave as we would expect them to behave and not unnecessarily harass the people.

I however, find one difficulty and that is that no doctor in the world can say whether a girl's age is 14 years or 15 years. It is difficult to ascertain and distinguish the age of a girl, whether she is 13, 14 or 15. But in cases like this, it is not the particular cases that are very important, but I think the aim and object of this piece of legislation is to awaken the social conscience still more and to bring home to the common citizen that it is a social crime to allow or to encourage child marriage and it is in this way that the Act will have its own effect and go a great deal in helping the society to progress and bring in conditions in which the common citizen will find himself in a state in which he can enjoy enough choice and have growth of individuality as a person. With these remarks, Sir, I support the Bill.

श्री गोकुल भाई दोडनराम भट्ट : माननीय सभापति जी, हमारे सामने जो बिल पेश किया

गया है उसका मैं स्वागत करता हूँ और चन्द शब्द उसके बारे में कहना चाहता हूँ। कई २ बातें ऐसी हैं जिसके मुतालिक वाद में कुछ हो सकता है। जैसे की उम्र का सवाल है। यह उम्र का सवाल ऐसा है कि हमें सही तौर से यह पता नहीं चलता है कि १४ साल, १५ साल और १६ साल कौन सी उम्र सही गिनी जानी चाहिये। शहर वालों के लिये शायद १७, १८ और २० साल की उम्र, वह भी कच्ची उम्र कही जायगी, वह मानी जाती है। और जब कि गांव में रहने वाली लड़की के लिए १४ साल या १५ साल की उम्र वह पक्का उम्र मानी जाय। जब हम

[श्री गोकुल भाई दौलत राम भट्ट]

उम्र का सवाल लाते हैं तो हमें सोचना चाहिये कि हमारी तन्दुरस्ती किस तरीके से कम होती जाती है- बिगड़ती जाती है क्योंकि हमारे आसपास जो वातावरण है वह बिगड़ा हुआ होता है। जहाँ निर्दोष वातावरण होता है वहाँ उम्र के साथ तन्दुरस्ती और पुष्टाई भी आने लगती है और यह कहना मुश्किल हो जाता है कि जो कन्या है वह गौरी कब बनती है। इसके माने वह पुष्टा कब बनती है। इसी तरह से पुरुषों का भी है। शहर में रहने वाले पुरुष और स्त्री का विकार जल्दी बढ़ जाता है। क्योंकि वहाँ नाटक, सिनेमा और कई प्रकार की ऐसी दूसरी चीजें उनके आसपास होती हैं। इन चीजों से और दूसरी कई आसपास की बातों के असर से एक प्रकार से मन के विकार में वृद्धि पैदा होती है।

तो मेरे कहने का मतलब यह है कि सिलैक्ट कमेटी के सामने यह सब चीजें जब जायेगी तो हम सोचेंगे कि उम्र की पाबन्दी रखने से ही क्या हम सुरक्षा कर सकते हैं। कन्या और लड़कों से हमें कुछ ऐसे दोष निकालने होंगे जिससे हम सचमुच इस बिल की जो मन्शा है उसको कामयाब कर सकें।

एक जगह यह कहा गया है कि ४५ साल की उम्र का जो आदमी शादी करेगा वह सजावार होगा। सजा उसको लम्बी, लम्बी कहना भी कैसे चाहिये, सिर्फ तीन महीने की सजा है और एक हजार रुपया जुर्माना हो जायेगा। मैं मानता हूँ कि जिन्हे शादी करना है वे तीन महीने की जेल की सजा काट लेंगे, शादी जरूर कर लेंगे। वे शादी के लिए जुर्माना भी दे देंगे और सजा भी काट लेंगे और इस लिए उनको अफसोस नहीं होगा।

श्रीमती रेनुकारे ने कह दिया कि समाज का उद्धार तभी होगा जब हिन्दू कोड लाया जायेगा और जब वह कानून बन जायेगा। मैं समझता था कि हमारे भार्गव साहब ठहर जाते तो सब सुधार आराम से हो जाते। लेकिन उनको अधीरता है क्योंकि उन्होंने इस चीज के लिए कई साल से मेहनत की है और राय लेने की कोशिश की है और उनको माफिक राय मिल भी गई है। वह खैर दूसरी बात है। मैं हिन्दू कोड बिल पर बोलना नहीं चाहता लेकिन मैं समझता था कि पंडित भार्गव यह बात मान लेते तो हिन्दू कोड में यह चीज आ सकती थी क्या? सही बात मैं यह समझता हूँ कि हिन्दू समाज को कहां ले जाना है। इस विषय में हम सिर्फ कानून के सिवाय और दूसरी बात नहीं कर रहे हैं। हमें समाज को इस रीति से समझाना है, उसको लोक शिक्षा देनी है, वह चीज हम नहीं कर रहे हैं। इसके बजाय हम सिर्फ एक कानून बना कर संतोष मानते हैं। कानून बना दिया और हमारे समाज का सुधार हो गया, यह हमारा आजकल का दृष्टिकोण है। अगर इसी तरह का हमारा दृष्टिकोण है तो उसको निकाल देना चाहिये। मैं यह नहीं कहता कि यह समाज के लिए और समाज सुधार के लिए अच्छा नहीं होगा। यह मेरा कहना कभी नहीं है। लेकिन इसको हम यह समझ लें कि समाज सुधार के लिए सिर्फ यही एक चीज है और दूसरी चीज कोई नहीं है। इस दृष्टि से मैं यह कह रहा हूँ कि समाज सुधार करने के लिए सिर्फ कानून पास करने की ही जरूरत नहीं होती है वल्कि अगर अच्छी तरह से सुधार करना है तो लोक शिक्षा देकर और लोगों में माफिक हवा फैलाने से जो चीज जरूर है उस चीज को फैलाने से होगी। इतना कह कर मैं आशा करता हूँ कि इस बिल से हम इस तरह की हवा फैलायेंगे कि जिससे लड़के और लड़कियाँ शक्तिशाली बनें और आरोग्यवान बनें और वह खुद अपने आप समझ लें कि वे शादी करने के लायक की उम्र में है या नहीं।

इतना कहकर मैं इस बिल का आंशिक स्वागत करता हूँ।

(English translation of the above speech)

Shri Gokulbhai Daulatram Bhatt (Eastern Rajputana States Group): Mr. Speaker, I welcome this Bill which has been brought before the House and would like to say a few words in connection therewith. There are many such things which can be decided at a later stage such as the question of age etc. The question of age is such that we cannot properly judge as to whether 14, 15 or 16 years should be treated as proper age. It is generally admitted that the age of 17, 18 and 20 is not the age of maturity for girls living in the cities; whereas 14 and 15 years is considered as the age of maturity for the girls living in villages. When we consider the question of age, we should take into consideration the factors responsible for the deterioration in our health—because our environments are unhealthy. In places where there are congenial environments, health and maturity synchronize with age, and it thus becomes difficult to say when a girl attains the age of puberty; in other words one does not know when she becomes mature. Similar is the case with men. Minds of men and women living in the cities get perverted at a very early stage, due to the existence of theatres, cinemas and other such things. Such things, coupled with the effect of other elements in the environment tend to cause further deterioration of the mind. What I mean to say is that when this matter is referred to the Select Committee, we will take into consideration whether by fixing the age-limit, we can improve the matters. With a view to make this Bill a successful measure, we will have to eradicate the evil effects from the minds of our boys and girls.

It has been stated at one place that a person who marries at the age of 45 will be liable to be punished. He will be awarded long-imprisonment—not exactly long—when he will be sentenced only to three months imprisonment and a fine amounting to Rs. 1,000/-. I feel that those who are bent upon marrying will be prepared to undergo three months imprisonment—but marry they must—for the sake of marriage they will be prepared to pay fine and undergo the term of imprisonment also—and for this they will not feel sorry.

Shrimati Reunka Ray has stated that the condition of the society can be improved only when Hindu Code is enacted. I felt that if my honourable friend Mr. Bhargava had waited, all the reforms would have been carried out in the normal course. But he is impatient, because he has worked hard over this measure for years together, endeavoured to elicit opinion and has succeeded in securing favourable opinions. That of course is another point. I do not want to speak on the Hindu Code, but I thought that if Pandit Bhargava had accepted this view, could provision in this respect be made in the Hindu Code? What I want to know exactly is where we are to lead the Hindu society? In this respect we are not taking any other steps except enacting the legislation. We have to impress upon the society in this respect—we have to educate the minds of the people in the worldly affairs—and this thing we are not doing. On the contrary we feel ourselves contented with the framing of a law. To-day our angle of vision is that once legislation is framed, it will renovate our society. If this is our viewpoint, then we should drop this. I do not say that this will not prove beneficial to the society and its reformation. I never say so. But I observed this thing with the view that we should not treat this as the solitary measure for the reformation of the society, and legislation is not the only thing for bringing about a reformation in the society, but if it is desired to bring about a radical change, then it can be achieved only by educating the minds of the people and the creation of healthy environments.

I, therefore, hope that with the help of this Bill we will be able to create such an atmosphere which will make the boys and girls virile and healthy, and they will themselves be able to develop the sense of understanding whether or not their age is ripe for marriage.

With these words, I support this Bill though to a certain extent.

پنڈت تھاکر داس بھارگو: جناب سپیکر صاحب! ان باتوں پر جو بحث ہوئی ہے وہ ایک طرح سے نہایت دلچسپ ہوئی ہے۔ اور جس جھڑپ کے لئے میں ہاؤس کا شکر گزار ہوں وہ یہ ہے کہ جتنے بھی ممبر صاحبان اس پر ہونے لگے ہیں ان میں سے ایک نے بھی اس کی مخالفت نہیں کی ہے۔ یہ ضروری ہے کہ جو طریقے عملی تجویز کئے گئے ہیں ان میں تھوڑی سی مخالفت ہے اور وہ ہوئی بھی چاہئے لیکن جہاں تک اس اصول کا سوال ہے کہ child marriage کو بند کر دیا جائے سارے ممبران ہاؤس اس سے متفق ہوں۔ اور میں اس کے لئے ہاؤس کو بدھائی دیتا ہوں۔ رہا یہ امر کہ کیا طریقہ روک تھام بنایا جائے تو اس میں لوگوں کی رائے کا اختلاف ہونا واجب تھا۔ کئی ایک اصحاب نے جو اعتراض کیا ہے وہ اس امر کے متعلق ہے کہ وہ مقدمات جن کے متعلق یہ بل پیش کیا گیا ہے اور جن کا کہ اس بل میں ذکر ہے وہ cognizable قرار دیئے جائیں یا نہیں۔ اس بارے میں مختلف رائے رہی ہے۔ میں اس بارے میں ہاؤس سے مودبانہ یہ عرض کرنا چاہتا ہوں کہ میں نے خود پہلے بل میں جو سنہ ۱۹۳۶ میں introduce کیا تھا جرم کو cognizable نہ بنایا تھا اور اس بارے میں جو age of consent committee نے رپورٹ کی تھی اُس میں میری بھی اور اس کمیٹی کی بھی یہ رائے تھی کہ اسکو cognizable offence نہ بنایا جائے۔ اُس زمانے میں وہ تھیک تھا۔ لیکن اب اس رپورٹ کو شائع ہونے تقریباً اٹھارہ سال ہوئے ہیں اور اس عرصہ میں اس بل کی کافی اشاعت ہو چکی ہے۔ اور اس کے علاوہ یہ بھی معلوم ہو چکا ہے کہ ساردا ایکٹ نے اس بدعت کا انسداد نہیں کیا ہے۔ کیونکہ اس ایکٹ میں جرم non-cognizable تھا۔ شاید میں یہ دہرایں کر سکتا ہوں کہ مجھے پولیس کی کارکردگیوں کا زیادہ علم ہے۔ جن صاحبان نے پولیس کی کارکردگی کے متعلق اعتراض کیا ہے ان کی آگاہی کے لئے عرض کروں کہ میں کارکردگیوں کو چالیس سال سے بطور وکیل کے دیکھتا رہا ہوں لیکن کافی عرصہ سے یہ خرابی رواج ہمارے ملک کے اندر ہے۔ یہ ایک قسم کی بیماری ہے جس کا کہ ہمیں علاج کرنا ہے۔ اگر یہ بیماری اتنی سخت ہے کہ بغیر آپریشن کیئے یہ جڑ سے اُکڑ نہیں سکتی تو میری رائے میں ایسی صورت میں اسی بیماری کا ٹھیک ٹھیک علاج ہونا لازمی ہے۔ اور آپریشن کرنا ضروری ہے۔ اس میں شک نہیں کہ آپریشن سے ذرا ذرا سی تکلیف ضرور ہوگی۔ لیکن بغیر آپریشن کے بھی اس بیماری کا علاج اگر نہیں ہو سکتا تو آپریشن کرنا لازمی ہے۔ میں نے پہلے بل کے statement of objects and reasons کے بارے میں یہ لکھا تھا۔

"The atrocious act in its essence constitutes a very heinous offence which but for unwanted interference in domestic matters and want of confidence in the police administration in the country should have been made a cognizable offence."

جیسا کہ ابھی ابھی میرے دوست مسٹر کرشن چندر نے فرمایا ہے کہ اگر کوئی پانچ روپیے کی بھی چوری کرے تو وہ ایک cognizable offence ہے۔ لیکن اگر کسی سے اس قسم کا کوئی جرم ہو جائے جو لوکی کی تمام زندگی آئندہ پر اثر رکھیگا۔ تو کیوں ایسے جرم کو non-cognizable قرار دیا جاوے۔

دوسرے بل میں جسمیں میں نے ایسے جرائم کو cognizable قرار دینے کی تجویز کی ہے اسکے statement of objects and reasons میں حسب ذیل لکھا ہے۔

"The provisions making the offences and cases cognizable are of drastic nature in so far as the police is even at present neither efficient nor free from corruption. But this aspect of the matter is applicable to all cognizable offences and cases."

"It must be realised that after 18 years during which the Sarda Act has been in operation its provisions are more widely known than before."

"Moreover the malady is too persistent and virulent to be remedied by mild measures. The evil is too great to be tolerated even if its prevention causes uneasiness and annoyance to the public. The Sarda Act has almost been a dead letter in the rural areas and backward communities and marriages of children in arms and in early teens are very frequent resulting in the physical, economic and moral ruin of the nation. Any further dalliance with the evil of pre-puberty consummation and early consummation which are eating into the very vitals of the society is simply criminal specially when we have got National Government and no measures however stringent can be deemed to be too drastic to prevent this evil which is so enormous in magnitude."

میں ہاؤس کی خدمت میں نہایت ادب سے عرض کرنا چاہتا ہوں کہ میری ناقص رائے میں دوہی ایسے طریقے ہیں جن سے کہ ہم اس بیماری کو دور کر سکتے ہیں۔ ایک یہ کہ اس کو cognizable offence بنا دیا جائے۔ چاہے ایسا کرنے سے لوگوں کو تکلیف ہی کیوں نہ ہو۔ اور دوسرے یہ کہ ہر ایک کیس میں جو کورٹ میں لایا جاوے بصورت سزا قید لازمی قرار دیجاوے اگر پہلی بات پر عمل کیا جاوے تو مجھ کو امید ہے کہ ہم اس بیماری کا پوری طرح سے مقابلہ کر سکیں گے۔ لازمی قید سزا میں شامل کرنے سے country میں تکلیف تو ضرور ہوگی۔ میں یہ نہیں چاہتا ہوں کہ ایسا ہو۔ کوئی بھی شخص یہ نہیں چاہتا ہے کہ خوشی اور شادی کے وقت لوگوں کو تکلیفوں کا سامنا کرنا پڑے شادی کا وقت خوشی کا ہوتا ہے۔ اور میں نہیں چاہتا کہ کسی گھر میں اگر شادی ہو تو اُس گھر کے نوشہ یا نوشہ کی ماں یا نوشہ کے باپ کو پکڑا جائے۔ میں یہ چاہتا ہوں کہ کسی بھی طریقہ سے ایسے واقعات ہی ظہور پذیر نہ ہوں۔ اس کے علاوہ میں ایک چھوٹی سی بات عرض کرنا چاہتا ہوں اور وہ یہ کہ جہانک Marriage Law کا تعلق ہے۔ اور شوشل crime کا تعلق ہے اس کے لئے Indian Penal Code میں دفعہ ۳۷۵ اب بھی موجود ہے۔

اور اگر ان جرائم کے متعلق جو موجودہ قانون کی زد میں آتے ہیں پولیس مجرمین کا چالان کرے تو دیش میں بڑی اشدائی ہو جاوے گی۔ اس کے مقابلہ میں اگر قوانین شادی کی خلاف ورزی کرنے کے متعلق پولیس چالان کریگی اور لوگوں کو قید بھی ہوگی تو اس سے اشدائی اور تکلیف نہ پھیلاوے گی۔

[ہندو تھاکر داس بھارگو] آپکل یہ ہو سکتا ہے کہ اگر آپ کسی بچے کی شادی کریں اور بعد شادی بڑا خاوند یا بچہ خاوند و بچہ بیوی اکٹھے رہے ہوں اور جرم زیر دفعہ ۳۷۵ موجودہ قانون سرزد ہوتا ہو جو عام طور پر ہوتا ہے تو اس میں پولیس Interfere کر سکتی ہے - Indian Penal Code کے دفعہ ۳۷۵ کے مطابق ایسے جرائم کی سزا ایک یا دو سال ہی نہیں بلکہ دس سال تک ہو سکتی ہے - میری عرض یہ ہے کہ ایسے حالات پیدا نہ ہونے دینے کے لئے کہ جسمیں ایسے سخت جرائم ہو سکیں یہ ضروری ہے اور بہتر ہے کہ جو جرائم جلدی شادی کرنے کے متعلق ہیں ان میں سزا کرائی جاوے - اس بل کی رو سے اگر کوئی ایسا جرم کرے بھی تو اسکی سزا زیادہ سے زیادہ تین مہینے کی رکھی گئی ہے - میرا خیال ہے کہ ہر ایک شخص میرے اس خیال سے متفق ہوگا کہ اگر اس بل کے متعلق شادی پر پورا عمل کر دیا جائے تو وہ جرائم زیر تعزیرات ہند کے انسداد کا صحیح راستہ ہے ہمیں ایسے قانون بنانے چاہئیں کہ جن سے ایسی marriages کا Prevention ہو جائے - میرے دوست پروفیسر شبین لال صاحب نے کہا ہے Prevention is better than cure میری رائے میں یہ چیز بالکل درست ہے اور یہ اصول دراصل اس گتھی کا علاج ہے کہ ہم کو کوشش یہ کرنی چاہیئے کہ marriage laws کو stringent بنایا جائے - تاکہ ایک شادی بھی ایسی نہ ہونے پاوے جو قانون کے خلاف ہو - یہ بدرجہا بہتر ہے بمقابلہ اس کے کہ Penal Code کے اندر کارروائی کی جائے اور سارا خاندان کا خاندان تباہ ہو جائے - وہ خاندان بھی تباہ ہو جائے گا جسکے اندر لوکاں ملزم ہوگا اور پھر وہ اپنی بیوی سے کسی قسم کا تعلق نہیں رکھیں گے - اس لئے اگر اس بدعت سے بچنا ہے تو موجودہ قانون کو اس طرح سے بنانا چاہیئے - اور ہر شخص منظور کر لے گا کہ اس کا صحیح طریقہ یہی ہے کہ یہ قانون ایسا بنایا جائے جس کے اندر اس طرح کی شادیاں بند ہو جاویں -

جہاننگ اس کو Cognizable بنانے کا تعلق ہے میں بھی پولیس کی حالت کو دیکھتے ہوئے پولیس کے domestic interference کو معاملات میں پسند نہیں کرتا -

دوسری بات جس کی طرف میں توجہ دلانا چاہتا ہوں وہ چودھری صاحب کی یہ تجویز ہے کہ اس جرم کو Cognizable کے بجائے non-bailable بنا دیا جائے - میں نہیں سمجھتا کہ non-bailable بنا دینے سے کس طرح اس جرم کا انسداد ہو سکیگا - میری ناقص رائے میں non-bailable ہونے سے کسی طرح کا فرق نہیں پڑیگا میں نہیں چاہتا کہ کسی شخص سے bail نہ لیا جائے - بیل (bail) کا منشا تو صرف یہ ہے کہ وہ شخص عدالت کے سامنے موجود رہے - بیل (bail) کو میں punitive نہیں بنانا چاہتا non-bailable بنا کر اس جرم کو punitive نہیں

بنانا چاہیئے - اس واسطے میں اس تجویز کو پسند نہیں کرتا کہ select committee کو اختیار ہوگا کہ وہ اس معاملے کو دیکھے -

ڈاکٹر امبیڈکار صاحب نے فرمایا ہے کہ وہ کسی چیز سے committed نہیں ہونا چاہتے - لیکن میں عرض کرنا چاہتا تھا - کہ house ایک چیز سے committed ہے وہ یہ ہے کہ چھوٹی عمر کی شادی نہ ہونی چاہیئے - اور دوسرے جہاننگ عمر کا تعلق ہے لڑکی کی شادی کے واسطے ۱۵ برس کی عمر اور بیس برس لڑکے کی شادی کے لئے ہاؤس committed ہے اور یہ اصول ان بلوں کے ہیں باقی طریقہ کے متعلق میری رائے ناقص میں ہاؤس committed نہیں ہے وہ طریقہ age of consent committee نے اپنی رپورٹ میں لکھے ہیں وہ عزت سے دیکھے جانے کے قابل نہیں - کیونکہ وہ رپورٹ unanimous تھی اور اُس کے بارے میں مجھے یہ بھی کہنا ہے کہ اُس کمیٹی میں ۱۰ آدمی مقرر کئے گئے تھے اور تقریباً تین لاکھ روپیہ خرچ کیا گیا تھا اور ۱۰ مہینہ تک ایسے سوال پر کمیٹی نے غور کیا تھا - بعد اسکے انہوں نے طریقوں کی عملی سفارش کی - لیکن اُس کمیٹی کو اب ۱۸ برس ہو گئے ہیں اور اگر ہم اُس سے بہتر تجویز نکال سکتے ہیں تو ہمیں ضرور نکالنے چاہیں اگر گورنمنٹ کوئی نیا بل لانا چاہے تو اس میں بھی مجھے کوئی انکار نہیں ہوگا میرا تو صرف یہ ہے کہ گورنمنٹ نے ایک سال ضائع کر دیا - پچھلے سال مجھے سے کہا گیا تھا کہ اگلے session میں وہ بل آجائیں گے - میری ناقص رائے میں کوئی دیگر معاملہ اس ضروری معاملہ سے زیادہ اہمیت نہیں رکھتا جلد اس بل کو پاس کر کے marriageable age کو بڑھانا چاہیئے - ساتھ ہی age of consent Bill بھی نہایت ضروری ہے - لیکن جو اس کی اہمیت ہے وہ realise نہیں کی جاتی ہے - اس کے لئے ہمیں ایک مدت بھی دیر نہیں کرنی چاہیئے - National Govt. کا فرض ہے کہ جلد از جلد اس بل کو پاس کرادے اور عمل میں لاوے اسکے علاوہ ایک تجویز یہ پیش کی گئی کہ زادی کو رد (annul) کر دیا جائے - age of consent committee نے بھی اپنی رپورٹ میں اسکا ذکر کیا ہے میں نہیں کہہ سکتا کہ اس پر کہاں تک عمل کیا جا سکتا ہے - میں اس پر بالکل open mind رکھتا ہوں - لیکن میں سمجھتا ہوں کہ اس جرم کو cognizable کرنا زیادہ اچھا ہوگا بہ نسبت marriage کو annul کرنے کے کیونکہ annul کرنے کو لوگ زیادہ پسند نہ کریں گے - لیکن تاہم یہ تجویز ایسی ہے جسکو اس کے merits پر دیکھا جاسکتا ہے - میں نے نہایت توجہ کے ساتھ سرسعد اللہ صاحب کی تقریر سنی اور میں ادب کے ساتھ انکی توجہ age of consent committee کی رپورٹ کے صفحہ ۶۱ کی طرف دلانا

[پنڈت تھاکر داس بھارگو]

چاہتا ہوں جہاں ان کی گواہی کا بھی ذکر ہے اور جہاں یہ ذکر ہے کہ آسام کے اندر کیا حالت ہے۔ مجھے افسوس کے ساتھ کہنا پڑتا ہے کہ ہمارے لیڈر جو ہر ایک چیز میں well informed ہیں وہ اس چیز کے اندر بے خبر اور گمراہ رہتے ہیں سر سعد اللہ صاحب فرماتے ہیں کہ آسام میں مسلمانوں میں child marriage نہیں ہے۔ میں چلند لائنز ہاؤس کی توجہ کے لئے یہیں کرنا چاہتا ہوں۔ جس سے ثابت ہوگا کہ ہمارے fully informed لیڈر بھی جتنی خرابی اور جتنے وسعت اورائل عمر کے شادی ہیں اُس کو realize نہیں کرتے ہیں صفحہ ۶۱ پر درج ہے

کہ ہم پانچ سال کی عمر سے کم کی شادی آسام میں نہیں ہوتی ہیں لیکن جہاں پانچ سے دس اور دس سے پندرہ کا تعاقب ہے وہاں سیٹس فیکٹری satisfactory حالت نہیں ہے۔

"The percentage of married girls between 10 and 15 in 1921 was 25.9. The number of married girls between 10 and 15 among Hindus in 1921 was 54,449, being 27 per cent. of the total number and among Muslims 38,828 being 34 per cent. of the total. But conditions vary so much in different parts of the Province that an inaccurate idea will be conveyed by these averages."

اسی طرح سے آگے چاکر درج ہے

"It is interesting to note that Muslims in this valley are very much addicted to the practice of early marriage, their numbers approximating those of Hindus in Goalpara; 42 girls between 5 and 10 and 473 between 10 and 15 are married. The total number of Muslims in this valley is about 6 lakhs."

میں ادب سے عرض کرنا چاہتا ہوں کہ دراصل اس بل کو پیش کر کے بھی میں اس چیز کو نہیں بھول سکتا ہوں کہ اس بل کے بارے میں جو رورل ایریاؤں (Rural Areas) کی حالت ہے اُس کا پورا احساس بہت کم اشخاص کو ہے اس لئے یہ ضروری ہو گیا ہے کہ ہم اس بل کو جلدی پاس کریں

اسکے علاوہ چلند اور بھی کرٹیسیمز (criticism) کیا گیا ہے جسکے بارے میں میں چند باتیں عرض کرنا چاہتا ہوں مریسز دے نے فرمایا ہے کہ دقت یہ ہے کہ اس بل کے اندر ایج (age) کا معامہ کرنا بڑا مشکل ہے میں جانتا ہوں کہ ایج (age) کا سوال صرف اسی بل کے بارے میں نہیں آتا ہے۔ انڈین پبیل کوڈ (Indian Penal Code) میں ایبڈکشن (abduction) کے متعلق کنڈیننگ (Kidnapping) کے متعلق اور کینی ہی اور ایسی دفعات ہیں جن کے اندر ایج (age) کا سوال آتا ہے۔ اور پھر سول لا (civil law) کے اندر بھی میجاریٹی (majority) کا سوال آتا ہے۔ تو یہ تو دو ہی کئی جگہ پیش آتی ہیں اور شادی کے متعلق قوانین میں بھی آویں گے۔ Age of consent committee report میں رکنڈیشن

(recommendation) دی ہوئی تھی وہ مانی جاتی اور رجسٹر رکھنے شروع کئے جاتے تو اب یہ دقت پیش نہ آتی اس بل کے اندر بھی یہ تجویز کی گئی ہے کہ ایسے رجسٹر رکھنا گورنمنٹ شروع کرے کہ جس میں ایج (age) درج کی جائے۔ میں عرض کرتا ہوں کہ ہندو کوڈ (Hindu Code) میں بھی ایج (age) کا ذکر ہے دراصل ہمارے ہندوستان میں میرج رجسٹر (marriage register) کی بہت ضرورت ہے۔ اور ہمیں اسکا فوراً انتظام کر دینا چاہیئے۔

جہاں تک سوشل جسٹیس (social Justice) کا سوال ہے میں اس کے بارے میں مسز دے (Mrs. Ray) پر ہی چھوڑتا ہوں کہ وہ اس قانون میں کتنی سوشل جسٹیس (social Justice) پاتی ہوں۔ میں ہندو کوڈ (Hindu Code) کے بارے میں اسوقت زیادہ عرض نہیں کرنا چاہتا ہوں لیکن استدر کہونگا کہ جو موجودہ وقت میں ہندو کوڈ کا پاس کرنا ضروری نہیں سمجھتے ہیں اُنکو ترقی کا دشمن سمجھنا واجب نہیں ہے۔

جہاں تک مسٹر بھٹ (Mr. Bhatt) صاحب نے فرمایا ہے اُن کی تجویز میں نے سنی وہ اپنی ایک نرالی قسم کی تھی۔ کہ گاؤں اور شہر کی لڑکیوں میں تفریق کی جائے۔ دراصل صورت یہ ہے کہ جب گاؤں اور شہر کا سوال آتا ہے تو اُس میں انفرادی نشوونما کے بنا پر تفریق نہیں کی جاسکتی Logically عمر کے لحاظ سے ہر ایک شخص سے نشوونما دوسرے شخص سے مختلف ہوتے ہیں لیکن اسے فرق کا قانوناً عمر کے تعین میں لحاظ نہیں کیا جاسکتا ہے اگر ایسا کیا جاوے تو قانون بلدا مشکل ہو جائیگا۔

(English translation of the above speech)

Pandit Thakur Das Bhargava: Mr. Speaker, Sir, there has been an interesting discussion on these Bills and I am grateful to the House that none of the honourable members who spoke have opposed these. It is true that there has been some opposition in regard to the methods suggested and this as it should have been. But so far as the principle of stoppage of child marriage is concerned, all the honourable members in this House are in agreement. And for this I congratulate the House. There was bound to be a difference of opinion amongst the people as to the preventive measures to be adopted. Many of the speakers, have raised the objection whether the cases which fall within the purview of this Bill should be made cognizable or not. There is a conflict of opinion on this. I would respectfully submit for the information of the House that in the first Bill which I introduced in 1946, I myself had treated the offence non-cognizable. This was my opinion as well as that of the Age of Consent Committee, as recorded in its report. That was appropriate in those days, but now about 18 years have passed since this Report was published and during this interval this Bill has been given wide publicity. Besides this it has also been found that Sarda Act has failed to prevent this evil because it treated the offence as 'non-cognizable'. I may claim to possess better knowledge of the excesses of the police. I may state for the information of those honourable members who have referred to the excesses committed by the Police that being a legal practitioner of about 40 years standing, I have been fully acquainted with this state of affairs. But this evil element exists in our

[پنڈت تھاکور داس بھارگو]

چاہتا ہوں جہاں ان کی گواہی کا بھی ذکر ہے اور جہاں یہ ذکر ہے کہ آسام کے اندر کیا حالت ہے۔ مجھے افسوس کے ساتھ کہنا پڑتا ہے کہ ہمارے لیڈر جو ہر ایک چیز میں well informed ہیں وہ اس چیز کے اندر بے خبر اور گمراہ رہتے ہیں سر سعد اللہ صاحب فرماتے ہیں کہ آسام میں مسلمانوں میں child marriage نہیں ہے۔ میں چند لائٹس ہاؤس کی توجہ کے لئے یہیں کرنا چاہتا ہوں۔ جس سے ثابت ہوگا کہ ہمارے fully informed لیڈر بھی جتنی خرابی اور جتنی وسعت اور اوائل عمر کے شادی ہیں اُس کو realize نہیں کرتے ہیں صفحہ ۶۱ پر درج ہے

کہ ہم پانچ سال کی عمر سے کم کی شادی آسام میں نہیں ہوتی ہیں لیکن جہاں پانچ سے دس اور دس سے پندرہ کا تعلق ہے وہاں سیکس فیکٹری satisfactory حالت نہیں ہے۔

"The percentage of married girls between 10 and 15 in 1921 was 25.9. The number of married girls between 10 and 15 among Hindus in 1921 was 54,449, being 27 per cent. of the total number and among Muslims 38,828 being 34 per cent. of the total. But conditions vary so much in different parts of the Province that an inaccurate idea will be conveyed by these averages."

اسی طرح سے آگے چلکر درج ہے

"It is interesting to note that Muslims in this valley are very much addicted to the practice of early marriage, their numbers approximating those of Hindus in Goalpara; 42 girls between 5 and 10 and 473 between 10 and 15 are married. The total number of Muslims in this valley is about 6 lakhs."

میں ادب سے عرض کرنا چاہتا ہوں کہ دراصل اس بل کو پیش کر کے بھی میں اس چیز کو نہیں بھول سکتا ہوں کہ اس بل کے بارے میں جو رورل ایریاؤں (Rural Areas) کی حالت ہے اُس کا پورا احساس بہت کم اشخاص کو ہے اس لئے یہ ضروری ہو گیا ہے کہ ہم اس بل کو جلدی پاس کریں

اسکے علاوہ چند اور بھی کرٹیکسٹس (criticism) کیا گیا ہے جسکے بارے میں میں چند باتیں عرض کرنا چاہتا ہوں مریسز دے نے فرمایا ہے کہ دقت یہ ہے کہ اس بل کے اندر ایج (age) کا معیوم کرنا بڑا مشکل ہے میں جانتا ہوں کہ ایج (age) کا سوال صرف اسی بل کے بارے میں نہیں آتا ہے۔ انڈین پنل کوڈ (Indian Penal Code) میں ایبڈکشن (abduction) کے متعلق کنٹینپنگ (Kidnapping) کے متعلق اور کئی دوسری دفعات ہیں جن کے اندر ایج (age) کا سوال آتا ہے۔ اور پھر سول لا (civil law) کے اندر بھی میجارجٹی (majority) کا سوال آتا ہے۔ تو یہ تو دو دن کئی جگہ پیش آتی ہیں اور شادی کے متعلق قوانین میں بھی آویں گے۔ Age of consent committee report میں رکنڈیشن

(recommendation) دی ہوئی تھی وہ مانی جاتی اور رجسٹر رکھنے شروع کئے جاتے تو اب یہ دقت پیش نہ آتی اس بل کے اندر بھی یہ تجویز کی گئی ہے کہ ایسے رجسٹر رکھنا گورنمنٹ شروع کرنے کہ جس میں ایج (age) درج کی جائے۔ میں عرض کرتا ہوں کہ ہندو کوڈ (Hindu Code) میں بھی ایج (age) کا ذکر ہے دراصل ہمارے ہندوستان میں میرج رجسٹر (marriage register) کی بہت ضرورت ہے۔ اور ہمیں اسکا فوراً انتظام کر دینا چاہیئے۔

جہاں تک سوشل جسٹیس (social Justice) کا سوال ہے میں اس کے بارے میں مسز دے (Mrs. Ray) پر ہی چھوڑتا ہوں کہ وہ اس قانون میں کتنی سوشل جسٹیس (social Justice) پاتی ہوں۔ میں ہندو کوڈ (Hindu Code) کے بارے میں اسوقت زیادہ عرض نہیں کرنا چاہتا ہوں لیکن استدر کہونکا کہ جو موجودہ وقت میں ہندو کوڈ کا پاس کرنا ضروری نہیں سمجھتے ہیں اُنکو ترقی کا دشمن سمجھنا واجب نہیں ہے۔

جہاں تک مسٹر بھٹ (Mr. Bhatt) صاحب نے فرمایا ہے اُن کی تجویز میں نے سنی وہ اپنی ایک نرالی قسم کی تھی۔ کہ گاؤں اور شہر کی لڑکیوں میں تفریق کی جائے۔ دراصل صورت یہ ہے کہ جب گاؤں اور شہر کا سوال آتا ہے تو اُس میں انفرادی نشوونما کے بنا پر تفریق نہیں کی جاسکتی Logically عمر کے لحاظ سے ہر ایک شخص سے نشوونما دوسرے شخص سے مختلف ہوتے ہیں لیکن اسے فرق کا قانوناً عمر کے تعین میں لحاظ نہیں کیا جاسکتا ہے اگر ایسا کیا جاوے تو قانون بدلنا مشکل ہو جائیگا۔

(English translation of the above speech)

Pandit Thakur Das Bhargava: Mr. Speaker, Sir, there has been an interesting discussion on these Bills and I am grateful to the House that none of the honourable members who spoke have opposed these. It is true that there has been some opposition in regard to the methods suggested and this as it should have been. But so far as the principle of stoppage of child marriage is concerned, all the honourable members in this House are in agreement. And for this I congratulate the House. There was bound to be a difference of opinion amongst the people as to the preventive measures to be adopted. Many of the speakers, have raised the objection whether the cases which fall within the purview of this Bill should be made cognizable or not. There is a conflict of opinion on this. I would respectfully submit for the information of the House that in the first Bill which I introduced in 1946, I myself had treated the offence non-cognizable. This was my opinion as well as that of the Age of Consent Committee, as recorded in its report. That was appropriate in those days, but now about 18 years have passed since this Report was published and during this interval this Bill has been given wide publicity. Besides this it has also been found that Sarda Act has failed to prevent this evil because it treated the offence as 'non-cognizable'. I may claim to possess better knowledge of the excesses of the police. I may state for the information of those honourable members who have referred to the excesses committed by the Police that being a legal practitioner of about 40 years standing, I have been fully acquainted with this state of affairs. But this evil element exists in our

[Pandit Thakur Das Bhargava]

country since long. This is a disease which we have to eradicate. If this disease has become so virulent that it cannot be cured without an operation, then in my opinion in such a condition it is very necessary that a proper treatment should be found even by resort to an operation. There is no doubt in it that an operation is bound to be somewhat painful but in case this disease cannot be cured without an operation, then an operation will have to be performed. I had stated in the Statement of Objects and Reasons appended to the first Bill as below:

"The atrocious act in its essence constitutes a very heinous offence which but for unwanted interference in domestic matters and want of confidence in the police administration in the country should have been made a cognizable offence."

Just as my honourable friend Mr. Krishna Chandra Sharma has pointed out that if anybody steals articles worth even Rs. 5/- it constitutes a cognizable offence. But there is no reason why an offence, if committed by any person, which will affect the whole future life of the girl, should be treated as non-cognizable. In the statement of the Objects and Reasons appended to the second Bill wherein I have suggested to make such offences cognizable, it has been laid down as below:

"The provisions making the offences and cases cognizable are of drastic nature in so far as the police is even at present neither efficient nor free from corruption. But this aspect of the matter is applicable to all cognizable offences and cases."

"It must be realised that after 18 years during which the Sarda Act has been in operation its provisions are more widely known than before."

"Moreover the malady is too persistent and virulent to be remedied by mild measures. The evil is too great to be tolerated even if its prevention causes uneasiness and annoyance to the public. The Sarda Act has almost been a dead letter in the rural areas and backward communities and marriages of children in arms and in early teens are very frequent resulting in the physical, economic and moral ruin of the nation. Any further dalliance with the evil of pre-puberty consummation and early consummation which are eating into the very vitals of the society is simply criminal specially when we have got National Government and no measures however stringent can be deemed to be too drastic to prevent this evil which is so enormous in magnitude."

With due respects, I would like to submit to the House that in my humble opinion there are only two ways by means of which we can remove this evil. Firstly this should be made a cognizable offence, even though such a course may be trouble-some to the people. Secondly in each case that is brought before the Court, imprisonment should be made compulsory on conviction. If the first suggestion is followed, then I am sure, we can fully combat this evil. Compulsory imprisonment on conviction will surely be irksome and I do not wish this should be so. Nobody wants that people should be subjected to hardships at the time of marriage and jubilation. The Marriage is the time for merriment, and I do not want that on the occasion of a marriage in any home, the bridegroom or his father or mother should be arrested. What I want is that in no way such things should happen. In addition to this, I would like to say a word, that so far as the marriage, laws and social crimes are concerned, these are covered by the existing provisions in Section 375 of the Indian Penal Code. And in case the Police prosecutes the persons accused of having committed offences which fall within the scope of this Bill, then it would create a good deal of unrest in the country. On the contrary, even if the police launches prosecution for the infraction of marital laws and the people are convicted, this would not give rise to so much commotion and unrest. It is possible now-a-days that if you marry a child and after the marriage the husband or the child husband and the child wife are allowed to be closetted, a crime may be committed as it is usual under Section 375 of the existing Act (I.P.C.). The Police can interfere

in such cases. According to the provisions of Section 375 I.P.C., the punishment for such offences is not confined to one or two years only but it can extend up to ten years. I therefore say that in order to obviate such a contingency when these heinous crimes may be committed, it would be desirable and advisable to award punishment for the offences of early consummation. This Bill provides a maximum punishment of 3 months' imprisonment for the commission of such an offence. I hope that every body will agree that if the provisions of this Bill relating to marriage are strictly observed then it would be the correct way for the prevention of offences under the Indian Penal Code. We should frame laws to prevent such marriages.

My honourable friend Prof. Shibban Lal Saksena has remarked "Prevention is better than cure". In my opinion this is quite true, and this principle is the real panacea to cut the Gordian knot, and we should try to make stringent the marriage laws so that no such marriage may take place in contravention of the law. This is far better a course than invoking the provision of I.P.C. and ruining the whole family. That family to which the husband belongs will also be ruined and consequently he will sever his connections with his wife. So if it is desired to get rid of the evil the present legislation should be framed in this manner, and everybody will admit that this is the right measure for preventing early marriage. So far as to its being made cognizable I too in view of the attitude of the Police, do not like their interference in the domestic affairs.

Another point to which I would like to draw your attention is that the suggestion put forth by Mr. Chaudhuri that this offence should be made 'non-bailable' instead of 'cognizable'.

I do not understand how it will prevent the commission of such an offence merely by making it a 'non-bailable'. In my humble opinion, there will hardly be any difference by making it 'non-bailable'. I do not want that bail should not be accepted from any person. The object of bail is that the person may present himself before the court. I do not want to make bail a punitive measure. By making this offence non-bailable, this should not be made punitive. Therefore, I do not appreciate this suggestion though the Select Committee would be authorized to look into this matter.

The Honourable Dr. Ambedkar has stated that he does not want to commit himself to anything. But I want to say that the House is committed to one principle i.e., prevention of early consummation, and further so far as age is concerned the boy and girl must have attained the age of 20 and 15 years respectively at the time of marriage. And such are the principles enunciated in these Bills. In my humble opinion the House is not committed to the methods suggested. The Age of Consent Committee have suggested some remedies which should be looked upon with respect because that was a unanimous report. In that connection, I must say that ten members were appointed on that Committee and about 3 lacs of rupees were spent thereon and the Committee considered this matter for about 10 months and after this they made their recommendations in regard to the remedial measures. But 18 years have passed since that Committee was set up, and if we can evolve better proposals, then we must do so. I will not have any objection if the Government wants to introduce any new Bill. I am simply afraid that the Government have already wasted one year. Last year I was told that a Bill would be introduced in the ensuing Session. In my humble opinion, there is no other matter which is more important than this. This Bill should be passed without any delay and the marriageable age advanced. Along with this the Age of Consent Bill is another necessity. But its real importance cannot be realized. We should not wait for a minute. It is the duty of the National Government to get this Bill passed and brought into force forthwith.

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Apart from this, another suggestion was made that marriage should be annulled. The Age of Consent Committee has also referred to this matter in their Report. I cannot say how far it will be possible to act upon this. I have an open-mind on this, but I feel that it would be much better to treat this offence as cognizable instead of annulling the marriage because many people would not like this recourse. Nevertheless this suggestion can be judged on its own merits. I have very carefully listened to the speech of my honourable friend Sir Muhammad Sa'adulla, and with due derence, I would like to draw his attention to Page 61 of the Report of the Age of Consent Committee which *inter alia* mentions about his evidence and gives an account of the conditions prevailing in Assam. It is a matter of deep regret that our leaders who keep themselves well-informed in every respect remain ignorant and are misled in such matters. Sir Sa'adulla has stated that child marriage is not prevalent amongst the Muslims in Assam. I will just quote a few lines for the information of the House from which it would be evident that how far our well-informed leaders also are unable to realize the evils of early consummation. It has been stated at Page 61 that in Assam there are no child marriages below the age of 5 but an equally satisfactory state of affairs is not however revealed when the later age periods of 5 to 10 and 10 to 15 are taken into consideration.

"The percentage of married girls between 10 and 15 in 1921 was 25.9. The number of married girls between 10 and 15 among Hindus in 1921 was 54,449, being 27 per cent. of the total number and among Muslims 38,828, being 34 per cent. of the total. But conditions vary so much in different parts of the Province that an inaccurate idea will be conveyed by these averages."

Similarly it has been further stated:

"It is interesting to note that Muslims in this valley are very much addicted to the practice of early marriage, their numbers approximating those of Hindus in Goalpara; 42 girls between 5 and 10 and 473 between 10 and 15 are married. The total number of Muslims in this valley is about 6 lakhs."

I may respectfully submit that even though after presenting this Bill I cannot overlook this fact that very people are aware of the conditions prevailing in the rural areas in this sphere. Therefore, it has become all the more necessary that we should pass this Bill without delay.

In addition to this, some more of criticism have been levelled. Mrs. Ray has stated that one of the difficulties to be encountered in the operation of this Bill is to find out the 'age'. I realize that the question of age does not arise in this Bill only. This exists in the Sections relating to abduction, kidnapping in the Indian Penal Code and many other such Sections. Again in the Civil Law, the question of majority arises. So these difficulties are found in many places. These will affect the Marriage-Laws also. If the recommendations contained in the Report of the Age of Consent Committee had been accepted and action taken to maintain the registers, then this difficulty would not have arisen now. It has also been proposed in this Bill that the Government should take steps to keep such registers wherein age should be recorded. I may say that the Hindu Code also refers to age. Indeed Marriage Register is an imperative necessity in this country, and we should introduce this immediately.

So far as the question of social justice is concerned, I leave it to Mrs. Ray to find out how much social justice exists in this Bill. At the moment I do not want to speak much about the Hindu Code. But I venture to say that it would not be proper to regard those who do not consider it necessary to pass the Hindu Code at present as enemies of progress.

I have also listened to the suggestion made by Mr. Bhatt which is quite a novel one *viz.*, that distinction should be made between the girls living in rural and urban areas. In fact the position is that when the question of cities *vis-a-vis*

villages arises, then it is not possible to make any discrimination on the basis of individual development. Logically the development of every person differs from each other according to age. But in the determination of age such matters cannot be legally considered. If this is done, it would become well nigh impossible to frame the law.

Mr. Speaker: I am afraid a detailed reply to every point is not necessary. It is for the Select Committee to consider the various points made by honourable members.

پندت تھاکر داس بھارگو : میں اس واسطے ادب سے عرض کروں گا کہ جہاں تک ان تینوں بلوں کا سوال ہے یہ سلیکٹ کمیٹی کو سپرد کر دینیے چاہیے۔

Pandit Thakur Das Bhargava: Therefore, I will respectfully submit, Sir, that so far as these three Bills are concerned, these may be referred to the Select Committee.

Mr. Speaker: The question is:

"That the Bill further to amend the Child Marriage Restraint Act, 1929 (Amendment of sections 3, 4, 5, 6 and 10) the Bill further to amend the Child Marriage Restraint Act, 1929 (Amendment of Sections 2 and 4), and the Bill further to amend the Child Marriage Restraint Act, 1929 (Amendment of sections 10, 11 and 13), be referred to a Select Committee consisting of Dr. Bakhshi Tek Chand, Shri Prabhudayal Himatsingka, Shrimati G. Durgabai, Begum Aizaz Rasul, Shrimati Dakshayani Velayudhan, Shri M. Ananthasayanam Ayyangar, Shri Krishna Chandra Sharma, Sardar Hukam Singh, Shri Ajit Prasad Jain, Shri P. Kunhiraman, Shri Deshbandhu Gupta, Shri Upendranath Barman, Dr. B. Pattabhi Sitaramayya, and the Mover, with instructions to report not later than the last day of the first week of the next session and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Shri K. Santhanam (Madras: General): Is the Law Minister a Member?

Mr. Speaker: He is the *ex-officio* Chairman of every official or non-official Committee.

Shrimati G. Durgabai (Madras: General): With the leave of the House I would ask that the name of Mrs. Renuka Ray may be included in the Select Committee.

Mr. Speaker: It is too late now. I was proceeding to put the motion to the House.

Shrimati G. Durgabai: I request the Mover to accept it.

Mr. Speaker: Is it accepted by the Mover?

Pandit Thakur Das Bhargava: I have no objection.

Mr. Speaker: Then, in the names put forward, I am adding the name of Mrs. Renuka Ray.

The question is:

"That the Bill further to amend the Child Marriage Restraint Act, 1929 (Amendment of sections 3, 4, 5, 6 and 10) the Bill further to amend the Child Marriage Restraint Act, 1929 (Amendment of Sections 2 and 4), and the Bill further to amend the Child Marriage Restraint Act, 1929 (Amendment of sections 10, 11 and 13), be referred to a Select Committee consisting of Dr. Bakhshi Tek Chand, Shri Prabhudayal Himatsingka, Shrimati G. Durgabai, Begum Aizaz Rasul, Shrimati Dakshayani Velayudhan, Shri M. Ananthasayanam Ayyangar, Shri Krishna Chandra Sharma, Sardar Hukam Singh, Shri Ajit Prasad Jain, Shri P. Kunhiraman, Shri Deshbandhu Gupta, Shri Upendranath Barman, Dr. B. Pattabhi Sitaramayya, Shrimati Renuka Ray and the Mover, with instructions to report not later than the last day of the first week of the next session and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

INDIAN PENAL CODE AND THE CODE OF CRIMINAL PROCEDURE
(AMENDMENT) BILL.

پنڈت تھاکر داس بھارگو - موشن (Motion) نمبر دو کے بارے میں مجھے صرف یہ عرض کرنا ہے کہ ہاؤس نے اس بل کو سرکولیشن (Circulation) کے لئے بھیجتا تھا - لیکن ابھی مجھے معلوم ہوا ہے کہ سارے پراونسز (Provinces) سے (Opinions) ایسی نہیں آئی ہیں اس لئے میں اس بل کو پیس کرنے سے قاصر ہوں - اسلئے جب وہ Opinions آجائیں گی تب ہاؤس کے سامنے پیش کروں گا -

(English translation of the above speech.)

Pandit Thakur Das Bhargava (East Punjab: General): In regard to motion No. 2, I have only to state that the House had sent this Bill for circulation. But I have just been informed that opinions from all the Provinces have not yet been received. Therefore, I am unable to move the motion. When the opinions have been received, I will move it.

Mr. Speaker: He does not make any motion. Very well.

CRIMINAL TRIBES (REPEAL) BILL.

Prof. N. G. Ranga (Madras: General): I learn that the Government are quite prepared to take early steps to appoint a Committee to enquire into the possibilities for giving effect to the objective with which I have sought to move this Bill; that is, to liberate all these millions of people who have been castigated as criminal tribes and treated so shabbily in different provinces, and I do trust that Government will not take very long before they appoint this Committee and try to save these people from this horror of the Criminal Tribes Act and all that follows in its train. It is on that assurance, and on that understanding that I beg leave of the House not to make this motion at this stage.

Mr. Speaker: He does not make a motion.

Prof. N. G. Ranga: I do not want to make this motion now.

INDIAN PENAL CODE (AMENDMENT) BILL.

(Amendment of Section 124A)

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): I am not moving my Bill further to amend the Indian Penal Code but I wish it to be kept alive.

PROVINCIAL INSOLVENCY (AMENDMENT) BILL.

Shrimati G. Durgabai (Madras: General): I beg leave of the House to withdraw the Bill further to amend the Provincial Insolvency Act, 1920.

I am happy to announce to the House that my point which has been raised in my Bill has been accepted in the official Bill passed in the last Session.

Mr. Speaker: Has the honourable member the leave of the House to withdraw?

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

INDIAN COMPANIES (AMENDMENT) BILL.

(Amendment of Section 86F)

Dr. P. S. Deshmukh (C.P. and Berar: General): I have been promised by the Honourable the Minister for Commerce that this Bill further to amend the Indian Companies Act, 1913, will be taken into consideration when a more comprehensive Bill will be brought forward by Government. Under these circumstances, I do not propose to make any motion just now, but I would like the Bill to be kept alive.

Mr. Speaker: He wants to keep it alive.

Dr. P. S. Deshmukh: Yes.

Mr. Speaker: Very well.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Shrimati Annu Swaminadhan (one of the Panel of Chairmen.)]

INDIAN BAR COUNCILS AND THE LEGAL PRACTITIONERS (AMENDMENT) BILL.

Shri T. A. Ramalingam Chettiyar (Madras: General): I am assured by the Government that all the cases to be dealt with by the Bill have had the benefit which they should have had under the Bill. In view of that I beg leave to withdraw the Bill further to amend the Indian Bar Councils Act, 1926 and the Legal Practitioners Act, 1879.

Mr. Chairman: Has the honourable member leave of the House to withdraw?

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

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(Amendment of Sections 496 and 497)

Pandit Thakur Das Bhargava (East Punjab: General): I do not want to proceed with my motion regarding the Bill further to amend the Code of Criminal Procedure, 1898, but I wish it to be kept alive as at present.

1. INDIAN COMPANIES (AMENDMENT) BILL.

(Amendment of Sections 25, 31, 32 etc.)

2. SPECIAL MARRIAGE (AMENDMENT) BILL.

Dr. P. S. Deshmukh (C.P. and Berar: General): I do not wish to move the motion regarding the Bill further to amend the Indian Companies Act, 1913. But I would like the Bill to be kept alive.

The same remarks apply to my motion regarding the Bill further to amend the Special Marriage Act, 1872.

1. CALCUTTA PORT (AMENDMENT) BILL.
2. BOMBAY PORT TRUST (AMENDMENT) BILL.
3. MADRAS PORT TRUST (AMENDMENT) BILL.

Mr. R. K. Sidhva (C.P. and Berar: General): These motions, Nos. 13, 15 and 34, relate to the Bombay, Calcutta and Madras Port Trusts Acts. These Bills mostly related to the constitution of the Boards and to various other amendments to the administrative clauses. As we know the constitution has been changed by the official Bill that was presented by the Honourable the Minister for Transport and passed.

As regards the other parts of the Bill, the Honourable Minister has stated in regard to them, that he is bringing forward a comprehensive Bill later on. Therefore I do not want to move these three motions.

WORKERS' PROVIDENT FUND BILL.

Mr. R. K. Sidhva (C.P. and Berar: General): This Bill relates to the establishment and grant of Provident Fund. My Bill is a comprehensive one, but I was told by the Honourable the Minister that he was presenting a Bill which would be far better than my Bill. Well, I shall be glad when this Bill is brought forward because it is a very good thing that Provident Fund should be provided for every worker, who after 35 years of service can look forward to something in his old age. Since the Honourable the Labour Minister has told me that he is bringing in soon a better Bill, I do not want to move it.

PREVENTION OF FREE OR FORCED OR COMPULSORY LABOUR BILL.

Mr. R. K. Sidhva (C.P. and Berar: General): This is a very important Bill. It relates to punishment for free or forced or compulsory labour. This has been a disgrace to society and to the country which has tolerated this state of affairs for over 100 years. In the Geneva Conference it has been agreed that forced labour should be abolished immediately. There are certain Acts now also existing in Bombay, Bengal and the Punjab. The Honourable the Minister has told me that he has appointed a special officer. He absolutely realizes the importance of abolishing this forced labour. The special officer he has appointed has I am told collected literature and he will complete his report within six months. Therefore, he has advised me to hold over this Bill. So, I do not move it.

HINDU MARRIAGES VALIDITY BILL

Pandit Thakur Das Bhargava (East Punjab: General): Madam, I do not want to move my motion regarding the Bill to provide that marriages between Hindus, Sikhs, Jains and other different castes and sub-castes are valid, but I want to keep the Bill alive.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

(Amendment of Sections 4, 29A, etc.)

Pandit Thakur Das Bhargava (East Punjab: General): As regards the next motion relating to the Bill further to amend the Code of Criminal Procedure, 1898 I am given to understand that the Government is going to bring a Bill on the same lines and therefore I do not want to move this.

MOTOR VEHICLES (AMENDMENT) BILL.

Mr. R. K. Sidhva (C.P. and Berar: General): Madam, this Bill relates to the Motor Vehicles Act, 1939. The object of the Bill is to mitigate the number of fatal accidents that occur through motor lorries. It has been suggested that Governors should be affixed to carburettors and that the limits should be automatically fixed, so that accidents may be avoided. There have been many fatal accidents occurring all over India and also in Delhi. It has been proved by the answers that we have received in this Assembly and the previous Assembly. I would like to hear the Honourable Minister before moving the motion.

Mr. Chairman: Is the honourable member moving his motion?

Mr. R. K. Sidhva: I do not want to move, Madam. The Honourable Minister told me this morning that he had already discussed the subject matter of this Bill with provincial governments and his own government and himself are in agreement with this measure. But he feels that a rule should be made instead of an Act of this nature. I therefore wanted to know from him whether he is prepared to make the rule, then I would at once withdraw the motion. Otherwise I will hold on until the Honourable Minister makes a move.

INDIAN JUDICIAL PROCEDURE BILL.

Pandit Thakur Das Bhargava (East Punjab: General): Madam, I have been told that there is some constitutional difficulty about this Bill but so far as that is concerned I am convinced that it is perfectly competent for this legislature to pass a Bill of this nature. This Bill was sponsored by Sir Hari Singh Gour and it was he who requested me to introduce this Bill on his behalf. Since he himself happens to be here I would rather like that he and those who are of the opinion that there is some constitutional difficulty confer together and come to an understanding. For the present I would not like to move the Bill but would like to keep it pending.

INDIAN BAR COUNCILS AND THE LEGAL PRACTITIONERS (AMENDMENT) BILL.

Shri M. Ananthasayanam Ayyangar (Madras: General): Madam, I do not want to move my motion regarding the Bill further to amend the Indian Bar Councils Act, 1926.

CRIMINAL TRIBES (REPEAL) BILL.

Shri M. Ananthasayanam Ayyangar (Madras: General): Also I do not want to move my motion regarding the Bill to repeal the Criminal Tribes Act, 1924.

CIVIL MARRIAGES BILL.

Dr. Sir Hari Singh Gour (C.P. and Berar: General): Madam, I move for leave to introduce a Bill to provide for a form of marriage and for registration of other marriages in certain cases.

[Dr. Sir Hari Singh Gour]

I have given in my Statement of Objects and Reasons a few words summarising the genesis of this very important measure. I wish to point out that this measure is about a century old. It was first introduced in the old Council by that distinguished lawyer and jurist Sir Henry Maine but after his term of office expired it continued in the hands of another distinguished English lawyer, Sir James Stephen. After that the Bill became law as the Act of 1872 truncated to all intents and purposes by the reactionary elements in the country. When I happened to join this Assembly I tried to revise the Civil Marriage Bill on the ground that the state must provide a civil marriage law for its people irrespective of caste, creed and nationality. It went to a Select Committee and there I had to face single-handed a battery of opposition from all sides with the result that the Bill emerged from that Committee in a still more truncated form than the Bill which became law in 1872. However, as a small compromise, that Bill was passed and became Act XXX of 1923. Since then I have been hoping that I shall have the opportunity of reviving my Bill in a more representative House and I am glad that my ambition and prayer have been fulfilled and I find before me a more representative gathering than I had 25 years ago.

Mr. Chairman: May I point out that the honourable member has not had the leave of the House yet to introduce his Bill.

Dr. Sir Hari Singh Gour: Madam. I understand that my time is limited to 10 minutes, and I am going to finish in a few minutes. I hope, Madam, that I shall have the chance of taking this House at a later stage through more details of this Bill. In the meantime I crave the leave of the House to introduce the Bill.

Mr. Chairman: The question is:

"That leave be granted to introduce a Bill to provide for a form of marriage and for registration of other marriages in certain cases."

The motion was adopted.

Dr. Sir Hari Singh Gour: Madam, I introduce the Bill.

DENTISTS (AMENDMENT) BILL.

Mr. R. K. Sidhva (C.P. and Berar: General): Madam, I beg to move for leave to introduce a Bill to amend the Dentists Act, 1948.

Mr. Chairman: The question is:

"That leave be granted to introduce a Bill to amend the Dentists Act, 1948."

The motion was adopted.

Mr. R. K. Sidhva: Madam, I introduce the Bill.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(Amendment of Section 488)

Dr. Sir Hari Singh Gour (C.P. and Berar: General): Madam, I move for leave to introduce a Bill further to amend the Code of Criminal Procedure 1898, (Amendment of Section 488).

Mr. Chairman: The question is:

"That leave be granted to introduce a Bill further to amend the Code of Criminal Procedure 1898 (Amendments of Section 488.)"

The motion was adopted.

Mr. R. K. Sidhva: Madam, I introduce the Bill.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Thursday, the 26th August, 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Thursday, 26th August, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

CHANGE IN DATE FOR NON-OFFICIAL BUSINESS IN ASSEMBLY

Mr. Speaker: I have an important announcement to make as regards the change of certain dates. Honourable members know that 30th August is fixed for non-official business. I propose to cancel that date and fix the 3rd September as the date for the non-official business. So the non-official business on the 30th August will be taken up on the 3rd September. The list of business issued last night will hold good but it will be taken up on the 3rd September and not on the 30th August.

Shri H. V. Kamath (C.P. and Berar: General): Will the questions for the 30th also be taken up on the 3rd?

Mr. Speaker: The questions will not change. They will remain the same.

Shri L. Krishnaswami Bharathi (Madras: General): Are we to understand, Sir, that the present Session of the Assembly will be over on the 3rd September?

Mr. Speaker: It is in the hands of the honourable members.

SUPPLY OF ANSWERS TO QUESTIONS IN ADVANCE TO MEMBERS

Dr. B. Pattabhi Sitaramayya (Madras: General): Before you pass on to the agenda, may I recall your attention to the statement that you kindly made on Mr. Tyagi's suggestion that statements laid on the table of the House may be circulated beforehand: otherwise we are deprived of the chance of studying them and bringing up the points: and the number of questions will multiply upon the same question if they have to be dealt with on a later occasion. I think it is easy to have extra copies made of these statements and circulate them beforehand.

(619)

Seth Govind Das (C.P. and Berar: General): In addition to that request, I would again like to draw your attention to the statement which you made, and as it happens in various provinces, that the replies to these questions may also be printed and given to us beforehand. It will save the time of the House as well as give us facilities for asking supplementary questions.

Mr. Speaker: The question raised by the honourable member, Dr. Sitaramayya, raises the same question which Seth Govind Das has now raised.

Dr. Pattabhi Sitaramayya: On a minor scale!

Mr. Speaker: Yes. At the same time, that will involve the supply of answers to particular questions before the questions are answered in the House.

As regards the wider question, of which the first question is a part, I think I must admit that I do not feel so enthusiastic about the position which I had taken before, in view of the change of the whole set-up. The matter might be considered if the members so like. I am prepared to have consultations with some honourable members and talk the matter over. I think this is a better solution rather than having a discussion here.

But I may say, that, I have now begun to take a different view of the matter, from the one which I had taken two years back. The 15th August, 1947 has changed so many things and this is one of them.

Shri Mahavir Tyagi (U.P.: General): Cannot the member who asks the question be supplied with a typed copy for the time being so that he may at least know what the replies are?

Mr. Speaker: It makes no difference whether it is placed on the table or the particular member is supplied with the answer. However, I will talk with the members and have a discussion with them.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF DEFENCE

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the current financial year on the Standing Committee to advise on subjects concerning the Ministry of Defence, *vice* Shri Manikyalal Varma, resigned."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the current financial year on the Standing Committee to advise on subjects concerning the Ministry of Defence, *vice* Shri Manikyalal Varma, resigned."

The motion was adopted.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF COMMUNICATIONS

The Honourable Shri Mohan Lal Saksena (Minister of State for Relief and Rehabilitation): Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two members to serve on the Standing Advisory Committee of the Constituent Assembly of India (Legislative) attached to the Ministry of Communications, in the vacancies caused by Pandit Chaturbhuj Pathak and Kunwar Shamsher Jang ceasing to be members of the Constituent Assembly of India (Legislative)."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two members to serve on the Standing Advisory Committee of the Constituent Assembly of India (Legislative) attached to the Ministry of Communications, in the vacancies caused by Pandit Chaturbhuj Pathak and Kunwar Shamsher Jang ceasing to be members of the Constituent Assembly of India (Legislative)."

The motion was adopted.

Mr. Speaker: I have to inform honourable members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely:

	Date for nomination	Date for election
Standing Committee for the Ministry of Defence.		
Standing Committee for the Ministry of Communications.	28-8-48	31-8-48

The nominations for these Committees will be received in the Notice Office upto 12 Noon on the date mentioned for the purpose. The elections, which will be conducted by means of the single transferable vote, will be held in the Assistant Secretary's Room (No. 21) in the Council House between the hours 10-30 A.M. and 1 P.M.

EXCHANGE OF PRISONERS BILL

The Honourable Shri N. Gopalaswami Ayyangar (Minister Without Portfolio): Sir, I beg to move for leave to introduce a Bill to provide, in pursuance of an agreement with Pakistan for the exchange of prisoners, for the transfer of certain prisoners from India to Pakistan and the reception in India of certain prisoners from Pakistan.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide, in pursuance of an agreement with Pakistan for the exchange of prisoners, for the transfer of certain prisoners from India to Pakistan and the reception in India of certain prisoners from Pakistan."

The motion was adopted.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I introduce the Bill.

Shri Mohan Lal Gautam (U.P.: General): May I know whether these prisoners include the prisoners awarded capital punishment or not?

Mr. Speaker: I think when the motion comes for consideration, the honourable member will have all the information that he wants. The present is merely a leave motion, which is more or less a formal one.

CENTRAL SILK BOARD BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Sir, I beg to present the Report of the Select Committee on the Bill to provide for the development under Central control of the raw silk industry and for that purpose to establish the Central Silk Board.

Mr. Speaker: The House will now proceed with further consideration of the Bill to consolidate and amend the law regulating labour in factories, as reported by the Select Committee.

I think we have to start with Clause 47.

But Clauses 21 and 23 were held over. Shall we dispose of them or proceed with Clause 47 and the further clauses? With Clause 47 first?

The Honourable Shri Jagjivan Ram (Minister for Labour): Yes.

Mr. Speaker: What is the idea?

The Honourable Shri Jagjivan Ram: Let us then finish clauses 21 and 23.

The Honourable Shri Jagjivan Ram: About clause 21, the draughtsman has been consulted, and he suggests that the word "and" occurring after (ii) may be dropped and the word "and" before "unless" will come after "lathe" in (iii), and the comma here will be dropped.

Mr. Speaker: But the construction of the whole sentence will stand as it is?

The Honourable Shri Jagjivan Ram: Yes.

Mr. Speaker: Is the position clear to honourable members?

Some Honourable Members: No.

Mr. Speaker: This clause was held over last time with a view to consider the amendments that were suggested and also to consider whether any change in the present structure of the section was necessary. The point has been considered and the proposal now is that the first "and" occurring at the end of part (ii) of sub-clause (1) be deleted and the second "and" occurring before the word "unless" be shifted from that place to the preceding line after the semi-colon. I think it would be better if somebody formally moves a revised amendment.

Shri Ajit Prasad Jain (U.P.: General): Sir, I move:

"That in sub-clause (1) of clause 21 of the Bill the word 'and' occurring at the end of part (ii) be deleted and the word 'and' occurring before the word 'unless' in line 9 be shifted to the last preceding line after the semi-colon."

May I know whether the Honourable Minister accepts my previous amendment No. 13 on list No. 3, *viz.*, that between the words "and" and "unless" occurring in line nine the brackets and figures "(iv)" be inserted.

The Honourable Shri Jagjivan Ram: Yes, Sir.

Mr. Speaker: Amendment moved:

"That in sub-clause (1) of clause 21 of the Bill,—

(a) the word 'and' occurring at the end of part (ii) be omitted;

(b) at the end of part (iii) the word 'and' be inserted; and

(c) for the word 'and' occurring in line 9, the brackets and letters '(iv)' be substituted."

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, the passage occurring after the word 'unless' appears to be an exception to parts (i), (ii) and (iii). If that is so, the figure (iv) should not be there.

The Honourable Shri Jagjivan Ram: It applies to the following (a), (b) and (c).

Mr. Speaker: There is now no further scope for discussion. The amendment which I have put to the House, I suppose, correctly represents what the Honourable Minister wants.

The Honourable Shri Jagjivan Ram: Yes, Sir.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 21 of the Bill,—

(a) the word 'and' occurring at the end of part (ii) be omitted;

(b) at the end of part (iii) the word 'and' be inserted; and

(c) for the word 'and' occurring in line 9, the brackets and letters '(iv)' be substituted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 21, as amended, stand part of the Bill."

The motion was adopted.

Clause 21, as amended, was added to the Bill.

Mr. Speaker: Clause 23.

The Honourable Shri Jagjivan Ram: Sir, the material amendment is that instead of the word "adolescent" we will substitute "young persons". A question was raised that children were debarred from working under sub-clause (2) of clause 22. If we look at sub-clause (2) of clause 23, we will find that the provincial governments have been given power to prescribe the machines which in their opinion are of such a dangerous character that young persons ought not to work at them unless the requirements laid down therein are complied with. This amendment which may apply to a child is necessary.

Mr. Speaker: Then the amendment which I have already put to the House stands?

The Honourable Shri Jagjivan Ram: Yes, Sir.

Shri K. Santhanam (Madras: General): My objection is this that under clause 22 (2) "No woman or child shall be allowed in any factory,....." and this would be inconsistent with the permission for a child to work in certain machinery given under this amendment. The provincial government is vested with some discretion, no doubt but that does not obviate the total prohibition in clause 22 (2). I will not press my objection if the Honourable Minister thinks that there is no inconsistency.

The Honourable Shri Jagjivan Ram: Sub-clause (2) of clause 22 does not prohibit women and children operating machinery in a factory except those which are in motion at the time of lubricating, and adjusting any parts and it also prohibits the employment of women and children in certain dangerous positions such as between moving parts or between fixed and moving parts of any machinery which is in motion. The purpose of the present amendment is that there may be other machinery which may be dangerous and declared as such by the provincial government and if a child is employed at those machinery, he must fulfil all these conditions that have been laid down under Section 23. In no case a child or woman is to work at such machines as provided under sub-clause (2) of clause 22 but there may be other machines which may be dangerous and to guard against that this provision is made.

Mr. Speaker: If the Honourable Minister is satisfied then I suppose Mr. Santhanam has no further objections.

What about the other amendment moved by Prof. Shibban Lal Saxena on the 24th?

Prof. Shibban Lal Saxena (U.P.: General): I shall withdraw it.

Mr. Speaker: Has the honourable member the leave of the House to withdraw his amendment?

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

Mr. Speaker: And I understand that Mr. Sidhva was not going to move his amendment. I shall therefore put the amendment moved by the Honourable Minister to the House.

The question is:

"That for clause 23 of the Bill, the following be substituted:

'23. Employment of young persons on dangerous machines.—(1) No young person shall work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

- (a) has received sufficient training in work at the machine, or
- (b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the Provincial Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 23, as amended, stand part of the Bill."

The motion was adopted.

Clause 23, as amended, was added to the Bill.

Prof. Shibban Lal Saksena: I find that the word 'adolescent' occurs again in the clause in the last but one line.

Mr. Speaker: A new clause has been put in in place of the old clause. We will now proceed to clause 47.

Shrimati Dakshayani Velayudhan (Madras: General): I move:

"That in sub-clause (1) of clause 47 of the Bill, the words 'wherein more than one hundred and fifty workers are ordinarily employed' be omitted."

Sir, the other day I spoke about the necessity of providing canteens for workers in factories. The same arguments which I placed before the House then will hold good in respect of this clause as well. In my opinion any welfare work done by the Government should reach each and every worker of a factory which the Government have recognized. To every worker, a resting place after the work is required during the interval. And for a worker to take rest is not a luxury but it is a necessity. If we do not make provision in this Bill to give such amenities to workers the workers will find it very difficult to get such things from the management through their own efforts. So it would be better if the Government make definite provision in the Bill to give all the necessary welfare measures which they propose to give to the workers. The workers should not be left at the mercy of the employers. And we know how merciful an employer can be towards the labourer! I do not want to go into any details and I hope the Honourable Minister will accept this amendment.

Mr. Speaker: Amendment moved:

"That in sub-clause (1) of clause 47 of the Bill, the words 'wherein more than one hundred and fifty workers are ordinarily employed' be omitted."

Prof. Shibban Lal Saksena may move his amendment at this stage.

Prof. Shibban Lal Saksena: I move:

"That in sub-clause (1) of clause 47 of the Bill, for the words 'one hundred and fifty', the words 'one hundred' be substituted."

I only want to say that the factories containing more than 150 workers should not be the only factories to enjoy these benefits and that factories

containing over hundred workers should also be provided with rest rooms, shelters and lunch rooms. I think that one hundred workers are a sufficient number for a factory to provide rest rooms, shelters and lunch rooms.

Shall I move the other amendments also, Sir?

Mr. Speaker: Yes.

Prof. Shibban Lal Saksena: I move:

"That in sub-clause (2) of clause 47 of the Bill, the following be added at the end:

'In these shelters and rest rooms in factories where workers change shifts between 10 P.M. and 4 A.M. there shall be arrangements for the sleeping of workers who change shifts and who desire to sleep therein, and the sleeping place shall be airy and shall be protected from rain and cold.'" and

"That in sub-clause (3) of clause 47 of the Bill, for the word 'may' the word 'shall' be substituted."

Mr. Speaker: I think I shall place these last two amendments later on before the House, because the subject-matter is different. The first one (No. 31) relates to the same subject, namely, about the number of workers.

Amendment moved:

"That in sub-clause (1) of clause 47 of the Bill, for the words 'one hundred and fifty', the words 'one hundred' be substituted."

Mr. R. K. Sidhva (C.P. and Berar: General): Mine is the same amendment, Sir, but I am not pressing it because the Honourable Minister stated that his figure was arbitrary—and mine is also arbitrary. He wants to make an experiment and I do not want to stand in the way.

The Honourable Shri Jagjivan Ram: For obvious reasons I am not accepting these two amendments. The obvious reasons are the grounds of practicability. If we delete the figure one hundred and fifty, it means that in every factory all these things have to be provided. I cannot conceive that in a very small beedi factory we can demand all these amenities for the workers. (*An Honourable Member:* "You can make a compromise and fix the number at 125"). There is no question of compromise here. I do not accept the amendments.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 47 of the Bill, the words 'wherein more than one hundred and fifty workers are ordinarily employed' be omitted."

The motion was negatived.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 47 of the Bill, for the words 'one hundred and fifty', the words 'one hundred' be substituted."

The motion was negatived.

Mr. Speaker: Now we go to the other amendment of Prof. Shibban Lal Saksena on this clause.

Amendment moved:

"That in sub-clause (2) of clause 47 of the Bill, the following be added at the end:

'In these shelters and rest rooms in factories where workers change shifts between 10 P.M. and 4 A.M. there shall be arrangements for the sleeping of workers who change shifts and who desire to sleep therein, and the sleeping place shall be airy and shall be protected from rain and cold.'"

Prof. Shibban Lal Saksena: Sir, in my District of Gorakhpur there are 23 sugar factories. The shifts in the factories are in certain seasons continuous. They begin at 8 A.M. or 10 A.M. and with eight-hour shifts the midnight shifts change at 12 midnight or 2 A.M. What I find is that the workers have to come for the night shift at 12 night or 2 A.M. sufficiently early they come at

[Prof. Shibban Lal Saksena]

9 P.M. and sleep there till their shift begins. In the case of those whose shift concludes at midnight they sleep immediately after being relieved from duty. But actually there is no room for them to sleep anywhere. Sometimes they sleep on pavements and sometimes on the floor wherever they can find space to lie down. The sugar cane crushing season is between November and March during bitter cold, and in that bitter cold night they have to sleep on pavements and floors. I want that these shelters, rest rooms and lunch rooms should be so commodious that workers who change shift at midnight or at 2 A.M. should have place to sleep. It is a very important thing.

I think probably there are many more factories all over the country where workers change shift at midnight either in rain or in bitter cold, and they have no place to sleep. If lunch rooms are necessary or if rest rooms are necessary, it is much more necessary to have sleeping places for the night. I hope that by making this provision the Honourable Minister will earn the gratitude of millions of workers and make their lives human lives instead of animal lives, which is the case at present.

Moreover, the number of quarters for workers provided by the factories is very small; it is not even five per cent. of the required number. The only way in which the workers can be provided with temporary facilities for sleep until quarters for all are built is by having this sleeping accommodation. The worker working at midnight or at 2 A.M. cannot go at that time two or three miles to his residence. He has to spend the whole night in the factory or keep awake in which case he may not be ready for the next day's shift. Under these circumstances I think it is necessary to have shelters and rooms so that there is enough accommodation for sleeping in them. I hope the Honourable Minister will see that the shelters and rest rooms with such sleeping accommodation are provided very soon. If this amendment is accepted, the shelters and rooms will be such that people will get room to sleep in them at midnight.

The Honourable Shri Jagjivan Ram: Sir, so many amenities may be necessary for the workers, but we cannot argue on imaginary things. I do not know how the shift changes at midnight or at 2 A.M. One has got to work from 6 or 8 in the morning when the shift starts and if so how does the shift change at midnight or at 2 A.M.? I have not been able to follow.

Prof. Shibban Lal Saksena: The first shift lasts from 8 A.M. to 4 P.M.—8 hours—and the next from 4 P.M. till 12 midnight, and the third from 12 midnight to 8 A.M. If the first shift starts at 10 A.M., then the shifts are from 10 A.M. to 6 P.M., 6 P.M. to 2 A.M., and 2 A.M. to 10 A.M.

The Honourable Shri Jagjivan Ram: It is very easy to calculate it as 8 hours, but there is a break—it cannot be eight hours continuous.

Prof. Shibban Lal Saksena: There is no break; there are continuous eight-hour shifts. The first shift that begins at 8 in the morning goes on till 4 P.M. and then from 4 P.M. till midnight comes the next shift; the third shift lasts from midnight to morning eight o'clock. Similarly the other shifts starting at 10 A.M. go from 10 A.M. to 6 P.M., 6 P.M. to 2 A.M., and 2 A.M. to 10 A.M. These shifts are continuous. They cannot get any off during the four months of the cane season. So they have to change at midnight.

The Honourable Shri Jagjivan Ram: It is always better to so arrange the shifts that the workers may not have to change at midnight or 2 A.M. You have to start your shift at 6 in the morning, work till 2 P.M., then work up to 10 in the night, from 10 P.M. you work up to 6 in the morning. So there will be no occasion to change the shift at 12 or 2 A.M. in the morning. That is easier than to provide sleeping accommodation.

For the sake of a few sugar factories where the shifts change at midnight, or at 2 A.M., if you make a compulsory provision in this Act it will make it

compulsory even for those textile mills which are in big cities like Bombay, Madras or Calcutta where there is no sufficient accommodation even to provide these lunch rooms, rest rooms, etc., and we cannot expect the industrialists by simply making an absurd provision in the Act, to provide sleeping accommodation for their workers in their factories. On these grounds I do not see I am going to accept it.

Prof. Shibban Lal Saksena: May I ask the Honourable Minister to make this provision at least in the case of sugar factories? These are generally in villages where ample space is available. If power is given to the Provincial Governments they can do it. There is nothing to make the factories work according to the schedule from 6 A.M. to 2 P.M., 2 to 10 P.M. and 10 P.M. to 6 A.M. And even if it is done, one cannot work continuously for the whole night.

Pandit Thakur Das Bhargava (East Punjab: General): May I point out that in sugar factories the quarters of the labourers are on the premises and quite near the factories.

Mr. R. K. Sidhva: It may be that the argument advanced by my friend has some force, but I feel that for the good of the greater number of the workers it is not advisable to do so. We are advocating for housing accommodation for workers near the industry, and if we make such a provision it will give some kind of a loophole for the industrialists to say "Now, you are asking for sleeping room for these workers; that will solve to some extent the problem of accommodation and therefore the housing question may be held over". Therefore, for a section of the industry for which probably the shift-system could be adjusted, as the Honourable Minister stated, it is not desirable that the sleeping room should be provided. If we do it we will give a loophole to the industrialists.

Again, some of the workers may be induced during the working hours to go and sleep if the sleeping rooms were there. And the industrialists might say, "They have so many facilities and they go and connivingly sleep there". We do not want to give any kind of a loophole to the industrialists. We want substantial things to be done for the workers. I for one would ask for the houses to be built and would insist upon them. Therefore I would suggest that this is a local matter which could be adjusted and should not be pressed.

Shri H. V. Kamath (C.P. and Berar: General): Sir, I am of the view that this amendment, if accepted, will not introduce any element of compulsion as the Honourable Minister fears. This amendment of my friend Mr. Saksena makes provision for sleeping room in factories where the shift changes between 10 P.M. and 2 A.M. Of course, if the Honourable Minister says that the shifts should be so arranged as not to change in this fashion, then of course those factories will not be bound by this provision.

As regards Mr. Sidhva's argument that the housing problem may be sabotaged or by-passed or kept in cold storage. I do not think it can hold much water. How long should the workers wait? Till Doomsday? How long have they to wait for houses built near the factory? When they are built, there will be no need for these dormitories inside the factories, but so long as there is no room near the factories and so long as their own homes are far away, there must be some arrangement made for them for rest during night when the shifts change between these hours. To my mind this provision will conduce to the efficiency of nightshift workers. Therefore, I think it is a very salutary provision and I would request the Honourable Minister to accept it in the interest of the working class.

Shrimati Dakshayani Velayudhan: Sir, I wish to support the amendment. I cannot quite agree with the arguments brought forward by the Honourable Minister. It seems that he is in favour of supporting the industrialists. If a law is made, it is for the industrialists to see that it is put into practice. It

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is not for the Honourable Minister to see whether they will be able to give accommodation, to the workers if such a clause is provided there.

Sir, in this Bill, in the first part of the clause the Honourable Minister is leaving out a large number of factories from the benefit of having lunch rooms, rest rooms, etc. There are clauses here which allow women to work in factories at night. There may be factories where women will be coming to work if they are allowed to work in the factory at night. Certainly, they must have some place to sit and rest if they come before the fixed time, and if they could not return after work, even then they must have some place to sit and rest. I think it is quite necessary that this amendment should be accepted in the interests of the workers. We must not deprive the workers of the benefit of having rest rooms and we should not make any provision in the Bill which will put the workers, especially the women workers, into difficulties in finding a resting place. For the men workers, it does not matter where they rest before or after their work, but for women it is quite essential to have some rest rooms. By this I do not mean to advocate the provision allowing women to be employed in factories at night.

Shri Prabhu Dayal Himatsingka (West Bengal: General): I do not think, Sir, that this amendment is at all necessary. Firstly, you will be pleased to see that the Provincial Government has been given power by rules to prescribe the standards of accommodation and rest rooms and other matters have been provided for in sub-clause (3). If in a case the Provincial Government thinks that it is possible and ought to be done, it can prescribe that under the present sub-clause (3). Moreover, as you know, so far as women workers are concerned we have already passed a clause prohibiting their employment after 7 P.M. except in fish curing.

The Honourable Shri Jagjivan Ram: He is thinking of fish curing.

Shri Prabhu Dayal Himatsingka: So I do not think that argument holds good and as the Honourable Minister has said, it may not be possible to have in a large number of factories sleeping accommodation. Therefore, by accepting this amendment you would be putting something which will be impracticable and which will not or cannot be complied with.

Babu Ramnarayan Singh (Bihar: General): I am sorry, Sir, to see a situation in the House when amendments are to be accepted or rejected only according to the will of the Ministers or those who pilot the Bill. If that is the situation, what does the House stand for?

Now, so far as this amendment is concerned, I think that if the industrialists require their labourers to work at night, it is only just, proper and human that they should provide them with sleeping accommodation for the night. Of course, anything can be said about any amendment or any provision. That is another matter, but I think this particular matter is one which ought to receive the attention of the House and this amendment ought to be accepted by the House, no matter what the Minister says or does not say.

The Honourable Shri Jagjivan Ram: Sir, my friend has raised a constitutional point. I have not asked him to support or oppose that amendment. It is for him to decide which way to cast his lot.

On merits, as has been interpreted by Shri Prabhu Dayal Himatsingka discretion rests with the Provincial Governments. But I do not want to create a false impression that it was our intention to give this power to the Provincial Government so that it may require the factories to provide sleeping accommodation as well. That will be stretching it too much and if some Provincial Governments extend it to that extent they may do so, but that was not our intention and it is not my intention even at present to provide sleeping accommodation for the workers in the rest rooms.

Then Mr. Kamath raised a point that it will not become compulsory. I know what it means to make a provision in an Act. Besides, we have to look to the efficiency of the workers. If the shift changes at 2 A.M.—personally I hold that the shift should not change at 2 A.M.—it should be so arranged....

Prof. Shibban Lal Saksena: Will you make provision for that—that the shift should not change at 2 A.M. in the night?

The Honourable Shri Jagjivan Ram: If my friend takes some interest in labour matters and if he claims that he has got some hold on the workers, he can easily see that the shift does not change at 2 A.M. and if he can't even do that, I do not think he has any right to say that he represents the interests of the workers.

So I feel that the shift should not change at 12 midnight or at 2 A.M. There should be no occasion for the workers to sleep in the factories. The shift should end at 10 P.M. and they should return to their houses and they should be in the midst of their families at night. Those who have to change or those who have to work at night will come on at 10 P.M. and work till 6 in the morning and there would thus be no occasion for sleeping accommodation in the factories. Supposing the shift changes at 2 A.M. and there is sleeping accommodation for the workers in the factories, can anybody conceive that a person who retires at 2 in the morning will rise at 6 in the early morning? He would like to sleep till 8 A.M. or 10 A.M. as he does in his house and it will be a very difficult thing to ask the workers to leave the sleeping accommodation early in the morning. That will create complications. So, before we give amendments or before we accept or support the amendments, I would request my friends, especially friends like Babu Ramnarayan Singh to spend some thought as regards the practicability of the proposition and also all the aspects of it before rising and raising some constitutional point.

Mr. Speaker: I need not read again the amendment of Prof. Saksena.

Prof. Shibban Lal Saksena: No, Sir. Although I do not agree with the arguments given by the Minister, still in view of the fact that he is not prepared to accept it, I do not press it. I want permission of the House to withdraw it.

Mr. Speaker: The honourable member wishes to have leave of the House to withdraw his amendment. Has he the leave?

Babu Ramnarayan Singh: No.

Mr. Speaker: As there is one dissentient, leave is considered to be refused. So I shall put the amendment to the House.

The question is:

"That in sub-clause (2) of clause 47 of the Bill, the following be added at the end:

"In these shelters and rest rooms in factories where workers change shifts between 10 P.M. and 4 A.M. there shall be arrangements for the sleeping of workers who change shifts and who desire to sleep therein, and the sleeping place shall be airy and shall be protected from rain and cold."

The motion was negatived.

Mr. Speaker: Does he wish to press the amendment about change of "shall" for "may"?

Prof. Shibban Lal Saksena: No, Sir.

Mr. Speaker: The question is:

"That clause 47 stand part of the Bill."

The motion was adopted.

Clause 47 was added to the Bill.

Shri H. V. Kamath: I shall move my amendment.

Shri O. V. Alagesan (Madras: General): Mr. Speaker, Sir, I have got an amendment for sub-clause (1).

Mr. Speaker: I will take that later on, as it relates to part (d) of sub-clause (3).

Shri O. V. Alagesan: No, Sir. It really relates to sub-clause (1).

Mr. Speaker: Any how, we will take it up after Mr. Kamath's amendment.

Shri H. V. Kamath: Sir, I beg to move:

"That in part (b) of sub-clause (3) of clause 48 of the Bill,—

(i) for the word 'and', occurring in line three, a comma be substituted; and

(ii) after the word 'clothing', the words 'and for playing' be added at the end."

If the amendment is accepted by the Honourable Minister, the clause will read as follows:

(b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing; changing their clothing and for playing."

Sir, I do not wish to expatiate upon the simple theme of children and their play. All of us here are agreed on this point, considering especially that children under the age of 6 are involved here and not merely children of 1 or 2 years. Children under the age of 6 really need something to amuse themselves with during their leisure, but throughout this clause, we do not find any provision for play or recreation of these little children. Those of us who remember our childhood days, I suppose will not seriously object to this amendment which provides for some toys or other little picture books, to which I referred in my speech on the bill the other day. Some provision should be made for children to play with for example toys etc., when their mothers are away and when the washing has been done and their clothes have been changed and they are sitting idle and doing nothing, because if nothing is thus provided for, their minds and bodies might wander into other avenues of mischief, which we certainly want to prevent. In my opinion it will be very wholesome, very salutary, that our Government which has introduced this very progressive labour legislation and has provided for creches also in factories, which is a very progressive measure, should make provision and afford facilities in those creches for children to spend their time pleasantly when their mothers are away from them:

Shri K. Santhanam: May I point out to the honourable member that his amendment adding the words "for playing" will really qualify the women workers and not the children.

Shri H. V. Kamath: No, Sir. I will explain to my honourable friend, it is not so. If he reads the clause very carefully, it will read like this: "... for the care of children belonging to women workers" (and not for the care of women workers) "including suitable provision of facilities for washing," (facilities for children being washed and not women being washed and) "changing their clothing" (changing the children's clothing and not women's clothing). I do not know if the honourable member wants to substitute by the words "for their playing", but certainly if my honourable friend had read the clause and amendment with an eye to proper connotation, construction and syntax, he would not have made the mistake. I therefore think that the words "and for playing" should be added at the end of the clause so as to provide facilities for the children's play and recreation inside the factories when the women or mothers are away from them and they are left to their own resources. Sir, I move this amendment.

Mr. Speaker: Amendment moved:

"That in part (b) of sub-clause (3) of clause 48 of the Bill,—

(i) for the word 'and', occurring in line three, a comma be substituted; and

(ii) after the word 'clothing', the words 'and for playing' be added at the end."

Shri M. Thirumala Rao (Madras: General): Mr. Speaker, Sir, what Mr. Kamath wants to incorporate by way of amendment, I think, is contained in sub-clause (2) where it is mentioned: "shall be under the charge of women trained in the care of children and infants". Women who are trained to take care of children and infants during the absence of their mothers, naturally see that the children spend their time in playing and there is no purpose in again adding another amendment.

The Honourable Shri Jagjivan Ram: I have every sympathy with my honourable friend, Mr. Kamath, but I do not accept his amendment; it is not that I am opposed to it, but because that amendment is superfluous. One cannot conceive of a creche where there is no arrangement for playing of the children. It has been provided that the Provincial Government may make rules prescribing the location and the standard in respect of construction and accommodation, furniture and other equipment of rooms to be provided under this section. Equipment means the equipment of playing things and things like that for the children and this provision is already there. We cannot conceive of a creche without playing things for the children and I hope my honourable friend will withdraw his amendment.

Shri H. V. Kamath: In view of the Honourable Minister's explanation to the effect that he cannot imagine creches without toys and facilities for the playing of the children, I do not think I need press my amendment.

Mr. Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Shri O. V. Alagesan: Sir, I beg to move:

"That in sub-clause (1) of clause 48 of the Bill, the words 'or of such children under their charge' be added at the end."

The object of my amendment is this, Sir. The clause seeks to restrict the benefit to children belonging to the women workers. The object is that the scope should be expanded to include other children that may be actually under their charge and under their care. There may be cases, very hard cases when orphans and other children of near relations like a sister may be brought up by the women workers and it will cause hardship if such cases are not included. Another instance may also be cited. There may be children of the first wife who is no more and the husband may have taken the second wife merely for the purpose of bringing up the children of the first wife. In that case, if this clause is strictly and narrowly interpreted, it will bar such children having the benefit of this clause. There seems to be an apprehension in the mind of the Honourable the Minister that if this clause is liberalised, then, a number of children may be brought in and the employer put to the expense of giving milk to them. I am willing to have the wording of my amendment changed so as to include only children who are actually brought up by these women workers, or children who are actually dependent upon them. I think this amendment is necessary to avoid any of the hardships that I have pointed out. If the Honourable Minister is not willing to accept any of these things, I would request that instructions may be issued to officers vesting them with power to examine such hard cases and decide in their discretion to allow such cases. Sir, I move the amendment.

Mr. Speaker: Amendment moved:

"That in sub-clause (1) of clause 48 of the Bill, the words 'or of such children under their charge' be added at the end."

The Honourable Shri Jagjivan Ram: The honourable mover of the amendment has himself given the reasons and the fate of his amendment. In the last portion of his speech, some suggestion has been made. I will take care to see that in genuine cases the employers extend these facilities to the children who may be really dependant upon the women workers. To make a statutory provision here, Sir, will lead to mis-use of this provision and will throw an unnecessary burden on the employers. I therefore do not accept the amendment.

Shri O. V. Alagesan: In view of the Honourable Minister's assurance, I beg leave of the House to withdraw the amendment.

Mr. Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Speaker: The question is:

"That clause 48 stand part of the Bill."

The motion was adopted.

Clause 48 was added to the Bill.

Shri Upendranath Barman: (West Bengal: General): Sir, I beg to move:

"That in sub-clause (1) of clause 49 of the Bill, for the words 'the occupier', the words 'the Provincial Government' be substituted."

Sir, generally speaking, I quite welcome the idea of a statutory provision for the employment of welfare officers; but my submission is that these welfare officers should be Government servants and not employees of the occupiers. I base my submission on two grounds. First of all, I think it would be rather a cumbrous procedure and that it would create difficulties if the position were that the duties and qualifications of welfare officers, the conditions of their service, etc., are to be fixed by the Government, but their actual employment was to be under the occupier. The occupier also may find it difficult to employ men who will be to the liking of the Government. It may be difficult for the Government also to find fault with the welfare officers and require the occupier to change them. I suppose there will be difficulties in the working of the system. But, my greater reason lies somewhere else. I consider, Sir, that the employment of welfare officers is a necessity for more than one reason. If we divide the activities of the labourers or the working force into two categories, or into two fields, we may do it by confining his activities inside the factory, that is when he is employed in the factory, and his activities outside. So far as the worker is concerned in his actual employment in the factory, if it be the Government's view that in this Factory Bill the Government is concerned with the welfare of the worker while he is employed in the factory, and would very little bother itself with the activities of the workers outside the factory, then of course, the Government may prescribe rules as to the duties of the welfare officers, namely, that he will see whether the rules in the Factory Act itself, and the regulations and instructions that may be issued by the Government are strictly observed by the employer. Even in that case, I should think, Sir, that if the welfare officer be a direct employee of the Government the Government would have a greater control over him, and every defect on the part of the employer in the execution of his duties under the rules and regulations will be at once reported to the Government, and the

Government could take adequate steps. But if the welfare officer be an employee of the occupier, then, he will have a double responsibility. His incentive will be to satisfy somehow the Government by submitting reports; but his main objective will be how to keep his employer satisfied. The objective of the Government will, I think be less fulfilled by a welfare officer employed by the occupier than had the welfare officer been appointed by the Government. I think the Government has got a duty not only to see to the working conditions of labour in the factory, but also to see that the condition of labour, the submerged class, who are ignorant, and uneducated, and who do not know how to live and how to educate their children, is improved. Of course, all the activities of a man cannot be regulated by law. But certainly, if the Government are going to appoint whole-time officers for that purpose, the Government can do much. Side by side with keeping a watch over the activities of the labourers inside the factories, the Government should also try to better their lot outside the factories. If Government have got this comprehensive view of things, that objective cannot be achieved if these welfare officers are not employed by Government. Government must employ these officers and have full control over the activities of these officers without let or hindrance from the occupier or without any divided responsibility of these officers to Government and to the occupier. The labour force I think suffers more in this country on account of their own inefficiency than to the wanton injustice meted out to them by their employers. I know many cases where a labourer gets more wages now than before but that surplus money is not spent on food or consumer goods or in the education of his children. The workers live in the same old miserable state because this surplus money goes in drink. (An Honourable Member: 'Question')? I can answer that question by saying that the liquor shops near about the plantations and factories now sell more liquor than before, which shows where the surplus money of the workers is going. These welfare officers should therefore speak to these workers and point out to them where their good lies, explain to them the harm in buying unnecessary things and the benefit of good food and proper education for their children. That will do a lot of good to these people.

Mr. Speaker: I am afraid the honourable member is going into the widest question of the duties of welfare officers. The point here is as to who should appoint them; he must address himself to that point and to nothing else. I think he has done that sufficiently.

The Honourable Shri Jagjivan Ram: He has another amendment; he is speaking on that

Shri Upendranath Barman: I am explaining the reasons why Government should employ these welfare officers and how they can do better service if they are employed by Government. However, I have nothing more to say.

Mr. Speaker: The honourable member has another amendment the fate of which, I think, will depend on this amendment. That relates to the addition of sub-clause (3). So I will put the amendment to the House.

Amendment moved:

"That in sub-clause (1) of clause 49 of the Bill, for the words 'the occupier', the words 'the Provincial Government' be substituted."

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

*The Assembly then adjourned for Lunch till Half Past Two of the Clock.
Pandit Thakur Das Bhargava, (one of the Panel of Chairmen) in the Chair.*

Mr. Chairman: We are considering the amendment by Shri Upendranath Barman.

Prof. Shibban Lal Saksena: I wish to support the amendment moved by my friend Mr. Barman. I am very glad that he has pointed out that the difficulties which will arise if Labour Welfare Officers are appointed by the management. I have experience of Welfare Officers appointed by some factories. What happens is that they are a sort of Assistant Managers of the Factory who try to see that labour is not able to organise properly and that labour does not become such a force as to be able to bargain for suitable terms of service. Such Labour Welfare Officers do no good. If we are to have real Welfare Officers, in whom labour should have confidence, then Government should appoint them and their expense should be recovered from the factories. That will inspire confidence, because when the Government, which is entrusted with the task of keeping industrial peace, appoints a man, his efficiency will be judged by the fact whether he is able to prevent any breach of the industrial peace there, and as such, he will devote himself wholeheartedly to see that labour is kept contented. He will be a sort of Liaison Officer between the Manager and labour and he will be able to perform the real functions of a Labour Welfare Officer independently.

But if the Manager appoints him, labour will not have faith in him, and he will become a sort of distrusted officer. It will not serve the purpose that the Honourable the Minister has in view. I should think that Mr. Barman has moved this amendment after some good experience that he has had and he therefore thinks that a Labour Officer appointed by Government will inspire confidence and he will see to it that peace is not disturbed and that there is harmony in industry. Also the Manager will feel that the Labour Welfare Officer gives impartial advice which he ought to accept, otherwise the matter will be reported to Government. The advice of such a Welfare Officer, will be something which he cannot easily reject. But if a Labour Welfare Officer, appointed by a Manager, gives some impartial advice which happens to be in favour of labour, the Manager may become angry with him and in future that officer may not dare to give such impartial advice, whereas, an officer appointed by Government will not care for the whims of the employer. He will give that advice which conduces to the peace of the industry.

I therefore think that it is very necessary that the amendment should be accepted. In that case the Labour Welfare Officers will become a real institution. At present the Works Committees are not functioning properly. What happens today is that some one of the management is appointed Chairman of the Works Committee. The Works Committee becomes equally divided on all important questions, with the representatives of labour and those of the employers ranged in opposite camps. The result is that instead of harmony there is friction. Probably a Welfare Officer appointed by the Government may act as a liaison officer and he should be made chairman of the Works Committee. I think the Welfare Officer appointed by Government will be to function as a sort of a cementing medium; he will cement both factions and be able to make the Works Committee work properly. Otherwise they will fail. In fact I stand for abolition of Works Committees altogether as they retard the growth of genuine, strong and independent Trade Unions. If they cannot be abolished then Government must appoint labour officers to act as their chairmen. It is obvious that the Labour Officer appointed by the Manager will have to depend on the good wishes of the employer and cannot be of any help.

So I think that Mr. Barman's amendment is very important and I hope the Minister will see his way to accept it, I am sure the Bill will be much improved if he accepts it. Sir, I support the amendment.

Shri Ajit Prasad Jain: Sir, I wholeheartedly associate myself with the amendment of Mr. Barman. I had given notice of an amendment of a similar nature, which is printed. It was to this effect:

"That in sub-clause (2) of clause 49 of the Bill, the following be added at the end, namely:

'and the person or authority subject to whose approval such officer shall be appointed or dismissed'."

The object of appointing a Labour Officer is to provide some sort of liaison between labour and the management. Experience has shown that if the appointment of the Welfare Officer rests with the management, the Welfare Officer is more prone to become one of the management rather than a person who cares equally for the labour.

In my own district, under the advice of the Employers Association, Northern India, the Tobacco Manufacturers Ltd., appointed a Welfare Officer. Those of us who had any sympathy with labour, or were working for labour, were happy at it. Shortly after we were disillusioned because we found that the officer was more concerned with creating division among the labour and in trying to impose the management's point of view on labour. He proved to be of no use whatsoever. If the present section is retained as it is, namely, that the appointment, dismissal and control of the Welfare Officer rests with the factory, I am afraid that it will not achieve the object for which the appointment of a Welfare Officer is provided. In fact an independent type of Welfare Officer is a useful institution for the factory, both for labour and the management. No person who is entirely in the hands of the management can inspire confidence in labour. My friend Mr. Barman's amendment goes a little further than mine. My amendment simply provides that the appointment and dismissal of the welfare officer shall be with the approval of such person or authority as the provincial government may nominate in that behalf. That authority may consist of one nominee of the Government, a representative of the management and a representative of labour, a sort of Board which will meet from time to time or it may consist of a particular officer who may act in that behalf. Mine is only a halfway house and I think that it would be in the interest of the State, the public as also the factory management and labour that the person appointed for the job should be one who enjoys the confidence of labour and may bridge the gulf between labour and management. Only such man who is not in the hands of the management can do this work and I do hope that the Honourable Minister will see his way to accepting the amendment of my honourable friend Mr. Barman or in the alternative he might accept mine and if there is any indication that he is willing, I shall move mine.

Shri Gopikrishna Vijayavargiya (Gwalior State): Sir, I support the amendment which has been moved by Mr. Barman. I think the labour welfare officer should be appointed by the provincial governments. The experience in my place in Central India has been that the labour welfare officer appointed by the management of different companies work more as spies and divide the working classes rather than do any good to the workers and therefore I think both the amendments put forward by Mr. Barman should be accepted. Then the institution will work very well. I would request the Honourable Minister kindly to accept them.

The Honourable Shri Jagjivan Ram: Sir, this is a provision which was specifically included in this Bill at my instance. I was very anxious that in the larger factories it should be made incumbent on employers to maintain welfare officers. At first my idea was the same as that of some of the honourable members of this House. I was also thinking on the lines that these welfare officers should be appointed by the provincial governments. But there is some difficulty in that. There is another aspect of the proposition as well. If the welfare officer is to be a successful officer, when he has to carry out various

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duties which are not necessarily statutory, unless he has the goodwill of the employer he will not be able to make much headway. A person who is a *persona non grata* with the employers will not be a successful labour welfare officer and more so when he has to execute so many things which are not provided in the Act itself. As regards the statutory part of the Bill we have already provided for the appointment of Inspectors by the provincial governments and these welfare officers are not necessarily meant for carrying out the statutory provisions of this Act. After weighing the advantages and disadvantages of both the arrangements I have come to the conclusion that it would be better if these welfare officers are appointed by the management. They should be persons who should have the confidence of the management, of course subject to such conditions as are to be laid down by the provincial governments under sub-clause 2 of the section. If the proposal of my friend Mr. Jain is accepted the labour welfare officers will be under the dual control of the provincial government and the employer. If the amendment of Mr. Barman is accepted these labour officers will be under the control of the provincial governments and will be *persona non grata* with the employer, with the result that every day they will find obstructions from the employer in carrying out the duties which may be conducive to the welfare of the labourers. Our idea here is that if the labour welfare officer is a man of the employer and he has the necessary training, which may be prescribed by the provincial government and if his duties and conditions of service are also prescribed by the provincial government, these safeguards to some extent will obviate the apprehension which is there that if the man does not please the employer he will be dismissed. Of course it does not go so far as the amendment of Mr. Jain goes but all the same it provides some safeguard against the arbitrary dismissal of the welfare officers. There have been other suggestions *viz.*, that the number might be reduced and so on. I would request the honourable members who have made these various suggestions to allow this scheme to work for sometime. Let us have some experience of working out this scheme and in the light of that experience it may not be difficult for us to amend the Act when the time comes. But for the present I would submit to my honourable friends that it would be in the interest of the workers if these welfare workers are persons enjoying the confidence of the employers, as a sort of personnel of the management itself but with such training and qualifications as may be prescribed. Then there is the other difficulty as well. If these labour welfare officers are Government officers, and if they have to carry out some functions which are not statutory and if the Government presses upon the employers that they have not carried out those instructions, they might turn round and make the plea that the welfare officers happen to be government servants and have not taken as much interest in their work as they ought to. Thus they will try to discredit the labour welfare officer. All these considerations weighed with me and then I finally reached the conclusion that these officers for the present should be employers' men with some safeguards to protect them against arbitrary dismissal and things like that. I hope, Sir, that in view of this explanation my honourable friend will withdraw his amendment.

Shri Upendranath Barman: In view of the Honourable Minister's assurance and in view of the fact that our Government is fully responsible for the execution of the provisions I beg permission of the House to withdraw the amendment.

Mr. Chairman: Has the honourable member got the permission of the House to withdraw his amendment?

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

Mr. Chairman: In view of this I do not think that the amendments of Mr. Jain and Mr. Barman require to be moved. Then I shall put the clause to the House.

The question is:

"That clause 49 stand part of the Bill."

The motion was adopted.

Clause 49 was added to the Bill.

Mr. Chairman: The question is:

"That clause 50 stand part of the Bill."

The motion was adopted.

Clause 50 was added to the Bill.

The Honourable Shri Jagjivan Ram: I move:

"That in clause 51 of the Bill, for the word 'employed', the words 'required or allowed to work' be substituted."

It is a formal amendment. In other clauses we have used this phrase and perhaps due to the oversight of the draftsman and in spite of the vigilance of my friend Mr. Naziruddin Ahmad this has been left out.

Mr. Naziruddin Ahmad: There would have been many more if the Minister would have accepted the amendments. It is sheer helplessness that has made us inactive.

Mr. Chairman: The question is:

"That in clause 51 of the Bill, for the word 'employed', the words 'required or allowed to work' be substituted."

The motion was adopted.

Shri H. V. Kamath: Sir, I move:

"That in clause 51 of the Bill, for the words 'any week', the words 'any one week' be substituted."

Of course my knowledge of the English language is rather meagre, but I think that "any one week" is more in consonance with idiom and usage than "any week." But if our linguistic experts here think otherwise I do not propose to insist on this amendment. If the experts think otherwise I would beg leave of the House to withdraw it later.

The Honourable Shri Jagjivan Ram: I think my knowledge of the English language is more meagre than that of Mr. Kamath, but I have consulted the experts and they have consulted the Oxford dictionary. Their opinion is that "any week" is correct phrase in such a context. "Any" here has the meaning of "one". And my friend may refer to the Oxford dictionary. "Any week" means any one week. But "any one" is ordinarily used in the sense of being single. When you say "take any one of the cards" you mean take a single card or one card. That is not the intention here. The phrase is therefore all right as it stands.

Shri H. V. Kamath: I do not venture to question the authority of the Oxford dictionary. I therefore beg leave of the House to withdraw the amendment.

Mr. Chairman: There is no question of any permission for withdrawal as the amendment has not been placed before the House.

Prof. Shibban Lal Saxena: Sir, I beg to move.

"That in clause 51 of the Bill, for the word 'forty-eight', the word 'forty-four' be substituted."

Sir, this is an amendment of a fundamental character. I wish to point out that the present international standard in this respect is even below forty-eight

[Prof. Shibban Lal Saksena.]

hours per week. It was in the year 1919 that the First International Convention laid down that "there shall be a forty-eight hour week and an eight-hour day". It is now the year 1948, and after thirty years our country has the good fortune to come even upto that 1919 Convention! But since then the world has moved much faster, and everywhere the demand is for a forty-hour week. I wish to draw the attention of the Honourable Minister to certain Resolutions of the International Labour Conference. The first Resolution for a forty hour week was adopted in the year 1932 and for the last sixteen years the International Labour Organisation has been in favour of a forty hour week. I will read out from a Report of the International Labour Office which says:

"A further stage was reached at the 1932 Session of the International Labour Conference, which adopted a Resolution submitted by Mr. Jouhaux, French workers' delegate, drawing attention to the need of international regulations for limiting hours of work to 40 in the week."

This is about a forty-hour week.

The Honourable Shri Jagjivan Ram: What was the fate of that Resolution?

Prof. Shibban Lal Saksena: It was passed and adopted. I will read out to you from the Report. But before I do that I wish to point out one other thing. There are two aspects of this question of hours of work. One is the health of the worker and recreation for him. The second aspect is relief from unemployment. Today in our country we see that there is so much unemployment that our Exchanges are quite unable to find jobs even for all the people who have registered themselves with it. And it is very well known that our country is probably the worst sufferer in unemployment. Therefore, from both these two points of view, firstly from the point of view of the better health of the workers and secondly from the point of view of reducing unemployment amongst workers, I think that we should reduce the hours of work.

I shall now read from the I.L.O. Report. It was in 1932 that the following Resolution was passed:

"In view of the continuance of the present depression with the sufferings it involves, it must be affirmed that palliatives are insufficient and that, if the suffering caused by the economic depression and by unemployment is to be mitigated, the causes of the depression must be directly attacked;

"In view of its prolongation, unemployment must no longer be regarded merely as an effect of the depression; it has become one of the causes which aggravate it;

"The disequilibrium between disproportionately increased production and a capacity for consumption which was insufficient even at the beginning of the depression and which to-day is still further diminished, condemns any policy of wage reduction which experience shows is in contradiction with economic requirements, in addition to being unjust;

"The principal means of restoring the equilibrium which has been upset must be sought in the reduction of hours of work. The increase in individual output renders this measure indispensable and urgent.

"By this means production can be adjusted to the level of a temporarily limited capacity of consumption, available work can be permanently distributed over a larger number of persons, and the unemployed can be reinstated in their positions in the economic system. Further, by this means the wage earners will secure a legitimate share in the benefits of technical progress;

"The Conference accordingly invites the Governing Body of the International Labour Office to investigate the question of the legal institution of the 40-hour week in all industrial countries, with a view to the early adoption of international regulations on the subject."

It was in the year 1935 that a Convention on this question was adopted. The Conference which met in 1935 adopted the following Convention.
3 P. M. The Preamble to the Convention contains the following paragraph:

"The General Conference—

Considering that unemployment has become so widespread and long-continued that there are at the present time many millions of workers throughout the world suffering hardship and privation for which they are not themselves responsible and from which they are justly entitled to be relieved;

Considering that it is desirable that workers should as far as practicable be enabled to share in the benefits of the rapid technical progress which is a characteristic of modern industry; and

Considering that in pursuance of the Resolutions adopted by the Eighteenth and Nineteenth Sessions of the International Labour Conference it is necessary that a continuous effort should be made to reduce hours of work in all forms of employment to such extent as is possible;"

"Article 1 of the Convention introduces the principle of the 40-hour week and indicates the methods by which its application should be ensured."

"It declares approval by the ratifying Members of—

(a) the principle of a 40-hour week applied in such a manner that the standard of living is not reduced in consequence; and

(b) the taking or facilitating of such measures as may be judged appropriate to secure this end;

and undertakes to apply this principle to classes of employment in accordance with the detailed provisions to be prescribed by such separate Conventions as are ratified by that Member."

That Draft Convention was adopted at the Conference in 1935, that is to say the Conference passed a Resolution to that effect.

After having adopted the Draft Convention, the Conference passed the following resolution concerning the maintenance of the standard of living of the workers:

"The Conference—

Having adopted a Draft Convention declaring its approval of the principle of the 40-hour week,

Considering that the application of this principle should not as a consequence reduce the weekly, monthly or yearly income of the workers, whichever may be the customary method of reckoning, nor lower their standard of living,

Invites Governments:

(1) to take appropriate measures in order to ensure that any adjustment of wages and salaries should be effected as far as possible by means of direct negotiations between employers' and workers' organisations concerned; and

(2) after consultation with the organisations of employers and workers concerned, to take or facilitate appropriate measures to enable either of the parties concerned, if agreement between them cannot be reached, to submit the dispute to bodies competent to deal with wage questions, such bodies being set up, where there do not exist, for the purpose; and

(3) to furnish to the International Labour Office periodic reports upon the measures they have taken for the introduction of the 40-hour week and for the maintenance of the standard of living of the workers."

Sir, this was adopted in the year 1935 and during the last thirteen years much progress has been made towards this end. But I may point out for the information of the House that many countries have adopted a 40-hour week. I will take first the U.S.S.R.:

"U. S. S. R.—General principles governing hours of work are incorporated in the Constitution of the U. S. S. R., and the main lines of hours of work policy are laid down by Orders of the Central Executive Committee and the Council of People's Commissaries, one of the most important of these being the Order of 2 January 1929 providing for the gradual introduction of a 7-hour day."

[Prof. Shibban Lal Saksena.]

It was in 1929 that it was adopted in Russia. Coming now to the home of capitalism, America, this is what they say:

"The Government Contracts Act of 1936 requires contracts of a value of more than \$10,000 made by the Federal Government to contain provisions that no employee of the contractor engaged in the manufacture or supply of materials, articles and equipment shall work more than an 8-hour day or a 40-hour week....."

So, even in America, a 40-hour week is provided. Even in small countries like New Zealand, Italy, Equador etc. there are laws laying down that there shall be a 40-hour week. So, what I have suggested in my amendment provides for a transition. I have said that at present we should have a 44-hours week. We may next time—soon enough, I hope—come to a 40-hours week and come in line with the progressive nations of the world.

Sir, in this country where there is so much unemployment it is very important that the weekly hours should be reduced so that a larger number may be employed. Today there are about 35 lakhs of workers in industry. If their hours of work are reduced by one per day, then we can have at least 1/7th of the number of workers more in employment. That means that we will have 5 lakhs more workers in employment; that will not be a small addition to the employed. I am grateful to the Honourable Minister that he has already reduced the weekly hours from 54 to 48 by which means he has employed 5 lac more workers. Now we have emerged out of slavery and become an independent nation. We must walk with the progressive nations of the world. Our country, is suffering from unemployment and we must be all the more anxious to adopt that 40-hour week Convention which by the way will also help us to come in line with the progressive world. Besides our labour will also become contended; they will have more leisure and more recreation. Sir, in our climate which is hotter than the cold countries, work should not be made as arduous as in those countries. I think the Honourable Minister should make a beginning and should accept this amendment which I know is of a fundamental character but which I think will earn the gratitude of the workers for the Honourable Minister.

Sir, with these words, I move the amendment.

Mr. Chairman: Amendment moved.

"That in clause 51 of the Bill, for the word 'forty-eight', the word 'forty-four' be substituted."

Shri Gopikrishna Vijayavargiya (Gwalior State): Sir, I do not want to take the time of the House, but I think I am in support of this amendment and I feel that it should be accepted.

The Honourable Shri Jagjivan Ram: Sir, I wish I could have accepted this amendment. (*An Honourable Member:* 'Do it please') Sir, I am explaining something after hearing which you will perhaps join me in saying that this amendment should not be accepted. It is a simple rule of three. That if a hundred thousand of workers are working 48 hours a week and if the hours are reduced to 44 or 40, a larger number of additional workers will find employment. But I wish my friend would have also considered that in order to employ a larger number of workers it is not simply the reduction of hours of work that is required but certain other factors are also necessary and also whether our country is in a position to afford those factors which are necessary for the employment of a larger number of workers in the same factory or in the same industry all other conditions remaining the same.

If I were to expand this point, it means that if we are to increase the number of workers, we may have in certain cases to increase the number of

machineries. That is not possible and if my friend would have studied the condition in the textile industry, there recently the hours of work were reduced from 9 to 8 to which reduction employer friends attribute the fall in production in textiles and sometimes blame me for the acute shortage of textiles in this country. On this logic, it would have been presumed that by reduction of one hour in the working hour of the textile workers, at least there should be an increase in their number of one-eighth. If there were 100,000 workers in the textile industry, by reducing the hours of work from 9 to 8, there will be 112,000 workers employed in that industry, but it has not been possible to increase the number of workers there, because today we are suffering from shortage of capital goods. Many of our industries have not been able to replace and repair their worn out machinery. We are suffering from transport bottleneck. We are not in a position to transport the coal requirements of the industry. Sometimes we are not in a position to transport even raw materials from one part of the country to the other, with the inevitable result that in spite of the best wishes of the employers to maintain employment of the workers, sometimes they are compelled to force idleness on their workers and I have instances where both representatives of employers and workers have jointly approached me when they were faced with shortage of repairing materials, shortage of millstores, shortage of coal and shortage of raw materials. All these facts have to be taken into consideration before we can suggest that by simple reduction in hours of work we are going to increase the volume of employment in our country! I am equally anxious that I were in a position to solve the unemployment problem in this country and if this was so handy enough as conceived by my friends Prof. Saksena and Mr. Vijavargiya, I would not have hesitated even for a moment to reduce the hours of work not only to 44 but even to 40, but faced as we are today with all these difficulties, it is not advisable to reduce the working hours.

As regards the Conventions and Recommendations, so far the Convention of the I.L.O. is for 48 hours a week. It is only in the case of glass workers that there has been, not a Convention but simply a Recommendation, that they should have a 40 hour week. If I were to explain the procedure of the I.L.O. Convention to my friend Prof. Saksena, I may tell him that it is a tripartite organisation. There are representatives of workers, employers and Governments. Any item which is brought on the agenda of the I.L.O. is discussed twice. There is the first discussion in which the organisation does not reach any decision. It is exploratory. The views of all Governments are invited. Amendments are suggested by the Governments. Then this item is again discussed next year and if it is accepted, either there is a Recommendation or a Convention. The Conventions of the I.L.O. are to be ratified by the Member States. India happens to be a member of the I.L.O. and we have been trying to ratify all the Conventions of the I.L.O. and as regards the hours of work Convention, we have already ratified it and this 48 hours week is in conformity with the I.L.O. Convention. We are not behind any of the other countries in our hours of work. As regards the argument that America has introduced 44 hours, well, America is in a position to do so many things which by the nature of things in our country today we are not in a position to do and we will have to judge whether copying America in this respect will be in the interests of the working classes, whether it will be in the interests of the country. Simply because America has done a thing I do not think we should adopt the same thing blindly. Today, Sir, I feel that this reduction of hours of work will not be even in the interests of the working classes. It will certainly not be in the interests of the country. In addition, it is my feeling that it will not be in the interests of the working classes themselves. You cannot go on exerting pressure over the employers alone. It is a common knowledge that any reduction in hours of work results in reduction in production as well. There might not be

[Shri Jagjivan Ram]

very much reduction in production, but all the same if you reduce the hours of work there will be reduction in production. Of course, there is one view that if the workers do not work for a longer period, their energy will be conserved and next day when they come to the factory that conserved energy will be instrumental in increasing the production. Theoretically, it sounds very well, but in actual practice the result has not been in conformity with this theory and therefore I do not think we have reached a stage where we can think of reducing the hours of work from 48 to 44, more so when we are conforming to the international usage and international Convention in having a 48 hour week. I hope therefore that my friend Prof. Saksena will withdraw his amendment.

Prof. Shibban Lal Saksena: Sir, in view of the fact that the Honourable Minister has assured us that he himself is anxious to bring about the 44 hour week as early as possible and that he will do all he can in this direction, I withdraw my amendment.

Dr. B. Pattabhi Sitaramyya (Madras: General): On a point of information, may I ask the Minister for Labour whether it is not true that in America they have reduced the hours of work in order to reduce unemployment?

The Honourable Shri Jagjivan Ram: I hope, Sir, I have given sufficient reply to that query in my speech.

Mr. Chairman: The honourable member, Prof. Saksena, wishes to have leave of the House to withdraw his amendment.

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

Mr. Chairman: The question is:

"That clause 51, as amended, stand part of the Bill."

The motion was adopted.

Clause 51, as amended, was added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That in the proviso to sub-clause (1) of clause 52 of the Bill, the words 'or for more than three consecutive months without at least twelve such holidays' occurring at the end be omitted."

Sir, this sentence was added in the Select Committee in the misapprehension that if this was not added the workers may be deprived of their legitimate holidays. On further examination we found that as we have provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day, this safeguards the rights of the workers amply. They will get their full quota of holidays under this provision. So this sentence is unnecessary.

Mr. Chairman: The question is:

"That in the proviso to sub-clause (1) of clause 52 of the Bill, the words 'or for more than three consecutive months without at least twelve such holidays' occurring at the end be omitted."

The motion was adopted.

Shri Ajit Prasad Jain: Sir, I beg to move:

"That in sub-clause (1) of clause 52 of the Bill, for the word 'employed', the words 'required or allowed to work' be substituted."

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 52 of the Bill, for the word 'employed', the words 'required or allowed to work' be substituted."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 52, as amended, stand part of the Bill."

The motion was adopted.

Clause 52, as amended, was added to the Bill.

Clause 53 was added to the Bill.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in clause 54 of the Bill, for the words 'nine hours', the words 'eight hours' be substituted."

Sir, I only wanted to draw the Honourable Minister's attention that the convention of 1919 was for 48 hours a week and 8 hours a day, and I hope the labourer should not work for more than 8 hours in one day, so that we can have 6 days of eight hours' work. I also think in consonance with the Geneva Convention the shifts should be so arranged that the worker does not do work for more than 8 hours a day. If 9 hours is kept to be the daily limit, the employers will make the people work for 9 hours and the worker will lose one hour's overtime. If the employer wants to take more than 8 hours work on any day he should pay overtime for it. I therefore think that from the point of view of the International Conventions as well as the worker's right, we should legislate for a 48 hour week and a 8 hour day.

Mr. Chairman: Amendment moved.

"That in clause 54 of the Bill, for the words 'nine hours', the words 'eight hours' be substituted."

The Honourable Shri Jagjivan Ram: We have 48 hours a week, and if the worker has to work for 6 days, it is simple Rule of Three that in a day he cannot work more than 8 hours. We have provided for 9 hours a day so that if on any day he works for 9 hours, he works for a shorter period the other day. If he works today for 9 hours, tomorrow he may work for 7 hours and therefore the weekly limit will be there. I do not think it is going to cause any hardship to the worker; in some cases it may prove beneficial to the worker himself. A worker works for 9 hours today and tomorrow he has got some engagement at home in the evening; then he will work only for 7 hours and get leave earlier and go and see his work. Therefore, I think it is in the interests of the workers, it is desirable, that we should maintain this clause.

Shri M. Ananthasayanam Ayyangar (Madras: General): There is another point also. If my honourable friend Mr. Saksena has succeeded in restricting 48 hours to 44 hours, than distributing 44 hours, you will get 6 days of 7 hours. Then a man may work for more than 8 hours in one day and then reduce it to 7 or 7½ hours of necessity. It follows therefore if a man works less hours in certain days, he must perforce make it up by working 9 hours someother day. Therefore this is only an ancilliary work. When he has lost the elephant, what is the good of catching the tail? My feeling is this is only an ancilliary one or an auxiliary one that when one is first lost, it is lost *suo moto* and *ipso facto*.

Prof. Shibban Lal Saksena: As the Honourable Minister is not going to accept this important amendment, there is no use in getting it defeated and so I beg leave of the House to withdraw my amendment.

Mr. Chairman: Has the honourable member leave of the House to withdraw his amendment?

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

Shri V. S. Sarwate (Indore State): Sir, I beg to move:

"That in clause 54 of the Bill, the following be added at the end:

'and in the case of a shift which extends beyond midnight, for more than eight hours.'"

[Shri V. S. Sarwate]

I wish to bring out the fact that it is probably not denied that work at night is more onerous than work during day-time. So if one has to work 9 hours during day-time, it reasonably follows that he should be allowed to work less during night-time. Therefore, it is suggested that if the shift extends beyond midnight, the working hours should not be more than 8 hours. This is the object in moving this amendment and I hope that the Honourable Minister would have no objection in accepting it.

Mr. Chairman: Amendment moved:

"That in clause 54 of the Bill, the following be added at the end:

'and in the case of a shift which extends beyond midnight, for more than eight hours'."

The Honourable Shri Jagjivan Ram: Sir, I do not see any necessity for that amendment, because in the shifts after midnight neither the worker nor the employer are willing to take overtime work. The worker feels sleepy and the employers know that the production at that time is much less than in the first shift. No employer takes overtime or extra work in the third shift and therefore that amendment is not necessary.

Shri V. S. Sarwate: In view of the assurance given by the Honourable Minister, I beg leave of the House to withdraw my amendment.

Mr. Chairman: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Chairman: The question is:

"That clause 54 stand part of the Bill."

The motion was adopted.

Clause 54 was added to the Bill.

Prof. Shibban Lal Saksena: Sir, I beg to move:

(i) "That in clause 55 of the Bill, for the words 'half an hour', the words 'one hour' be substituted."

(ii) "That in clause 55 of the Bill, the following be added at the end:

'unless the process is a continuous one, and there are three eight hours shifts in the factory each day'."

Sir, I wish to draw the attention of the Honourable Minister to one anomaly in this section. He has provided for half an hour's rest and he has said that nobody shall work for more than 5 hours continuously. 8 hours is the normal working day. If one man works for 5 hours, he can only be required to work for 3 hours more. If after 5 hours you release one shift and only employ the men after half an hour, who will work during the half an hour? This half hour can be no use to him. To be of any use the interval must be of at least one hour. Again suppose in a sugar factory they work from 8 to 4 O'clock, 4 to 12 and 12 to 8 O'clock. You cannot apply the five hours limit here. Hence my amendments.

At least in those factories where there is a continuous process of work and three shifts of eight hours, this should not apply. There cannot be half an hour's rest if there are three shifts. Wherever there is continuous work, there should be no interval.

About half an hour also, Sir, I think it must be made one hour. In factories where there are two shifts there should be at least as much interval as would allow the workers to take their food and if their house is near by, they may go home to take their food. When we are providing for a breaking of shift after five hours, there should be an interval of at least one hour. The worker

goes to the factory at 7 A.M. and works till 12 O'clock. He should have at least a recess of one hour. Then he can continue to work till 4 O'clock. Otherwise, if he is given an interval of half an hour only, he will work from 7 A.M. to 12 O'clock and then from 12-30 P.M. to 3-30 P.M. That would not be a proper shift. A minimum interval of one hour should be provided; half an hour is not sufficient even to have meals. Of course, we may exclude those factories where there is contiguous work of three shifts. I hope this amendment will be accepted. Sir, I move my amendment.

The Honourable Shri Jagjivan Ram: Sir, I wish my honourable friend Professor Saksena had seen section 64.

Prof. Shibban Lal Saksena: I have seen that.

Mr. Chairman: Amendments moved:

(i) "That in clause 55 of the Bill, for the words 'half an hour', the words 'one hour' be substituted."

(ii) "That in clause 55 of the Bill, the following be added at the end:

'unless the process is a continuous one, and there are three eight hours shifts in the factory each day'."

The Honourable Shri Jagjivan Ram: Sir, as regards increasing the period of interval, it is stated here "at least half an hour". There is nothing to prevent a longer interval; it may be one hour; it may be one and a half hours. It all depends on the convenience of the workers and the employers. In some cases, the workers may not like to have a longer interval. They may like to have a shorter interval and get relieved earlier in the evening so that they may return home. In other cases, the workers may require a longer interval. We have provided for both. Where the workers require a shorter period of interval for rest, they must have at least half an hour; where the workers require more, they may have one hour or one and a half hours in consultation with the employers. There is nothing to prevent this.

As regards continuous work, I would refer my honourable friend to section 64 where he will find that the provincial Governments have been given power to exempt certain categories of factories from the provisions of this section, factories where the work is continuous.

I think the honourable member will withdraw his amendments.

Prof. Shibban Lal Saksena: Sir, I beg leave to withdraw the amendments.

Mr. Chairman: Has the honourable member leave of the House to withdraw his amendments?

The amendments were, by leave of the Assembly, withdrawn.

Mr. Chairman: The question is:

"That clause 55 stand part of the Bill."

The motion was adopted.

Clause 55 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I beg to move:

"That in clause 56 of the Bill, the following be omitted, namely:"

The Honourable Shri Jagjivan Ram: Sir, May I intervene for a moment. There has been a minor omission in clause 55. Of course, it is a drafting matter, but it has been omitted. The words "of work" have been omitted in line 1. It should read as "The period of work of adult workers in a factory each day..." It seems to be a printing mistake.

Shri H. V. Kamath: Then, it should be, "Period of work for adult workers"

Mr. Chairman: The period is fixed in clause 51. As it is, the sense is all right.

The Honourable Shri Jagjivan Ram: If you think it is quite right, I have no objection; but it would be more explicit if it is worded as "The period of work of adult workers".

Mr. Chairman: Then you may formally move it.

Mr. Naziruddin Ahmad: The clause has already been passed, Sir.

Mr. Chairman: This is a technical thing; there is no objection.

Mr. Naziruddin Ahmad: It may be done in third reading.

Mr. Chairman: It may be done in the third reading.

Shri Ajit Prasad Jain: Sir, I beg to move:

"That in clause 56 of the Bill, the following be omitted:

"Save with the permission of the Provincial Government and subject to such conditions as it may impose, either generally or in the case of any particular factory."

Sir, while speaking in the course of the general discussion, I had pointed out that the power of exemption given to the provincial Government had been repeated in many cases more than once. This is a case of that kind. Section 56 gives the power to exempt to the provincial Government; so does section 64. Section 65 also does that. I need not go into the details; but even a cursory reading of these three sections would be enough to show that the power of exemption given in this section to the Provincial Government is a redundant power, a repetition of the power given under section 64. In section 64 certain limitations have been laid down. It says:

"In making rules under this section, the Provincial Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2), the following limits of work inclusive of overtime:

(i) the total number of hours of work in any day shall not exceed ten;

(ii) the total number of hours of overtime work shall not exceed fifty for any one quarter;

(iii) the spreadover inclusive of intervals for rest shall not exceed twelve hours in any one day;"

Those limitations do not apply to section 56 as the present arrangement of things stand. Therefore, I suggest, Sir, that it is proper that we should delete the words which form the subject matter of my amendment.

Mr. Chairman: Amendment moved.

"That in clause 56 of the Bill, the following be omitted:

"Save with the permission of the Provincial Government and subject to such conditions as it may impose, either generally or in the case of any particular factory."

The Honourable Shri Jagjivan Ram: Sir, I accept the amendment.

Mr. Chairman: The question is:

"That in clause 56 of the Bill, the following be omitted:

"Save with the permission of the Provincial Government and subject to such conditions as it may impose, either generally or in the case of any particular factory."

The motion was adopted.

Prof. Shibban Lal Saxena: Sir, I move.

"That in clause 56 of the Bill, for the words 'ten and a half hours' the words 'ten hours' be substituted."

This is a provision for spread-over. Nine hours have been prescribed as the maximum every day but it can be spread over to 10½ hours. I think ten hours would be better and I hope the Honourable Minister will accept this amendment.

Mr. Chairman: Amendment moved:

"That in clause 56 of the Bill, for the words 'ten and a half hours' the words 'ten hours' be substituted."

The Honourable Shri Jagjivan Ram: Sir, I do not see any necessity to reduce it by half an hour. It is not going to cause any hardship to the workers and it will not be advantageous to them either to reduce it by half an hour.

Mr. Chairman: The question is:

"That in clause 56 of the Bill, for the words 'ten and a half hours', the words 'ten hours' be substituted."

The motion was negatived.

Prof. Shibban Lal Saxena: Sir, I move:

"That in the Proviso to clause 56 of the Bill, after the words 'the Chief Inspector' the following be inserted:

"after ascertaining the wishes of the workers in the factory through their registered trade unions'."

Here the Chief Inspector of Factories has been given power to increase the spread-over to 12 hours. I think this is a very wide power which has been given to him. This means that although the worker will work for nine hours in the factory he can be made to hang on for twelve hours. For the worker at least these hours are wasted. This is not proper unless it is found to be convenient for the workers themselves; and it is possible only if the workers' unions are consulted. Objection may be taken from some quarters on the ground that there are so many registered trade unions in some factories. I wish to point out in that connection that in November last year the Trade Unions Amendment Act was passed in which it was laid down that among several registered trade unions only those unions will be recognised which satisfy the conditions laid down in the Act. The most representative union will be recognised under that Act and it should be consulted. Therefore if the word "recognised" be substituted for the word "registered" I will be prepared to accept it. In a matter of this kind where the spread-over is to be increased to 12 hours, the chief Inspector should consult the recognised trade union in the factory as to whether there would be any real hardship by the increase in spread-over. I hope this amendment will be accepted. Sir, I move.

Mr. Chairman: Amendment moved:

"That in the Proviso to clause 56 of the Bill, after the words 'the Chief Inspector' the following be inserted:

"after ascertaining the wishes of the workers in the factory through their registered trade unions'."

The Honourable Shri Jagjivan Ram: Sir, I cannot accept this amendment. The Inspector will have to state his reasons for increasing the spread-over to 12 hours, and I do not think there is any necessity to consult the trade unions.

Mr. Chairman: The question is:

"That in the Proviso to clause 56 of the Bill, after the words 'the Chief Inspector' the following be inserted:

"after ascertaining the wishes of the workers in the factory through their registered trade unions'."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 56, as amended, stand part of the Bill."

The motion was adopted.

Clause 56, as amended, was added to the Bill.

Shri H. V. Kamath: Sir, I move:

"That in part (b) of clause 57 of the Bill, for the word 'in' occurring in the last line the word 'towards' be substituted."

This is a minor amendment but upon this I am more positive and more definite that it is the more correct word to be used in this context than I was in respect of the other amendments. If you retain the word "in" in clause 57, counting the hours in a day is something very different from counting the hours towards a day. A schoolboy will say that in a day there are 24 hours. But here the meaning intended is that the hours of work should be reckoned towards the previous day. Therefore I think "towards" is the more apt word; but if our redoubtable champions and valiant knights of the Oxford Dictionary think otherwise, I am prepared to re-consider my position.

Mr. Chairman: Amendment moved:

"That in part (b) of clause 57 of the Bill, for the word 'in' occurring in the last line the word 'towards' be substituted."

The Honourable Shri Jagjivan Ram: Again I will not claim mastery over the English language, but taking a common-sense view I think "counting in" means counting as part and parcel and "counting towards" means counting against or in lieu of. I have been advised that it is quite all right.

Shri H. V. Kamath: I cannot accept that meaning.

Mr. Chairman: The question is:

"That in part (b) of clause 57 of the Bill, for the word 'in' occurring in the last line the word 'towards' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 57 stand part of the Bill."

The motion was adopted.

Clause 57 was added to the Bill.

Clauses 58, 59 and 60 were added to the Bill.

Prof. Shibban Lal Saksena: Sir, I move:

"That in sub-clause (3) of clause 61 of the Bill, after the word 'factory', where it occurs for the second time, the words 'after consulting the registered trade unions of the workers' be inserted."

There are many places in this clause where the Factory Manager has been given the right to fix the shifts—the periods of time during which labourers work in a factory. I want these shifts to be fixed in consultation with the workers. So I have demanded that every Factory Manager should consult the registered trade unions of the workers before fixing the shifts. That will conduce to far greater harmony and industrial peace, and the workers will have the feeling that the shifts have been fixed according to their wishes. That will also help the employer to get more production out of the workers and there is no reason why trade unions recognised by the employers themselves and by Government should not be consulted. I do hope the Honourable the Minister will see his way to accept the amendment.

Mr. Chairman: Amendment moved:

"That in sub-clause (3) of clause 61 of the Bill, after the word 'factory', where it occurs for the second time, the words 'after consulting the registered trade unions of the workers' be inserted."

The Honourable Shri Jagjivan Ram: I do not accept this amendment because in all these matters we will have to give powers to the Managers or the employers to arrange how the workers will work. I am afraid that if we give this power to the trade unions, it will bring ruination upon the trade unions themselves. One set of workers may like to work one way and another set another way. It will also bring ruin on the workers themselves. In the interests of the workers' organisation, I can never agree to such a suggestion.

Mr. Chairman: The question is:

"That in sub-clause (3) of clause 61 of the Bill, after the word 'factory', where it occurs for the second time, the words 'after consulting the registered trade unions of the workers' be inserted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 61 stand part of the Bill."

The motion was adopted.

Clause 61 was added to the Bill.

Clause 62 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I move:

"That in clause 63 of the Bill, for the word 'employed' the words 'required or allowed to work' be substituted."

The Honourable Shri Jagjivan Ram: I accept it.

Mr. Chairman: The question is:

"That in clause 63 of the Bill, for the word 'employed' the words 'required or allowed to work' be substituted."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 63, as amended, stand part of the Bill."

The motion was adopted.

Clause 63, as amended, was added to the Bill.

Clause 64 was added to the Bill.

Prof. Shibban Lal Saksena: Sir, I move:

"That in sub-clause (3) of clause 65 of the Bill, the following be added at the end:

'and no exemption shall be given until the registered trade unions of workers have been consulted.'"

If you see clause 65 you will find that the Provincial Government has been given wide powers for making exemptions about hours of work, about shifts, etc. I think it is most important that the workers' unions should be consulted before these powers are exercised. I was surprised to hear the Honourable Minister reply to the last amendment that the workers themselves did not like it. I really am surprised to hear this thing from the Hon'ble Minister. I feel he is wholly ignorant of the situation. Why should he anticipate that the workers will fight among themselves? We have already laid down in the Trade Union Amendment Act, 1947, that unions with the majority of the workers should be recognised by the employers. I know that recently there have come into being unions formed by millowners in their concerns to make them fight with the genuine workers' unions. But those unions should not be taken into account. I am sorry that ten months have passed and still the

[Prof. Shibban Lal Saksena.]

rules for the recognition of Trade Unions according to the Trade Union Amendment Act 1947, have not been framed by the Honourable Minister. As soon as they are framed, there will be recognised trade unions in every factory and they can always be consulted. It is no use saying that because there are more unions than one, therefore, none will be consulted.

I have only demanded that they should be consulted. Their advice need not be always binding. But the worker's point of view must be found out through their unions. I think this sort of consultation will be very useful as the workers will feel that whatever is being done is being done with their consent, so that they may do more work and may have a greater interest in it. I therefore request the Honourable the Minister to see that the workers are given the right to be consulted before exemptions from the fundamental clauses of the Bill are allowed. Sir, I move.

Mr. Chairman: Amendment moved:

"That, in sub-clause (3) of clause 65 of the Bill, the following be added at the end:

"and no exemption shall be given until the registered trade unions of workers have been consulted."

The Honourable Shri Jagjivan Ram: First we must see the reasons for the exemptions. The exemptions that may be given are mentioned in Sections 51, 54 and 56. These are the provisions relating to weekly hours, weekly holidays, daily hours and a spreadover. Exemptions from these sections are to be given when the factories are to deal with an exceptional pressure of work. We considered these things but there are certain seasonal periods of one or two months when there is so much pressure of work that unless these provisions are relaxed—unless those factories are exempted from the provisions of Sections 51, 54 and 56—there is a danger that there will be a great national loss by those things deteriorating or being damaged, for instance, the tea industry. I have not personally seen how it works but I am told that during one or two months in the year there is so much stress of work that if the work is not carried on during those two or three months, then the whole tea will be damaged and we will lose this valuable commodity which is responsible for giving us considerable foreign exchange resources. This provision has been made for that contingency. I do not think there is any occasion for consulting the workers' organisation there, because if the workers do not agree then the other alternative will be to engage a very large number of workers for the extra pressure of work, which is not possible. It is also, in the interest of the workers that they do the work. This is provided for an emergency and for exceptional pressure of work, which in the very nature of the work is such that the workers will have to do more than what is prescribed for daily, or weekly hours or spread over. I hope Mr. Saksena will not press his amendment.

Mr. Chairman: The question is:

"That in sub-clause (3) of clause 65 of the Bill, the following be added at the end:

"and no exemption shall be given until the registered trade unions of workers have been consulted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 65 stand part of the Bill."

The motion was adopted.

Clause 65 was added to the Bill.

Prof. Shibban Lal Saksena: Sir, I beg to move.....

Mr. Chairman: I might point out to the honourable member that two of his amendments (Nos. 53 and 54 on List V) are for omission. In regard to these it would be better for him to have his say when the clause is put and he can move if he likes his amendment No. 55.

Prof. Shibban Lal Saksena: Sir, this clause has been dissented to by three members of the Select Committee, Messrs. K. Santhanam, Khandubhai Desai and Gokulbhai Bhatt. I have only suggested that this proviso be dropped. It gives power to provincial governments to employ women between 10 P.M. and 5 A.M. There is probably a mistake. It should be 5 A.M. and 10 P.M. Secondly I also want that sub-clause (2) of section 66 should be deleted altogether and in sub-clause (3) for the words "three years" the words "one year" should be substituted. Here we are giving power to the provincial governments to exploit women labour between 5 A.M. and 10 P.M., although they would normally be allowed to work between 6 A.M. and 7 P.M. when I tried to make out a case for.....

Mr. Naziruddin Ahmad: On a point of order, Sir. The clause says "between the hours of 10 P.M. and 5 A.M." and not between 5 P.M. and 10 P.M.

Shri H. V. Kamath: The proviso does not give power to the provincial government to authorise the employment of women between 10 P.M. and 5 A.M. That means to say that they can be employed between 5 A.M. and 10 P.M.

Prof. Shibban Lal Saksena: The other day it was pointed out that there was a misprint.

Shri K. Santhanam: There is a misprint here. We have pointed this out in our minute of dissent. It should be 5 A.M. and 10 P.M.

Prof. Shibban Lal Saksena: Sir, I move:

(i) "That the proviso to sub-clause (1) of clause 66 of the Bill be omitted;"

(ii) "That sub-clause (2) of clause 66 of the Bill be omitted;" and

(iii) "That in sub-clause (3) of clause 66 of the Bill, for the words 'three years', the words 'one year' be substituted."

The argument which the Honourable the Labour Minister gave in reply to the debate on the first reading of the Bill was that the provision is in the interest of female labour. He said that our female labour should be given an opportunity to earn their livelihood by the permission to work between 5 A.M. and 10 P.M. The argument is not convincing. This provision in the Bill I am sure is very harmful and injurious, both to our women and also to society in general. When you permit women to work beyond the hours of 6 A.M. and 7 P.M. which are the accepted hours in the last Factory Act, you are making an innovation. I do not think anything has happened since the last Act to justify this innovation. You cannot say that our women have become so advanced that they should be permitted to do this work. The Honourable Minister said the other day that women in factories are not the women who are abducted and so they need no protection. I do not agree with him. Secondly if the section remains as it is it will for ever close the door for middle class women to work in factories. In other countries middle class women work in factories. If you put this restriction they will be discouraged. The Honourable Minister's purpose was that they should be able to avail themselves of a second shift which usually ends at 10 P.M. and that if women are restricted to work from 6 A.M. to 7 P.M. the factory owners who want to take advantage of cheaper women labour would not employ women. That argument is not convincing. Millowners desiring advantage of cheap female labour will employ them in day shift. Middle class women would not like to work in factories in the night and from the point of view of general morality also it is not proper. As regards sub-clause (2), I think it should be omitted.

[Prof. Shibban Lal Saksena.]

The other day an Honourable Minister said that the habits of fish, which are most conveniently caught in the evening, cannot be cured. But men can be employed to cure the fish instead of women. We should not depart from the accepted principle that women shall not be allowed to work in factories after 7 P.M. in any industry. I think these are grave considerations and the Honourable Minister himself will be convinced on further thought that the existing provisions in the Bill are not proper provisions. As usual he might say 'I will not accept the amendment'. But I think that the opinion of the House and of the country is that this amendment should be accepted. Sir, I move.

Mr. Chairman: Amendments moved:

- (i) "That the proviso to sub-clause (1) of clause 66 of the Bill be omitted;"
- (ii) "That sub-clause (2) of clause 66 of the Bill be omitted;" and
- (iii) "That in sub-clause (3) of clause 66 of the Bill, for the words 'three years', the words 'one year' be substituted."

Shri H. V. Kamath: I have got two amendments. They go together. No. 27 of list 4 hangs upon the fate of No. 28.

The Honourable Shri Jagjivan Ram: Let us finish one at a time.

Mr. Chairman: There is another amendment—No. 26 in list No. 3 by Messrs. Santhanam and Khandubhai Desai. Mr. Kamath's amendment No. 28 in list 4 is the same as that of Prof. Shibban Lal Saksena's amendment No. 52, that the Proviso to sub-clause (1) of clause 66 of the Bill be omitted.

Shri Khandubhai K. Desai (Bombay: General): I have tabled an amendment along with my friend Mr. Santhanam to drop this Proviso, though I do not want to press this amendment now. But I would like to say a word or two on the merits of the amendment which I wished to move. Clause 66 is intended to safeguard and protect the interests of women and children while the Proviso to the clause gives power to the Provincial Government to exempt the protection that has already been given in clauses (a) and (b). Clause (b) lays down that no woman shall work after 7 P.M. At the same time the Proviso gives authority to the Provincial Government to exempt it to the extent of three hours between 7 P.M. and 10 P.M.

Shri H. V. Kamath: And between 5 A.M. and 6 A.M.

Shri Khandubhai K. Desai: That is different. This means that under this Proviso, if the Provincial Government so permits, a woman shall be allowed to work between 7 P.M. and 10 P.M. According to the present Factory Act no women are working after the dusk hours and I think it is a very healthy provision where it exists. It is a very healthy restriction. The factories, as we know, in big towns are situated at very great distances from the areas in which most of the people are living, sometimes one mile, sometimes two miles. Generally in quite a large number of factories the women go with their husbands to work. When under this Proviso the women are not allowed to work after 10 P.M. they will have to go home earlier. But the husband will come home at about 12 or 12-30. What an absurd situation it will create? Again, under clause 48 which has been passed creches are being made compulsory. Therefore the children of these women will have to be looked after. Possibly the employers also will have to make arrangements for maintaining those creches. In these circumstances, I feel that the Proviso be better omitted, provided of course the Government agrees with the views which I have placed before it. The Government might forward and say that the Provincial Governments have been given powers and they will use their discretion. I would like to say that Provincial Governments should not be given these powers and we must lay down statutorily that in this country no woman shall work after 7 o'clock.

Shri H. V. Kamath: I was inclined to agree with the amendment which has been moved by my friend Prof. Shibban Lal Saksena, and it accords with my own—No. 28. I was also inclined to agree with the minute of dissent given by my three friends that the Proviso in its effect is likely to lead to abuses and to prove destructive of the home life of the women workers. But the one consideration which has persuaded me to revise my view is this, that our women friends here, and the solitary woman member on the Select Committee, did not think it fit to support the deletion of this Proviso. So I thought to myself, where women do not want to fight for women, why should men come and fight for them? This has persuaded me to alter my position. In the circumstances—where women are not willing to fight for their own sisters—I think we men need not bother to fight for them. I therefore do not wish to support this amendment.

Shrijut Rohini Kumar Chaudhuri (Assam: General): I think the amendment will be accepted by the Honourable Minister inasmuch as it comes from certain privileged members of this House. I am not briefed to defend the clause, but all the same I can see very good reason for the clause as it stands. If only the word 'unmarried' could be inserted in sub-clause (b) then the whole thing would be perfectly in order. Then sub-clause (b) would run like this "no unmarried woman shall be employed in any factory except between the hours of 6 A.M. and 7 P.M." It is rather unsafe to allow an unmarried woman who goes unattended by any guardian to a factory to come back at a very late hour from the factory. So far as married women are concerned there should be no objection in allowing the husband and the wife to earn their bread and to increase their income by working together at night even in the factory. That is not only beneficial for the greater gain to the family but there will also be greater safety inasmuch as when the husband goes to work the wife is not left alone and unprotected in the house. This is no humour; this is a serious question. It is more dangerous at times to leave the lonely wife at home and allow the husband to go to the factory. In these circumstances the Provincial Government or the Government in power—my honourable friend the Labour Minister—ought to be able to use his discretion in allowing such couples to go to the factory at night and work together.

Shri K. Santhanam: Will you compel the factory owner also to take the wife to the factory?

Shrijut Rohini Kumar Chaudhuri: If both of them are working in the same factory it will be safer, wiser and more beneficial to the labourers themselves if they are allowed to go and work together in the factory. The discretion can also be exercised by the Government in not allowing the couple to go to the factory when they have a large number of children. If they also want to carry the children to the factory it will only hamper the work and in such cases the Minister may have discretion in not allowing the women to work at night in the factory. But in other cases, where it is only a question of a couple, it will be more advisable for the husband to take the wife along with him to work. My honourable friend Mr. Kamath was thinking of the disturbance to the family life of the workers. I would rather say that the family life of the workers would not be disturbed if they were allowed to go together to the factory, or to remain absent from the factory, together. Instead of separating the husband and wife for a long time from 10 P.M. to 5 A.M. and in tempting the man to leave his wife at home alone and go and work in the factory between 10 P.M. and 5 A.M. it is much better to allow both the husband and wife to go at night and work. That would be more beneficial. Therefore, if the Honourable Minister agrees with what I have said, the whole clause should be allowed to stand as it is now. Only a formal amendment should be made inserting the word 'unmarried' in sub-clause (b) between the words "no" and "woman".

Shrimati Dakshayani Velayudhan: Mr. Chairman, I move:

"That sub-clause (3) of clause 66 of the Bill be omitted."

Sir, the other day the Honourable Minister, while explaining his reasons for allowing women to work in factories, said that he was doing so because he can give work to a large number of women by giving them work in the factories by a night shift. This he said was to give work to women who are on the margin of starvation. But I understand that by "shift-system" is meant a change of time of the workers concerned. I don't think more women will come to work if such a shift-system is introduced; if the shift-system comes it gives only a change in time.

Now, I think more women will come to work if only there is a shortage of labour in factories. But we find that there is a shortage of labour only in coal mines and in factories where jobs of a hazardous nature are to be executed by the labourers.

I think these night-shifts can be avoided. The management can very well give work for the women by taking them in the general shift and in the first shift. Even if we suppose that a large number of women are coming to work in the factories at night, it will be advisable on the part of the management to give them work during day time and I don't think that any sensible management will give women work in the factories at night. When we consider the proportion of women labourers to that of men we can say that it is very small.

Sir, the other day I asked whether there is international law allowing women to work in factories at night. The reply of the Honourable Minister was that the international law allows that. But I understand that in countries like America in fact women are allowed to work in the factories at night. The fact that we have to bear in mind is that 90 per cent of the women working either in the U.S.A. or in other Western countries are unmarried girls, widows or deserted wives. But the condition in India is quite different. Here we find that a woman who has got three or four children goes to the factory for work. Mostly the working class woman comes from the Harijan community—I must say that almost 90 per cent. of the working class women come from the Harijan community and I know that the Labour Minister might have understood by this time that what I say is correct.

Therefore, I cannot approve of the provisions of the Bill which provide not a charter of rights but a charter of slavery to many women. We can do one thing if the Honourable Minister is determined to encourage women to come to factories at night for work. (An Honourable Member: 'He is determined') What is done in America is this: the girls who go to the factories for work are given more wages than the men. If the Honourable Minister can do this thing I think that will be the best thing he could do. If he could induce the employers and the Government to bring in legislation of this kind and add more wages for the women who work in factories, he would succeed in giving them work.

Sir, I must be failing in my duty if I don't mention a word of congratulation here. I congratulate the honourable members who have written a Minute of Dissent. In fact, I concur with the opinion expressed by the three members but we must not forget that there was a lady member of this House who gave her assent to the provisions of this clause. Mr. Kamath said that he is not prepared to fight for women when women are not prepared to fight. I can say that I am prepared to fight.

Sir, I move my amendment and I heartily support the amendments moved by Mr. Saksena.

Mr. Chairman: Amendment moved:

"That sub-clause (3) of clause 66 of the Bill be omitted."

The Honourable Shri Jagjivan Ram: Sir, I have nothing to add to what I said during the discussion of the motion for consideration of this Bill. I may add only one point that this is quite in conformity with the International Labour Organisation's Convention, and that being a Member of the International Labour Organisation, we cannot bring in any legislation which goes beyond the recommendations or convention of the International Labour Organisation. This is quite in keeping with the Convention of the International Labour Organisation. I think, Sir, that this provision is very necessary and I don't accept any of the amendments.

Mr. Chairman: Does Mr. Jain wish to move his amendment?

Shri Ajit Prasad Jain: Sir, I move:

"That in the Proviso to sub-clause (1) of clause 66 of the Bill, after the word, brackets and letter 'clause (b)', the word 'but' be inserted."

The Honourable Shri Jagjivan Ram: Sir, I accept it.

Mr. Chairman: I will put the last amendment first.

The question is:

"That in the Proviso to sub-clause (1) of clause 66 of the Bill, after the word, brackets and letter 'clause (b)', the word 'but' be inserted."

The motion was adopted.

Mr. Chairman: I shall now put the amendments one by one.

The question is:

"That the Proviso to sub-clause (1) of clause 66 of the Bill be omitted."

The motion was negatived.

Mr. Chairman: The question is:

"That sub-clause (2) of clause 66 of the Bill be omitted."

The motion was negatived.

Mr. Chairman: The question is:

"That sub-clause (3) of clause 66 of the Bill be omitted."

The motion was negatived.

Mr. Chairman: The question is:

"That in sub-clause (3) of clause 66 of the Bill, for the words 'three years' the words 'one year' be substituted."

The motion was negatived.

Shri H. V. Kamath: I have also got an amendment to clause 66. It is No. 27 in list No. 4. Amendment Nos. 28 and 27 go together and I gave notice of amendment No. 27 just to provide against the contingency of the acceptance of amendment No. 28. Now that 28 has been defeated there is no need for amendment No. 27. So I do not move it. It has no relevance now. It reads as follows: "That in part (b) of sub-clause (1) of clause 66 of the Bill, for the figures, letters and word '6 A.M. and 7 A.M.' the figures, letters and word, '5 A.M. and 8 P.M.' be substituted."

Mr. Chairman: The question is:

"That clause 66, as amended, stand part of the Bill."

The motion was adopted.

Clause 66, as amended, was added to the Bill.

Clauses 67 to 70 were added to the Bill.

Prof Shibban Lal Saksena: Sir, I beg to move:

"That in part (a) of sub-clause (1) of clause 71 of the Bill, the words 'and twenty-four hours in any week', be added at the end."

Sir, here children between the ages of 14 and 15 years are forbidden to work for more than 4½ hours a day, but no limit has been placed on their weekly hours of work. I wish that limit was provided and children between 14 and 15 years of age were not permitted to work for more than twenty-four hours a week. That would mean that they can work for four hours every day for six days and get a holiday on the 7th day and if there is any emergency they may work up to 4½ hours a day, but normally they should not be required to work for more than 24 hours in the week. I hope the amendment will be accepted.

Mr. Chairman: Amendment moved:

"That in part (a) of sub-clause (1) of clause 71 of the Bill, the words 'and twenty-four hours in any week', be added at the end."

The Honourable Shri Jagjivan Ram: Sir, we have raised the age of children from 13 to 14. No person below the age of 14 can be required to work in a factory and as provided here the maximum number of hours in a week is 27. I do not think that is too much for a child.

Mr. Chairman: The question is:

"That in part (a) of sub-clause (1) of clause 71 of the Bill, the words 'and twenty-four hours in any week', be added at the end."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 71 stand part of the Bill."

The motion was adopted.

Clause 71 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I beg to move:

"That in sub-clause (1) of clause 72 of the Bill, after the word 'required' occurring in line five, the words 'or allowed' be inserted."

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 72 of the Bill, after the word 'required' occurring in line five, the words 'or allowed' be inserted."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 72, as amended, stand part of the Bill."

The motion was adopted.

Clause 72, as amended, was added to the Bill.

Clauses 73 and 74 were added to the Bill.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in clause 75 of the Bill,—

(i) before the word 'Where' occurring in line one, the figure and brackets '(1)' be inserted; and

(ii) the following new sub-clause be added:

"(2) The occupier shall be called upon to show cause why he should not be prosecuted for having allowed a young person to work without a certificate of fitness, and if no satisfactory explanation is forthcoming, the Inspector shall report the case for prosecution."

Sir, clause 75 says that the Inspector shall visit the factory and see that no young person is working without a certificate of fitness, and if any one is so working he shall call upon the Manager to produce the person before a doctor for examination and until that young person is given a certificate of fitness he shall not be employed. That is all right. But no penalty is provided for the employer who permitted such a thing.

Shri K. Santhanam: Clause 92 provides all penalties.

Prof. Shibban Lal Saksena: That is a general clause for all punishment. But what I wish to point out is that here the Inspector if he finds that a child labourer employed in a mill is below the age of 14 he will merely serve a notice on the employer requiring that such child be examined by a certifying surgeon. But no penalty is provided for having allowed such a child to work.

Shri K. Santhanam: Then what about clause 92?

Prof. Shibban Lal Saksena: I do not think that penalty would be enforced, because this clause definitely says:

"He may serve on the manager of the factory a notice requiring that such person or young person as the case may be, shall be examined by a certifying surgeon, and such person or young person shall not, if the Inspector so directs, be employed.....until he has been examined and granted a certificate of fitness."

There is no penalty provided here.

I think that in such cases wherever such men are found they will be sent to the certifying surgeon and then after they refuse to certify him as fit, the child will not be allowed to work. I do not think the manager will be prosecuted for having employed child labour below 14 years of age. What I want is that wherever a young person is allowed to work without a certificate of fitness the occupier should be prosecuted. Sir, I move.

Mr. Chairman: Amendment moved:

"That in clause 75 of the Bill,—

(i) before the word 'Where' occurring in line one, the figure and brackets '(1)' be inserted; and

(ii) the following new sub-clause be added:

"(2) The occupier shall be called upon to show cause why he should not be prosecuted for having allowed a young person to work without a certificate of fitness, and if no satisfactory explanation is forthcoming, the Inspector shall report the case for prosecution."

The Honourable Shri Jagjivan Ram: Sir, this amendment is unnecessary in view of the general penalty clause provided in section 92. I do not accept this amendment.

Prof. Shibban Lal Saksena: In view of the fact that the Honourable Minister is not going to accept the amendment, I beg leave of the House to withdraw my amendment.

Mr. Chairman: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Chairman: The question is:

"That clause 75 stand part of the Bill."

The motion was adopted.

Clause 75 was added to the Bill.

Clauses 76 to 78 were added to the Bill.

Prof. Shibban Lal Saksena: Sir, I move:

(i) "That in part (i) of sub-clause (1) of clause 79 of the Bill, for the word 'twenty', the word 'fifteen' be substituted."

(ii) "That in part (i) of sub-clause (1) of clause 79 of the Bill, for the word 'ten', the word 'fifteen' be substituted."

(iii) "That in part (ii) of sub-clause (1) of clause 79 of the Bill, for the word 'fifteen', the word 'ten' be substituted."

(iv) "That in part (ii) of sub-clause (1) of clause 79 of the Bill, for the word 'fourteen', the word 'twenty' be substituted."

Sir, this is a clause about annual leave with wages and in this clause it is provided that an adult for every twenty days of work shall get one day's holiday and in the case of a child for every fifteen days' work it will have one day's holiday. This present clause means that if a factory work for about 300 days in the year an adult worker will have 15 days' leave in a year and a child will have 20 days' leave. I think these periods are not sufficient and therefore, I want to provide that for every 15 days' work the adult should have one day's leave and for every 10 days' work the child should have one day's leave. On this basis every adult will have 20 days' leave and every child 30 days' leave in the year. I think that in other countries, they have more holidays than we have provided here and in the Railway Workshops also as the Honourable Minister knows there are more holidays and I do not see why every other industry should not be brought on the same level. I therefore, hope that the Honourable Minister will see his way to make leave rules more liberal. I therefore hope that this amendment to the clause about annual leave which is very important will be accepted by him. Sir, I move.

Mr. Chairman: Amendment moved:

(i) "That in part (i) of sub-clause (1) of clause 79 of the Bill, for the word 'twenty', the word 'fifteen' be substituted."

(ii) "That in part (i) of sub-clause (1) of clause 79 of the Bill, for the word 'ten', the word 'fifteen' be substituted."

(iii) "That in part (ii) of sub-clause (1) of clause 79 of the Bill, for the word 'fifteen', the word 'ten' be substituted."

(iv) "That in part (ii) of sub-clause (1) of clause 79 of the Bill, for the word 'fourteen', the word 'twenty' be substituted."

The Honourable Shri Jagjivan Ram: I personally feel that the leave provided here is enough for the present. As regards the point that has been raised by him that in some of the concerns in factories workers are getting more liberal leave, they are protected under the proviso to section 78. Wherever the workers are getting more leave they will continue to get it; they are not going to be affected I hope my honourable friend will not press his amendments.

Prof. Shibban Lal Saksena: In view of what the Honourable Minister has said, I beg leave of the House to withdraw my amendments.

Mr. Chairman: Has the honourable member leave of the House to withdraw his amendments?

The amendments were, by leave of the Assembly, withdrawn.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That the first Proviso to sub-clause (1) of clause 79 of the Bill be omitted."

Sir, the period of leave will also include any holiday that may fall during the period. Assuming 15 days to be the annual leave for an adult and 20 days to be the annual leave for a child if the leave is taken at a stretch, it is quite possible that some normal holidays may fall during this leave period and if these holidays and Sundays are not excluded in counting 15 days or 20 days annual leave, the worker who takes all his annual leave at a stretch from one

who absents himself every twentieth day. But I do not see any reason why a worker should not be encouraged to take the leave at a stretch. It will be better for the industry if the worker does not leave his duties every now and then, but goes on leave at a stretch. The provision as it stands at present must, therefore, be amended, Sir, I move.

The Honourable Shri Jagjivan Ram: Sir, I do not accept it.

Mr. Chairman: The question is:

"That the first Proviso to sub-clause (1) of clause 79 of the Bill be omitted."

The motion was negatived.

Shri Ajit Prasad Jain: Sir, I move:

"That for the second Proviso to sub-clause (1) of clause 79 of the Bill, the following be substituted:

"Provided further that any worker whose services are terminated and who has completed a period of more than four months continuous service in a factory since his employment or the termination of a period for which he has earned leave under sub-section (1) shall be entitled to leave in the same proportion as the period of such service bears to the period of twelve months and the occupier of the factory shall pay to such worker the amount payable under section 80 in respect of the leave to which he has become entitled."

Sir, I want the honourable Minister to give earnest attention to the amendment which I have moved. The present proviso is not clear. It reads thus: "Provided further that where the employment of a worker who has completed a period of four months continuous service in a factory is terminated before he has completed a period of twelve months' continuous service, he shall be deemed entitled to leave....." This proviso lays down two conditions namely, that the worker must have completed four months continuous service and the service must have been terminated before the expiry of a period of twelve months continuous service. It does not lay down when that period of four months should begin. The two conditions together would mean that if a worker has completed four months period of continuous service, he will be entitled to proportionate leave. But, take the case of a worker who has completed 18 months of service. He should ordinarily earn full leave for the first twelve months of continuous service and for the remaining six months he is entitled to proportionate leave. Under this proviso, as it stands, if it is carefully read, a worker who has completed 18 months of continuous service will not come in because then he would have completed more than twelve months of continuous service. He will not satisfy the second condition. It is with this view that I have moved this amendment. I have clearly specified when the period of service will begin. I have said: that the period of four months must have expired since his employment or the termination of a period for which he has earned leave under sub-section (i). If a worker has worked for 18 months, he would earn full leave under sub-section (1) for the first twelve months and then for the remaining six months he gets proportional leave. That position is not clear from the present proviso. A correct interpretation of the present proviso, as I take it to be, would be that it would apply to a worker who has completed four months service and not to one who has completed one year or two years or three years plus four months. I hope the Honourable Minister would see his way to accept this amendment, or, at least to hold over the clause to have it re-examined from the point of view which I have put before the House.

Mr. Chairman: Amendment moved:

"That for the second Proviso to sub-clause (1) of clause 79 of the Bill, the following be substituted:

'Provided further that any worker whose services are terminated and who has completed a period of more than four months continuous service in a factory since his employment or the termination of a period for which he has earned leave under sub-section (1) shall be entitled to leave in the same proportion as the period of such service bears to the period of twelve months and the occupier of the factory shall pay to such worker the amount payable under section 80 in respect of the leave to which he has become entitled'."

Shri K. Santhanam: I am afraid, the honourable member has misunderstood the scope of this proviso. This is intended to apply to seasonal factories. In the case of perennial factories, there is a continuous period of a year, and that has been defined later on and the ordinary leave rules would apply. But, in sugar factories and other factories if they work for a minimum period of four months and then they are discharged, and then re-employed every year...

Shri Ajit Prasad Jain: May I ask a question? Is it the implication that in the perennial factories where a worker has worked for six months and then his service is terminated he shall not be entitled to leave under this proviso?

Shri K. Santhanam: It seems he will come under this. There, it is not a question of dismissal; it is termination. Termination may be either by the employer dismissing him or the worker leaving service or the factory closing. According to his amendment, it may be terminated by the worker himself in which case he does not want that leave should be given. Ordinarily, leave is earned only after one year of continuous service. This is meant for special circumstances. I do not think it is wise to tamper with the section as we do not know what its implications will be. Therefore, it has been provided after a great deal of consideration and this is intended mainly for the people in the seasonal factories. Because we have removed the distinction between seasonal and perennial factories, this has become necessary.

Mr. Chairman: The question is:

"That for the second Proviso to sub-clause (1) of clause 79 of the Bill, the following be substituted:

'Provided further that any worker whose services are terminated and who has completed a period of more than four months continuous service in a factory since his employment or the termination of a period for which he has earned leave under sub-section (1) shall be entitled to leave in the same proportion as the period of such service bears to the period of twelve months and the occupier of the factory shall pay to such worker the amount payable under section 80 in respect of the leave to which he has become entitled'."

The motion was negatived.

Prof. Shibban Lal Saxena: Sir, I beg to move:

"That in sub-clause (4) of clause 79 of the Bill, for the words beginning with the words 'Works Committee of the factory' and ending with the words 'similar committee in the factory', the following be substituted:

'most representative registered trade union in the factory or if there is no such union in existence';" and

"That in sub-clause (5) of clause 79 of the Bill, for the words 'Works Committee or a similar Committee or', the words 'most representative registered trade union in the factory', be substituted."

Sir, sub-clauses (4) and (5) really give the management power to prepare plans according to which they will give leave to workers. The Honourable Minister has recognised that in this matter the workers should be consulted. What he has provided for is that although the manager will prepare the plan yet, he will consult the Works Committees and not the unions. I think the

consultation should be with the most representative trade union in the factory. According to the Act which we have passed on November 21, 1947, a Union which is most representative will be recognised, and that Union should be consulted. Otherwise what happens is this. The factory owner prepares a scheme which the workers do not like. It goes to the Works Committee where the factory owner has an equal number of nominees of his own, and he wins over our workers representative to his side, his scheme is accepted by the majority of the Works Committee. There would be real consultation with the workers' only if the trade union of workers is consulted. Therefore in these two clauses, instead of the Works Committees, the Trade Union which is most representative should be substituted. The Works Committees are not working satisfactorily now. At present, what happens is, that whatever quarrel there is in the factory, it is put before the Works Committee and the management and the workers get equally divided so that the employer gets an opportunity of postponing the dispute. Then the dispute goes to Conciliation Board and so the process goes on. The Works Committees are really trying to supersede the Trade Unions; I do not want this to happen. I want the Trade Unions to be living things. I am surprised that the Honourable Minister is laughing at this.

The Honourable Shri Jagjivan Ram: No; I am enjoying.

Prof. Shibban Lal Saxena: What I say is that the Trade Unions which are most representative of the workers should have the power to say whether the plan is satisfactory or not. As there are an equal number of representatives of the factory owners in the Works Committee, that cannot represent the voice of the workers. I therefore want in these two clauses that recognised Trade Unions should be substituted for Works Committees. Only in November last this House passed the Trade Unions Amendment Act laying down that representative Trade Unions should be recognised. But in this whole Bill I do not find any mention of Trade Unions anywhere. It seems the Honourable Minister is frightened by the word Trade Union. But I want that the Trade Unions should have the real authority and not the Works Committees, so that the workers may feel that it has been done with their consent. Otherwise there will be quarrel and friction. There will be deadlocks in Works Committees and then references to industrial courts, etc. So in the interest of industrial peace I suggest that Works Committees should be replaced by Trade Unions in this clause.

Mr. Chairman: Amendment moved:

"That in clause 79 of the Bill—

(i) in sub-clause (4), for the words beginning with the words 'Works Committee of the factory' and ending with the words 'similar committee in the factory' the following be substituted:

'most representative registered trade union in the factory or if there is no such union in existence';" and

(ii) in sub-clause (5) for the words 'Works Committee or a similar Committee or' the words 'most representative registered trade union in the factory' be substituted."

The Honourable Shri Jagjivan Ram: Sir, I am surprised to hear the arguments of my honourable friend. The primary object of trade unions is to make the workers conscious, and once that is done I do not see why they should grumble. It is not intended that they should lead the workers for all time and that the workers should always be spoon-fed by their leaders. The object of trade unions is to make the workers stand on their own legs, and that is what this clause seeks to do. It is not only that the works committees will be consulted but the scheme is to be prepared in agreement with the works committees. I will invite my honourable friend's attention to these words "in agreement". It is not simply consultation but in agreement. And if the works committees cannot represent the workers in a factory I doubt whether

[Shri Jagjivan Ram]

the trade unions can represent them better. I want to encourage trade unionism so that the workers may be taught to stand on their own legs, but I do not want that leaders should have free scope to exploit them for all time.

Mr. Chairman: The question is:

"That in clause 79 of the Bill—

(i) in sub-clause (4), for the words beginning with the words 'Works Committee of the factory' and ending with the words 'similar committee in the factory' the following be substituted:

'most representative registered trade union in the factory or if there is no such union in existence';" and

(ii) in sub-clause (5) for the words 'Works Committee or a similar Committee or' the words 'most representative registered trade union in the factory' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 79 stand part of the Bill."

The motion was adopted.

Clause 79 was added to the Bill.

Clauses 80 to 83 were added to the Bill.

Prof. Shibban Lal Saksena: Sir, I move:

"That in clause 84 of the Bill the following be added at the end:

'but only after the consent of the most representative registered trade union in the factory has been obtained'."

Here again very important powers are being given to Provincial Governments to exempt factories and I wish trade unions to be consulted by the Provincial Governments before giving such exemptions because Government should at least know what the workers feel before they decide to give exemptions.

Shri K. Santhanam: These rules will be duly published and the workers like others will have full opportunities of expressing their views.

Mr. Chairman: The question is:

"That in clause 84 of the Bill the following be added at the end:

'but only after the consent of the most representative registered trade union in the factory has been obtained'."

The motion was negatived.

Shri H. V. Kamath: Sir, I move:

"That in clause 84 of the Bill for the words 'substantially similar to those' the words 'not less favourable than those' be substituted."

The Honourable Shri Jagjivan Ram: Sir, I accept the amendment.

Mr. Chairman: The question is:

"That in clause 84 of the Bill for the words 'substantially similar to those' the words 'not less favourable than those' be substituted."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 84 as amended, stand part of the Bill."

The motion was adopted.

Clause 84, as amended, was added to the Bill.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Saturday, the 28th August, 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Saturday, 28th August, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I).

11-45 A.M.

INDIAN INCOME-TAX (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Income-tax Act, 1922.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Income-tax Act, 1922."

The motion was adopted.

The Honourable Shri K. C. Neogy: Sir, I introduce the Bill.

INDIAN NAVY (DISCIPLINE) AMENDMENT BILL

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I beg to move for leave to introduce a Bill to amend the Indian Navy (Discipline) Act, 1934.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Indian Navy (Discipline) Act, 1934."

The motion was adopted.

The Honourable Sardar Baldev Singh: Sir, I introduce the Bill.

FACTORIES BILL—*conold.*

Mr. Speaker: The House will now proceed with the further consideration of the Factories Bill.

The question is:

"That clause 85 stand part of the Bill."

The motion was adopted.

Clause 85 was added to the Bill.

Mr. Speaker: The question is:

"That clause 86 stand part of the Bill."

Shrimati Renuka Ray (Bengal: General): Sir, I have an amendment to this clause.

Mr. Speaker: The honourable member should have stood up earlier. However, I find that it was my mistake not to have seen the amendment and therefore I will adopt the very unusual course—perhaps this is the first occasion—of opening up discussion of and allowing the moving of an amendment to a clause which I had put to the vote of the House. The honourable member may move her amendment.

Shrimati Renuka Ray: Sir, I move:

"That to clause 86 of the Bill, the following Proviso be added:

'Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution submit, for the approval of the Provincial Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the Provincial Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.'

I think the wording of this amendment speaks for itself and there is no need for me to go in for much elaboration. It is very important that this proviso should be added so that no factory or workshop may masquerade as a training institution and take advantage of this exempting clause in any way. There is such a proviso in the British Factories Act which has proved very useful and salutary. I feel that unless this proviso is inserted there is likely to be misuse of the exemption granted in this clause. I hope the Honourable Minister will accept this amendment. I do not think it takes away the elasticity that he wants to give to the Provincial Governments in these matters, because after all the addition of this proviso will only strengthen the hands of the Provincial Governments.

The Honourable Shri Jagjivan Ram (Minister for Labour): Sir, I accept the amendment.

Mr. Speaker: The question is:

"That to clause 86 of the Bill, the following Proviso be added:

'Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution submit, for the approval of the Provincial Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the Provincial Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.'

The motion was adopted.

Mr. Speaker: The question is:

"That clause 86, as amended, stand part of the Bill."

The motion was adopted.

Clause 86, as amended, was added to the Bill.

Shri S. V. Krishnamurthy Rao (Mysore State): Sir, I move:

"That in clause 87 of the Bill, for the word 'upon', wherever it occurs, the word 'in' be substituted."

Mr. Speaker: The question is:

"That in clause 87 of the Bill, for the word 'upon', wherever it occurs, the word 'in' be substituted."

The motion was adopted.

Prof. Shibban Lal Saksena (U.P.: General): Sir, I move:

"That in part (c) of clause 87 of the Bill, after the word 'operation', the words 'and for the insurance of their lives, of which half the cost shall be borne by the factory', be inserted."

Sir, here in this Factories Act we have provided safeguards for a certain section of workers. But there are other dangerous occupations where life is in great hazard. In some occupations, danger of slow death is a certainty. So if workers have to be employed in such occupations; their lives should be insured and half the cost of the insurance should be borne by the factory. Then if a worker knows that he is engaged in an occupation which will lead to his sure death, he will at least have the satisfaction to be able to make provision for his family, and as he himself cannot bear the entire burden, I think the factory owner should pay half the cost of the insurance. I think this is a very important provision and should be accepted. Sir, I move.

Mr. Speaker: Amendment moved:

"That in part (c) of clause 87 of the Bill, after the word 'operation', the words 'and for the insurance of their lives, of which half the cost shall be borne by the factory', be inserted."

The Honourable Shri Jagjivan Ram: I wish my friend, Prof. Saksena had gone through the Employees State Insurance Act, recently passed by the House. What he wants is not only covered by that Act, but there we have provided something more. He wants only half from the employers. But we have provided for two-thirds from the employers and one-third from the worker. I do not know how.....

Prof. Shibban Lal Saksena: But will that be available for persons whose lives are subject to a slow death?

The Honourable Shri Jagjivan Ram: That is covered.

Mr. Speaker: Then what is the position? Does the honourable member wish to press his amendment?

Prof. Shibban Lal Saksena: In the circumstances, I wish to have the leave of the House to withdraw.

Mr. Speaker: Has the honourable member the leave of the House to withdraw?

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

Mr. Speaker: The question is:

"That clause 87, as amended, stand part of the Bill."

The motion was adopted.

Clause 87, as amended, was added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That for clause 88 of the Bill, the following be substituted:—

"88. *Notice of certain accidents.*—Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed."

This amendment has become necessary due to oversight of my experts. In the present clause it has been said that if the worker is unable "to work at any time during the 72 hours"—which will mean that if a worker has even got a simple bruise in the finger and is unable to work for ten minutes—a report will have to be made. That will cause unnecessary difficulties to the industry and it will become difficult even for the office of the Chief Inspector of Factories to maintain such records.

Another difficulty will be that all the statistics which the Government is collecting in this respect, is based on the premise that a worker is unable to work for two days or more due to accident. So for purposes of comparison as to how far we have proceeded with the provisions for efficient improvement in the safety measures of the factories, it will not be possible if the period is increased or reduced. So my amendment seeks to have the provision as in the existing Act.

Mr. Speaker: Amendment moved:

"That for clause 88 of the Bill, the following be substituted:—

"88. *Notice of certain accidents.*—Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed."

Mr. Naziruddin Ahmad (West Bengal: Muslim): The marginal note which has now migrated into the clause, is being read as part of the motion. I submit, Sir, that on account of their proximity to the clauses, they produce an optical illusion that these are something like headings to the sections. We find in amendment No. 4 of list No. 7 by Shri S. V. Krishnamurthy Rao that he regards these marginal notes as 'headings' to the section. I submit that they are really marginal notes, although printed for purpose of convenience to look like headings of sections and should not be read when making the motion. If they are so read then they become a part of the section. As a matter of fact it is not intended that they should be part of the section. So as a matter of practice, both in making amendments and motions, and also in putting the same to the House, the marginal notes should be omitted. There is a tendency among many authorities to regard this as part of the section on account of the printing. I submit that this point should be settled.

Mr. Speaker: I accept the suggestion of the honourable member and next time, even when they are parts of the amendments proposed, I do not propose to put them to the House. That will clarify the position.

Prof. Shibban Lal Saksena: Sir, the matter of reporting accidents in factories is at present in a very deplorable state. I know of many factories where accidents occur but are never reported. By substituting the old section we are not doing justice to the whole problem. In this respect I think we should take guidance from the British Act. There they have a whole chapter on accidents and when an accident occurs somebody immediately goes and visits the factory and makes a report. Mere reporting is not enough. There are

enough penalties prescribed for failure. Even though it may not be possible to introduce any further amendments in this Bill I hope in the Workmen's Compensation Act the Honourable Minister will introduce such provisions, so that every worker who meets with an accident may be able to get what he deserves as compensation. Sir, I support the amendment.

Mr. Speaker: The question is:

"That for clause 88 of the Bill, the following be substituted:

"88. Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 88, as amended, stand part of the Bill."

The motion was adopted.

Clause 88, as amended, was added to the Bill.

Shri S. V. Krishnamurthy Rao: Sir, I move:

"That in sub-clause (2) of clause 89 of the Bill, after the word 'attends', occurring in line one, the word 'on' be inserted."

The proper phraseology is 'attends on a person' and not 'attends a person'.

The Honourable Shri Jagjivan Ram: Sir, I accept it.

Mr. Speaker: The question is:

"That in sub-clause (2) of clause 89 of the Bill, after the word 'attends', occurring in line one, the word 'on' be inserted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 89, as amended, stand part of the Bill."

The motion was adopted.

Clause 89, as amended, was added to the Bill.

Shri S. V. Krishnamurthy Rao: Sir, I have given notice of this amendment No. 4 on list No. 7 in order to bring the heading in conformity with the construction of the clause. In clause 90 the word 'inquiry' occurs in six places. Nowhere has the word 'investigate' been used. I want 'inquire into' substituted in place of 'investigation of'.

Mr. Speaker: The honourable member is referring to the marginal note. (Shri S. V. Krishnamurthy Rao: "Yes, Sir"). In that case it may be left to the draftsman to do the needful.

Mr. Naziruddin Ahmad: Sir, in support of the suggestion of Mr. Krishnamurthy Rao, I beg to state that the word 'investigation' under the Criminal Procedure Code means investigation by the police, whereas 'enquiries' are not by the police, but by magistrates and others. The amendment should be accepted.

Mr. Speaker: Opinions may differ on that point. However, it is a matter for the draftsman.

The question is:

"That clauses 90 and 91 stand part of the Bill."

The motion was adopted.

Clauses 90 and 91 were added to the Bill.

Mr. Speaker: There are some amendments in the name of Mr. Sidhva but the honourable member is absent. Perhaps he is not keen on moving them.

The question is:

"That clauses 92 and 93 stand part of the Bill."

The motion was adopted.

Clauses 92 and 93 were added to the Bill.

Prof. Shibban Lal Saksena: Sir, I move:

"That in the proviso to clause 94 of the Bill, for the word 'two', the word 'five' be substituted."

Under the proviso, no cognizance is taken of any conviction made more than two years before the commission of the offence which is being punished. I want it to be extended to five years. Members of the Legislature who are convicted are barred for five years. Two years is too short a period and should be extended to five years.

Mr. Speaker: Amendment moved:

"That in the proviso to clause 94 of the Bill, for the word 'two', the word 'five' be substituted."

Mr. Naziruddin Ahmad: Sir, I oppose the amendment. The standard of morality which is expected or required of a member of the Legislature is far higher than the standard expected of a businessman and I think two years would be more than enough for a businessman. That would be a sufficient period of probation.

The Honourable Shri Jagjivan Ram: In addition to what Mr. Naziruddin Ahmad has said, I may say that even in the case of members of the Legislature it is taken into account only if the conviction is in respect of moral turpitude. Sir, I oppose it.

Mr. Speaker: The question is:

"That in the proviso to clause 94 of the Bill, for the word 'two', the word 'five' be substituted."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 94 stand part of the Bill."

The motion was adopted.

Clause 94 was added to the Bill.

Clauses 95 and 96 were added to the Bill.

Shri Ajit Prasad Jain (U.P.: General): Sir, I do not propose to move the amendment standing in my name, but I would like to know from the Honourable Minister as to why he has not included the owners of factories within the scope of sub-clause (2).

The Honourable Shri Jagjivan Ram: Throughout the Bill the persons who have been made responsible are either the managers or the occupiers, and not the owners of factories—the owners of the premises of the factories. The owner comes in only in clause 93, that is, where more than one factory is working in the hired premises, and there the owner of the premises is held

responsible for certain things to be looked after about the premises. Therefore the word 'owner' is not necessary here and that is the reason why the owner has not been included throughout the Bill and the words used are 'manager' or 'occupier'.

Shri Ajit Prasad Jain: If there is a violation of law in a factory situated in a building where there is more than one factory, will not the owner be liable?

The Honourable Shri Jagjivan Ram: The manager or occupier is liable. But where the premises belong to the owner, as I have already pointed, he will be liable under Section 93.

Mr. Speaker: The question is:

"That clause 97 stand part of the Bill."

The motion was adopted.

Clause 97 was added to the Bill.

Clauses 98 to 100 were added to the Bill.

Shri Krishna Chandra Sharma (U.P.: General): Sir, I move:

"That for clause 101 of the Bill, the following be substituted:

"101. In a case against the occupier or manager of factory under this Act, it will be a defence for the accused that he has used due diligence to enforce the execution of this Act and that some other person has committed the offence in question against his instructions, or without his knowledge, consent or connivance."

I put it to the House that when a murder takes place and when two persons, A and B, take positions behind two bushes, A fires and B also fires. B hits the man—a passerby—and he is killed. Now A is prosecuted for the murder. A comes before the Court and says "I did not fire at the time when the person was passing, but it was another person behind another bush who fired and killed the man". Now, A is not required even in a murder case to file a complaint and plead that B is guilty and to stand as a prosecution witness to the fact that B is the murderer and not himself. I put it to the House to consider whether the murder of a man is a more serious offence or an offence committed under the Factories Act is a more anti-social Act. If in a murder case it is not necessary for the accused in defence to file a complaint and prosecute another man because not he (the accused) but another man has committed the offence, I do not see any reason why in an offence rather of a minor nature as violation of the provisions of the Factories Act the accused is required to file a complaint and plead that not he but another person has committed the offence and prosecute the man, come as a witness and see that the person is convicted. This is a rather demoralising state of affairs on principle for a man who is prosecuted to take up the plea that another man working under him has committed the offence, to make a complaint against the person working under him for an act which must necessarily be either with his connivance or with his instruction or for his benefit, to bring that person before a court of law and get him convicted. It is a demoralising state of affairs. It is a commonly accepted principle of law that a prosecution would not build its case on the defence of the accused. When a man is prosecuted, and in his defence he says that not he but another person has committed the offence, for the prosecution to prosecute another man and build a case out of defence is an impossible proposition in criminal law. Taking both the points, namely, that this will have a demoralising effect and that it is against the fundamentals of criminal jurisprudence I respectfully submit that the purpose of the clause would be served better without affecting any of the accepted principles of criminal jurisprudence, by the amendment I have moved. That is, if an occupier or manager is prosecuted, it will be a defence for him to prove that he took all the precautions to enforce the execution of the Act and that despite all these, some other person

[Shri Krishna Chandra Sharma]

committed the offence against his instructions, or without his knowledge, consent or connivance. Sir, I move.

Mr. Speaker: Amendment moved.

"That for clause 101 of the Bill, the following be substituted :

'101. In a case against the occupier or manager of factory under this Act, it will be a defence for the accused that he has used due diligence to enforce the execution of this Act and that some other person has committed the offence in question against his instructions, or without his knowledge, consent or connivance.' "

Shri K. Santhanam (Madras: General): I am afraid that my friend has made a mistake regarding the principles of criminal jurisprudence. The law relating to institutions is fundamentally different from that relating to mere individuals. When an institution is concerned, where the law provides that the institution shall conform to certain regulations the responsibility of the persons who are in charge of the institution is more or less absolute. For instance, a newspaper publisher cannot say that somebody else has committed a mistake. Similarly the factory manager must be liable. But where he can come to the court and definitely prove that he did take all the steps prescribed and that another person wilfully committed the offence, and also brings the person to the court, then the exemption is given. The intention is that no offence should go unpunished. It is only in extreme cases where he shows that it was absolutely due to another person's criminality that an exemption is given. Otherwise it will be very easy for a manager to manufacture documents to say 'I instructed so and so to put all the coverings for dangerous machinery; but this man neglected or refused'—and that man will be unavailable. The result would be that the workers might meet with accidents and die, but no one will be held responsible. Not only in this Bill but wherever institutions are forced to comply with certain regulations the principle is that ordinarily the manager shall be absolutely responsible and no plea shall be accepted from him except in the extreme case of some other person having been proved to have deliberately committed the offence in order to spite or do damage to the person concerned. That is the principle. This section was there in the old Bill also.

Shri Krishna Chandra Sharma: Will my friend find any other precedent in any other law where the law compels the accused.....

Mr. Speaker: Order, order. Let him proceed.

Shri K. Santhanam: It is not a question of the accused at all; the accused is the factory itself and because technically the accused cannot be brought before the Court, the manager or the occupier is brought before the Court—otherwise no provision need be fulfilled, it can all be disobeyed and no one will be liable.

Even in the Minimum Wages Bill this provision was inserted and the same argument about criminal jurisprudence was under discussion.

Mr. Naziruddin Ahmad: Sir, I rise to support the amendment. It would be a preposterous proposition to state that a man, whose criminal mind is not behind an act, who acts bona fide, should be punished at law for things done against his wishes or contrary to his instructions and for which he is not morally responsible. It is a dangerous principle and we should not adopt it even in our anxiety to punish a guilty man. That would lead to the punishment of persons morally innocent. Recently the Privy Council has held that criminal intention or mens rea is absolutely necessary to prove an offence, unless in exceptional cases the Legislature absolutely removes that element from the constitution of the offence, but those are hard and rare cases. I do not say that cases may not arise where a man should be held guilty though his mind was not behind the act.

But these are not such cases. There should be no fear that a man would go scot-free by showing forged papers or prepared papers or by the help of manufactured evidence. That possibility is always there whatever law you may pass. After all there are the Courts and they have got to decide on the evidence, and they are fully competent to take care of themselves. In a case where there is room for doubt an accused should be discharged or acquitted; political consequences have nothing to do with the administration of criminal law. In fact, politics is one thing and law is quite a different thing. If we are to punish a man, he must be punished for his own act. If his guilty mind is not behind it, it would be wrong to punish him. Though it may be that in some cases guilty persons will escape, but that is no reason why you should relax a fundamental principle of law designed for the safety of the innocent.

This is a salutary principle which we cannot afford to lose. It raises a question of constitutional importance and I think the Honourable Minister should carefully consider the matter. In our zeal for punishing persons who might be possibly guilty, we should not relax the high principles of criminal jurisprudence for that will lead to the punishment of the innocent; that would be going against the principles of the very constitution under which we live. In these circumstances, I submit that the accused should be acquitted in whose favour there is this element that his criminal mind is not behind the act. He is not morally guilty; should he be legally guilty if he is not morally guilty? This high principle is behind this amendment. I support this amendment.

Shri S. V. Krishnamurthy Rao: Sir, I oppose this amendment. If this amendment is accepted, I think it will defeat the very purpose of the section. We are not legislating penal law. In fact, this labour legislation enjoins the owners and managers of factories to conform to certain duties and when that duty is infringed it imposes a penalty. In certain cases, especially in cognizable cases, the accused is not at all called upon to enter on his defence and it is only after the prosecution closes its case that the accused enters upon the defence.

The purpose of this section as I understand it is that the manager or the owner, if he feels that he is not responsible for the offence and that some other person is responsible, should at the very first opportunity make it known to the Court that he is not responsible and that somebody else is responsible. It is with that object I think this section is inserted. It says:

"Where the occupier or manager of a factory is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge;"

At the very first instance when the charge is made in the Court, he has to inform the Court of the person who is responsible for the infringement of the rules so that the proper person may be brought to book. So, if I understand it aright, that object will be defeated if it has to be postponed to a date on which the accused is called upon to enter upon his defence. If this amendment is accepted it will defeat the very purpose of the Bill. Sir, I oppose the amendment.

Prof. Shibban Lal Saksena: Sir, I strongly oppose the amendment. In fact, I had proposed to move an amendment to delete the whole clause but I will not move it now because I think what I wanted to say I can say just now.

I think that if the transgression of any factory law is committed in a factory the responsibility for such violation of law must be placed on the occupier or the manager who is in charge of it. Experience shows that a factory owner or a manager is never convicted; some labourer or some other man is made the scapegoat and is punished. Sir, I wish it had been said in this Bill that if any infringement of factory law took place in the factory then the occupier would

[Prof. Shibban Lal Saksena]

be himself responsible; then alone, will he see to it that no employee of his infringes the law. What happens when the law is infringed today is that the benefit of violation of law goes to the occupier or the manager. So, if he knows that for the mere commission of the offence he will be punished, he shall exercise due diligence and see that no offence is committed. But when he has the choice to put up somebody else and say, "Look here, he is the man who has done it", he will always do things which bring him profit and will put up somebody who will go to jail for him for a month or two. It often happens so. So I had wished for the deletion of the whole clause.

Some of my lawyer friends in this House think the present clause is too stringent and hard, and violates the principles of legal jurisprudence. I think it is the duty of the occupier of the factory to see that no infringement of factory law is committed in it. It would be impossible for the Government to prove that such and such a person in the factory has been responsible for it. What the Government can do is to say that such an infringement has occurred in the factory, so the factory is guilty. In fact, this section shows much leniency to these factory owners, for now they can escape punishment by bringing somebody and saying, "Look here, he is the man who is responsible for it".

Sir, I think the best thing would have been not to have put the section at all. (Mr. Naziruddin Ahmad: "I quite agree"). But when it has been put, I think it has been put in the best possible way because there at least the factory owner will have the onus to prove that that is the man who is responsible and he should be punished. Normally it will be difficult to find people who will be prepared to undergo three or four months imprisonment though for money they can be produced by any factory owner.

Sir, I therefore think that this is the second best alternative and I therefore support this clause and oppose the amendment moved by my lawyer friends.

پنڈت تھاکر داس بہارگو: جناب سپیکر صاحب! میرا ارادہ نہیں تھا کہ میں اس کلاز پر کچھ کہوں۔ لیکن میں چناب کی خدمت میں یہ عرض کرنا چاہتا ہوں کہ پہلے بھی یہاں پر کچھ ایکٹ پاس ہوئے ہیں جن کے اندر اس قسم کے دفعات تھے جن کے متعلق ہاؤس کے سامنے اُنکے نقائص بیان کئے گئے تھے۔ لیکن باوجود ان حجتوں کے بھی وہ پاس کئے گئے۔ میں کسی ایسے اصول کے خلاف نہیں ہوں جس میں occupier یا منیجر کی ذمہ داری خلاف ورزی خاص دفعات کے لئے رکھی جاوے لیکن میں ادب سے عرض کرونگا کہ جہاں تک اس کلاز کا تعلق ہے نہ اس میں سوال ذمہ داری occupier یا منیجر کا ہے۔ نہ ہی moral conviction کا سوال ہے۔ بلکہ یہ clause صرف jurisprudence کے خلاف ہی نہیں ہے۔ بلکہ تمام اصولوں کے morals کے و انسانیت کے و انسانی conduct کے جواز کے خلاف ہے جیسا کہ میرے دوست مسٹر شین لعل کا خیال تھا کہ یہ سارا کلاز omit کر دیا جاتا تو بہتر ہوتا۔ جب کبھی ایسا سوال کورٹ کے سامنے آتا ہے تو کورٹ فیصہ کرتی ہے کہ اگر جرم ہوا ہے تو مجرم کون ہے۔ سوال یہ ہے کہ جرم کے ہونے پر کسی کو مجرم ثابت کرنے کی ضرورت ہے یا نہیں۔ لیکن اس clause میں یہ درج ہے کہ ایک آدمی جس پر الزام ہے اُسکو اپنی جگہ ایک substitute لاکر رکھنا

پڑیگا اور اگر وہ ایسا نہیں کرتا تو اُسکو سزا ملیگی۔ اس کے علاوہ دوسری بات جو میں عرض کرنا چاہتا ہوں یہ ہے کہ اگر ایک شخص یہ ثابت بھی کرے کہ جرم دوسرے شخص نے کیا ہے۔ اور یہ بھی ثابت کرے کہ وہ جرم اُسکی غفلت سے نہیں ہوا ہے یا اُس کی رعایت وغیرہ سے نہیں ہوا ہے تو بھی وہ بری نہیں ہو سکتا۔ اسپر مجھے ایک کہاوٹ یاد آتی ہے وہ اندھیر نگری چوپٹ راجہ تھے سیر بھاجی تھے سیر کھاجہ ۲۲۔ چونکہ جرم ہوا ہے اس واسطے کسی کو سزا دینی ضروری ہے۔ خواہ وہ ثابت بھی کرے کہ وہ بے گناہ ہے۔ موجودہ کلاز کی رو سے منیجر یا occupier کو conclusively مجرم گردانا گیا ہے مصنوعی طور پر ہے۔ اور اگر اُسکو پکڑا جاتا ہے تو اسے یہ option دیا گیا ہے کہ وہ کسی آدمی کو لا کر کہدے کہ اس نے جرم کیا ہے۔ ایسا اگر ثابت بھی ہو جائے کہ دوسرے شخص نے جرم کیا ہے تو بھی occupier یا manager کا پیچھا نہیں چھٹتا کیونکہ دفعہ میں علاوہ (a) کے (b) بھی ہے۔ اس میں یہ درج ہے۔

"Unless he proves to the satisfaction of the Court—

- (a) that he has used due diligence to enforce the execution of this Act, and
- (b) that the said person committed the offence in question without his knowledge, consent and connivance."

یعنی کسی مقدمہ میں یہ نہیں دیکھنا ہے کہ منیجر یا occupier نے جرم کیا ہے یا مجرم اور کوئی شخص ہے۔ لیکن دیکھنا یہ تھا کہ occupier یا منیجر کا جنرل behaviour کیسا ہے۔ یعنی اگر ایک جرم کے اندر یہ ثابت ہوتا ہے کہ وہ بے گناہ ہے۔ اور اُس نے جرم نہیں کیا ہے۔ لیکن اُس کو یہ ثابت کرنا ہے کہ اُس نے اس ایکٹ کے execution میں due diligence enforce کی ہے۔ اس کے تحت تو اُس کا سابقہ چال چلن وغیرہ بھی آتا ہے۔ اس لئے میں نہایت ادب سے عرض کرونگا کہ اس کے provisions نہایت harsh ہیں اور قانون کے خلاف ہیں انصاف کے خلاف ہیں اور انسانیت کے خلاف ہیں۔ اس کے علاوہ اس کے proviso کو دیکھکر اور بھی ہنسی آتی ہے۔ اس میں لکھا ہے کہ تین ماہ تک اگر کوئی شخص substitute کے طور پر نہ ملے تو باوجود کوشش occupier و منیجر کے کہ ایسا شخص حاضر ہو جاوے۔ اور وہ حاضر نہیں رہتا تو اُس منیجر یا occupier کو مجرم قرار دیا جائیگا اور اُس کو سزا دیجائیگی۔ میں یہ دریافت کرنا چاہتا ہوں کہ اس کلاز میں یہ الفاظ کیوں رکھے گئے ہیں۔ کہ

"Brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager."

میں پوچھنا چاہتا ہوں کہ اگر تین ماہ تک وہ شخص دوسرے آدمی کو نہ لاسکے تو اس کا یہ نتیجہ ہوگا کہ اُس نے جرم کیا ہے چاہے اگر وہ بے گناہ بھی ہو میں پوچھنا چاہتا ہوں کہ اگر تین ماہ میں وہ اُس

[پلڈت تھاکر داس بھارگو]

شخص کو کورٹ کے سامنے لانے میں کامیاب نہ ہو تو اس سے مقدمہ میں کیا فرق پڑتا ہے۔ اس لئے یہ ایک meaningless بات ہے۔ کہ اگر وہ ایک substitute کو لاکر پیش نہ کرے تو اسکو سزا دی جائیگی ایسی حالت میں الفاظ "if the offence be proved" در اصل بے معنی ہیں اگر سزا ضرور ملنی ہے۔

میرے دوست مسٹر شبن لال کا خیال بالکل درست ہے۔ اور یہ بات یہاں کے وکیل ممبران کو ہرگز ہضم نہیں ہو سکتی ہے۔

ایک penal clause خلاف jurisprudence بنایا جا رہا ہے اور یہ بالکل نامناسب بات ہے کہ بے گناہ آدمی کو سزا دی جائے در اصل مناسب یہ ہے کہ ایسا انتظام کیا جائے کہ قانون کی خلاف ورزی بھی نہ ہو اور کسی بے گناہ آدمی کو خواہ مخواہ سزا بھی نہ ملے۔ قانون بے شک ایسا ہونا چاہیئے جس سے کہ کسی کو بھی تکلیف نہ ہو۔ اور اس میں کوئی اس قسم کی بھی گنجائش نہیں ہونی چاہیئے جس سے کہ ایک منیجر یا occupier رشوت دے کر کسی دوسرے بے گناہ آدمی کو اس میں پھنسائے۔ میں یہ مانتا ہوں کہ قانون کا یہ ہرگز منشا نہیں ہے کہ کسی بے گناہ آدمی کو خواہ مخواہ پھنسا دیا جائے۔ اور اسکو سزا دی جائے اس قسم کا provision کسی بھی قانون میں نہیں ہونا چاہیئے جو باوجودیکہ اس نے جرم نہیں کیا تاہم اس کو سزا ہو سکتی ہو۔ غفلت کے بارے میں مجرمیت ہو سکتی ہے لیکن قصور کوئی شخص کرے اور وہ حاضر نہ ہو سکے تو بیگناہ کو سزا نہ ہونی چاہیئے۔

میں آنریبل لیبر منسٹر صاحب سے یہ گزارش کروں گا کہ یہ بھی نہیں ہونا چاہیئے کہ منیجر اور occupier کو قانونی ذمہ داری سے نکل دیا جائے لیکن ایسی ذمہ داری قائم نہ ہونی چاہیئے جس سے بیگناہ ہوتا ہوا بھی وہ مازم قرار دیا جائے اس دفعہ کو ایسی شکل دی جائے کہ معصوم اور بے گناہ آدمی اس کی زد میں نہ آ سکیں اور اصلی مجرم اس قانون سے ناجائز فائدہ اٹھا کر کسی بے گناہ کو نہ پھنسا سکے کیونکہ یہ اصول کے خلاف ہوتا ہے۔ ایک بے گناہ کو خواہ مخواہ میں پھنسا کر اس کو سزا دینا بے انصافی ہے اور اس لئے قانون نہیں بنائے جاتے کہ معصوم آدمیوں کو پھنسا دیا جائے بلکہ قانون اس لئے بنتے ہیں کہ اصلی مجرم کو قرار واقعی سزا مل جائے ایسے قانون جو ان اصولوں کے خلاف ہوں یہ یہاں کے Lawyer ممبران آسانی سے ہضم نہیں کر سکتے ہیں۔ ایسے قانون جو عالمگیر اصولوں کے خلاف ہوتے ہیں اپنا purpose آپ defeat کرتے ہیں اور ناکارہ ثابت ہوتے ہیں۔

(English translation of the above speech)

Pandit Thakur Das Bhargava (East Punjab: General): Mr. Speaker, Sir, I had no intention of speaking on this clause, but I would like to state for your information that many such Acts have been passed before which contain similar provisions and their defects were brought before the House. But in spite of objections they were passed. I am not opposed to any such principles which place the responsibility for the breach of certain clauses on the occupier or manager. I would respectfully submit, Sir, that so far as this clause is concerned neither does it involve the question of responsibility of the occupier or manager, nor of moral conviction. But this clause is not only against the canons of jurisprudence, but it contravenes all principles, morals, humanity and validity of human conduct. Just as my honourable friend Prof. Shibban Lal has pointed out it would have been much better if this entire clause been omitted. Whenever any such question is raised before the court, the court decides that in case the offence has been committed who is the culprit? The question is whether it is at all necessary to prove anybody guilty when the offence is committed. This clause provides that when a man is charged with an offence, he shall have to bring before the court a substitute in his place and if he does not do so, he is liable to be punished. Apart from this, another point which I would like to mention is that if a person proves that the offence has been committed by some other person and further proves that the offence was not committed through his negligence or connivance, etc., even then he cannot be acquitted. This reminds me of a well-known proverb:

"ANDHER NAGRI CHOPAT RAJA,...

TAKE SER BHAJI TAKE SER KHAJA".

which means 'Confusion worse confounded'. Because the offence has been committed, it becomes necessary to punish someone despite the fact that he may prove himself to be innocent. According to the existing clause, the manager or occupier has been held to be conclusively and virtually guilty, and if he is arrested, he is given an option to produce any person whom he should charge with the commission of the offence. If it is proved that the other person has committed the offence, even then the manager or occupier is not absolved because in this clause in addition to sub-clause (a), there is (b) also which lays down:

"Unless he proves to the satisfaction of the Court—

- (a) that he has used due diligence to enforce the execution of this Act, and
- (b) that the said person committed the offence in question without his knowledge, consent and connivance."

Thus it has not to be judged in any case whether the manager or occupier has committed the offence or some other person is guilty. But it has got to be seen as to what has been the behaviour of the manager or occupier? If in the trial of an offence it is proved that he is innocent and has not committed the offence, even then he has to prove that he used due diligence to enforce the execution of this Act. This also covers his previous conduct, etc. Therefore I will respectfully submit, Sir, that the provisions of this clause are very harsh and against the fundamentals of law, justice and humanity. In addition to this, a look at its proviso causes further laughter. It lays down that if no substitute is found up to three months and despite the efforts of the manager or occupier that such a person, should be brought before the Court and he does not present himself, then that manager or occupier shall be convicted. I would like to know why the following words have been added in this clause:

"Brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager."

[Pandit Thakur Das Bhargava]

I want to know that if up to three months he is not able to produce the other person, then would this mean that he has committed the offence though he might be innocent? May I know what difference does it make in case he fails to bring that person before the Court within the period of three months. Therefore this is quite meaningless, that he should be punished simply on account of his failure to produce a substitute. In such a condition the words "if the offence be proved" are quite meaningless, if conviction is necessary.

What my honourable friend Professor Shibban Lal thinks is absolutely correct and those members of this House who are lawyers cannot at all agree to this. A penal clause is being inserted against the principles of jurisprudence and it is quite improper that an innocent person should be convicted. In fact the proper course is to take such steps as would obviate the breach of law, and no innocent person punished. The law should be elastic so that it may not harm anybody. It should not contain any such provision by means of which a manager or occupier may implicate an innocent man by offering a bribe. I agree that it is not the intention of the law that any innocent person should be embarrassed and convicted. Such a provision should not be made in any law which enjoins that punishment should be awarded to a person irrespective of the fact that he did not commit the offence. Criminality may be attributed to neglect, but if another person commits an offence and he is not available, then the innocent person should not be punished. I would, therefore, request the Honourable Minister for Labour that the manager and occupier should not be exonerated from the legal responsibility. But this responsibility should not be so placed that an innocent person is treated as a culprit. An innocent person should not be victimized by the provisions in this clause, and the actual offender enabled to implicate an innocent person by misusing the provisions of this law. This is against the principles of jurisprudence that an innocent person be implicated without any reason, it would be sheer injustice to punish him. The legislation is not framed for the purpose of involving innocent persons but to ensure conviction of the actual culprits. The lawyer members of this House cannot easily digest such a legislation which is against these principles. Such laws which contravene the universal principles defeat their purpose and prove ineffective.

Shri Ajit Prasad Jain: Sir, I have carefully listened to the arguments advanced by my friend Mr. Bhargava. This is not the first time that a law is being passed where a certain responsibility is being constructively placed upon a person. In quite a number of other laws such responsibility has been fixed. The Directors of the Company have been made responsible not actually but constructively for any black-marketing carried on in the factories. Here we have to judge the whole thing from the point of view of social good. The factory manager or occupier has been made constructively responsible for the violation of the provisions of the Factory law but he has been given the right to produce the actual culprit in which case he can escape the liability. My friend referred to the proviso and said that if the actual culprit is not available in three months then the occupier or manager shall be prosecuted in all cases. I would draw his attention to the last sentence wherein it is stated "if the offence is proved". Mere commission of an offence without showing who has committed it is not proof of the offence. The prosecution will have to show that a violation of the law has taken place and that the manager or occupier has not taken sufficient care or exercised sufficient diligence to prevent the commission of that offence.

Shri K. Santhanam: Prosecution has not to prove that. It has only to prove that an offence has been committed.

Shri Ajit Prasad Jain: Please see clause 11⁷ wherein anything done in good faith is fully protected. So I think that the responsibility has been correctly

fixed on the manager or occupier, because the whole responsibility for administering has been placed upon him and if he is absolved of the responsibility that is if the law simply says that the person who has actually committed the breach shall be punishable, in that case, the whole scheme of the Act will become a nullity.

It will not be possible to enforce the provisions of this Act. In a case of this kind it is the consideration of public policy that should prevail and not the meticulousness of the juristic principles.

A short while ago, I made a complaint that this exemption has been provided only in the case of the occupier or manager. The occupier or manager has been made constructively responsible for offences. But the owner, in the case where the premises are occupied by more than one factory or where one building is occupied by more than one factory, is constructively responsible for the action of the occupier or manager, who is constructively responsible for the action of the person actually committing the violation. If this exemption is provided in the manager or occupier, this person who is doubly constructively responsible is entitled to this exemption all the more. I think the law as it stands is perfectly correct, except that care should be taken that undue use may not be made of the provision. After all it is the Factory Inspector who will launch the prosecution or with whose approval prosecution shall be filed. Government should see that the occupiers and managers are not unnecessarily harassed nor the workers made scape-goats and punished merely because the occupier or manager wants to escape his own responsibility. So far as the present scheme of the section is concerned, I think it is perfectly good and absolutely necessary for enforcing the provisions of this law. It may not conform to the strict principles of criminal jurisprudence, but it is absolutely necessary in the public interests.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I support the amendment. I want the Honourable the Minister to consider the effect of the provision as it now stands, in section 101. If you are pleased to see section 20, you will notice that we have stated that the factory has to provide a sufficient number of spittoons in convenient places and maintain them in a clean and hygienic condition. Take for instance a factory where the owner, or manager or occupier, whoever may be responsible for it, provides the number of spittoons required of him, but somebody takes it into his head to remove half of them or they just manage to make them unclean. There are certain other provisions like that. There is a violation and a complaint is made and the manager and occupier are prosecuted. What is the absurd position to which we are being led to? They will have not only to see that they had it in these spittoons and that they all are in a clean and hygienic condition, but they will also have to find out who it was that has removed a number of these spittoons required to be maintained in the factory. If he is not in a position to do that,—supposing the man who has removed the spittoons gets away from the factory, he cannot be found out—this occupier or manager, in spite of the fact that he had done everything that was required of him, he will be convicted. Surely, this is a novel thing.

Prof. Shibban Lal Saksena: He must take care and see that no one removes them.

Shri Prabhu Dayal Himatsingka: My honourable friend says that he should see that no one removes them. He expects the manager or occupier to be at every point of the factory where thousands of workers will be working. (Mr. R. K. Sidha: "He will have his agents.") He will have his agents. I know the spirit that is prevalent. I know that we are not prepared to consider it from the purely legal and correct point of view. Certainly, we should make all provisions whereby we can compel the occupier or manager to arrange for all the conveniences and other amenities, cleanliness and other things. But,

[Shri Prabhu Dayal Himatsingka].

simply because somebody, as I said, deliberately, in order to put the manager or occupier in difficulty, does something which is against the provisions of the Factory Act, will you agree to punish him? (Interruption).

Mr. Speaker: Let him proceed.

Shri Prabhu Dayal Himatsingka: My friend has forgotten that the occupier or manager has used all due diligence to enforce the execution of this Act. But, he has not only to see that he has taken all the steps required of him, but he has also to produce the offender, and he must also show that the act has been done by him without his knowledge, consent or connivance. Take for instance, section 20. No person shall spit in the premises of the factory except in the spittoons. Supposing somebody does, that is an offence committed in the factory. And in terms of section 92, which says, "if in, or in respect of, any factory there is any contravention of any of the provisions of this Act", the occupier and manager can be prosecuted. There is a contravention of one of the provisions of the Factories Act and there is an offence committed. Therefore, if somebody has spat in the factory, no doubt, the person who has spat there is also responsible, but still, because it is an offence committed in the factory, the occupier or manager can be made responsible unless he shows that he has not failed to take all reasonable measures for its prevention. (*The Honourable Shri Jagjivan Ram:* "No no.") The Honourable Minister says no, no. I shall wait for his reply. So far as I have been able to follow the provisions of sections 92, 97 and 101, unless he can lay his hands on the person who has committed the violation, the occupier or manager can be convicted. (Interruption.) I do not want to be diverted; let me go on in my own way. Therefore, I would request the Honourable Minister to consider this. I do not say that anything should be done to allow the occupier or manager to escape from any responsibility that we have cast on him. But we should not legislate in such a manner that even when he has done all that was required of him, he shall be convicted,—not only may be convicted,—unless he can produce the person alleged to be the accused within a certain time. I support the amendment and I beg the Honourable Minister to consider the effect of this provision.

The Honourable Shri Jagjivan Ram: Sir, I did not know that on this clause there will be so much of controversy. You may yourself very well remember, Sir, that when we were considering the Minimum Wages Bill in this House, on a similar clause, legal objections were raised by my honourable friend Pandit Thakurdas Bhargava, who claimed that it was a novel provision, and you yourself pointed out certain Acts in which this provision was provided. I will simply say that this is not a novel provision. This clause has been bodily taken out from the old Factories Act of 1934. It finds a place in a number of other Acts. But to draw the analogy of a murder with an offence committed in a factory, I think, is far fetched. I do not think in the case of a murder, anybody is specifically charged with the duty to see that such and such person should not be murdered. Here, the whole scheme of the Factories Bill is that we make the occupier or manager of any factory specifically responsible for the various obligations that have been placed upon them. And when an offence is committed one has not to find out who is responsible for it; the responsibility has been thrown on the occupier and the manager. I think it is in the interest of the occupier and the manager. I can understand Mr. Sharma and Mr. Bhargava arguing against the clause on legal grounds but I cannot understand my friend Mr. Himatsingka arguing against the clause itself. The acceptance of the amendment would mean that the manager or occupier could say that with due diligence he had provided a number of spittoons but some one else has taken them away, and therefore nothing is to be done against him. The responsibility is his, but I could not understand the argument that if a worker spits somewhere in the factory the occupier will be prosecuted. I am not a lawyer but I am sure that where specific offences are laid down and specific

punishments provided, if a worker commits an offence and spits somewhere except in a spittoon he is to be punished and not the manager. Of course if a sufficient number of spittoons is not provided the occupier or manager is responsible; but if he says that he provided the required number and some one else removed them he will have to prove that.

Shri Prabhu Dayal Himatsingka: And he will have to produce that somebody.

The Honourable Shri Jagjivan Ram: Yes, because everybody in the factory is under him, and responsible to him. The scheme of the entire Bill is that nothing happens without his permission or connivance or orders. And if anything happens against his orders he will have to prove it.

Pandit Thakur Das Bhargava: That is not sufficient. If a person proves that he has no knowledge or connivance etc., even then he is guilty unless he can prove that in all other matters he has exercised due diligence.

The Honourable Shri Jagjivan Ram: Of course, the whole obligation is on him and he is expected to discharge his obligations. If you leave him aside on whom are you going to throw the obligation of fulfilment of the provisions of this Bill? Certainly it is on the occupier and manager; and he has to prove that in spite of his due diligence to fulfil his obligations under this measure and in spite of his instructions his subordinates are recalcitrant and violated his orders. In that case the person or persons who violated his orders will be punished and not the manager or occupier. The whole scheme of the Bill is to throw the obligation on the manager and occupier unless the guilty person can be produced.

Sir, this provision is very necessary and I am not prepared to accept the amendment.

Mr. Speaker: The question is:

"That for clause 101 of the Bill, the following be substituted:

"101. In a case against the occupier or manager of factory under this Act, it will be a defence for the accused that he has used due diligence to enforce the execution of this Act and that some other person has committed the offence in question against his instructions, or without his knowledge, consent or connivance."

The motion was negatived.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Shri Ajit Prasad Jain: Sir, I move:

"That in clause 101 of the Bill, after the word 'manager', wherever it occurs, the words 'or owner' be inserted."

Only a short while ago, it was stated by the Honourable Minister that the manager and occupier of a factory have been made responsible for the violation of law, because they were responsible for the observance of the rules in the Factory. It was for that reason that an exception has been provided, namely, that if they can produce the actual offender, then the manager or occupier shall not be responsible for the breach of law. This law applies to cases where there is one factory in one premises. In cases where there are more than one factory in the same premises, the owner has been made responsible for the observance of law. I do not quite agree with that principle, but as we have already adopted clause 93, that question is over. However, I see no reason why the same privilege should not be extended to the owner. The occupier,

[Shri Ajit Prasad Jain]

or the manager or the owner should stand on the same footing. In fact, the owner is deserving of a little more concession because the owner has no control or domination over the affairs of the factory, and if the principle has been conceded to the manager or occupier, there is all the greater reason that it should be extended to the owner.

Mr. Speaker: Amendment moved:

"That in clause 101 of the Bill, after the word 'manager', wherever it occurs, the words 'or owner' be inserted."

The Honourable Shri Jagjivan Ram: The difficulty is this. If the amendment is accepted it will read like this:

"Where the occupier or manager or owner of a factory."

Now in the whole of this Bill, there is nothing like an owner of a factory. We have either a manager or an occupier of a factory. There is no owner of a factory. Even in the definition, we have not defined an 'owner' of a factory, though we have defined the 'occupier' or 'manager'.

Now Mr. Jain's difficulty is that under section 93 we have placed some liability on the owners of premises in certain circumstances. But in the proviso to the same section 93, we have amply safeguarded the owners of such premises and I may read the proviso to section 93:

"Provided that—

(i) the provisions of this section shall not apply to, or in respect of, any building or room in the sole occupation of the occupier of a factory;

(In that respect the risk of the owner is shifted to the occupier or manager of the factory).

(ii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to the cleanliness of sanitary conveniences only when those conveniences are used by workers of more than one occupier;

(iii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to hoists and lifts, and means of escape and safety precautions in case of fire, only in so far as the said provisions relate to things under his control."

For other contraventions the occupier or the manager is made responsible and so far as the owner is made responsible under this section 93, he has been made responsible for the provisions under Chapter 3 and Chapter 4, which are cleanliness and sanitary provisions made in the factories.

Furthermore, the difficulty is that if we insert "owner" here it will read "owner of a factory" which is nowhere provided for in this Bill. We have either 'manager' or 'occupier' of a factory. There is no term like the 'owner' of a factory. I do not think the amendment fits in here.

Shri Ajit Prasad Jain: I quite realize the difficulty. If my principle is a sound one, then my amendment may be amended by the Honourable the Minister and accepted. But if he does not want to accept it, I do not insist upon it.

Mr. Speaker: The idea seems to be to tighten the measure against people who are actually in charge of the running of the factory and not against people who own the factory. Supposing the factory is owned by some person and it is leased for working to another man. That seems to be the distinction.

The Honourable Shri Jagjivan Ram: Exactly: the whole responsibility is on the manager or the occupier.

Mr. Speaker: Does the honourable member wish me to put his amendment to the House?

Shri Ajit Prasad Jain: It need not be put because I know its fate. I therefore ask permission to withdraw.

Mr. Speaker: Has the honourable member leave of the House to withdraw? The amendment was, by leave of the Assembly, withdrawn.

Mr. Naziruddin Ahmad: I want to speak on the clause.

Mr. Speaker: I think the honourable member has already fully spoken on it.

Mr. Naziruddin Ahmad: I will not repeat any of my arguments.

Mr. Speaker: All right.

Mr. Naziruddin Ahmad: I have found here an attempt to copy a similar section in the English Factories Act of 1937, namely, section 137. As a matter of fact, the inspiration of this clause has apparently been derived from this English section. But the English Act deals with the matter in a more scientific and legalistic way. It says that if a manager or occupier is prosecuted then he can name the person who he alleges is really guilty. Then the man so named may be brought on the record and evidence may be given against him and he may be convicted summarily. That is an additional right given to the occupier or manager to have brought on the record a man whom he says is really guilty. But he cannot, under the British Act, be punished as a matter of course, if the man named is not found, or is found but is not convicted. Not so, however, in the Bill. The Bill says that if the man named is not produced in three months and if the offence is proved, although the manager or occupier may not have had any thing to do with it, he will still be convicted. This part of the Bill has no counterpart in the English section. The English section merely gives the occupier or the manager the right to name the real offender and to show that he was not really personally or morally responsible but the failure to bring the man on the record or to prove the guilt against him does not involve the consequence that he will himself be convicted, if merely the offence is proved, as the last part of the second proviso to the clause shows. In fact by trying to prove that somebody else has committed the crime the manager or occupier under this clause would be incurring a grave responsibility. In fact ordinarily no lawyer, unless he is fit to be kept in a mad house, will suggest to his client to undertake this risky task, because if the man is not produced or if his guilt is not proved, then he will himself be *ipso facto* found guilty. In fact the ordinary law, apart from Section 101, is in his favour. While the English section gives him an additional right, the Indian section proposes to give him the same right but with the stipulation that it will be extremely risky on his part to name the man and prove his guilt. The section in the existing Act from which clause 101 has been taken in my experience has remained a dead letter. No accused will take the responsibility of doing so, because the ordinary law is available to him and in case he thinks that his case is strong or rather the prosecution case can be shown to be weak, he will be acquitted. It is only when he tries to take the so-called advantage of Section 101 that he will put himself in difficulties.

Much of the argument in favour of the clause was due to a feeling that when there is a factory manager or occupier, when an offence is committed within or without his knowledge, he must be found guilty. I ask the Honourable Minister and the House to consider the absurdity of the position. There is a care-taker of this Assembly building. Somebody commits nuisance somewhere and if it is a fact that he is responsible for keeping the place clean and for looking after the welfare of the building, he is not merely to be blamed, dismissed or otherwise departmentally punished but he will have to be sentenced to 6 months rigorous imprisonment. That would be absurd. Instances may be multiplied. The object behind this Section 101 will really be frustrated, because the manager or occupier will not be found to accept the dubious benefit conferred on him by this section. The ordinary law is in his favour. The House will consider the general offences created by clause 92. It is said that if anyone contravenes any provisions of this Act he will be guilty of an offence. It has been recently found

[Mr. Naziruddin Ahmad]

by the Privy Council that the word 'contravention' means that there is a criminal mind behind it. Without sufficient *mens rea* a man cannot be found guilty. So the ordinary law can hold a man guilty only if there is a criminal mind behind the act. Otherwise he could never be punished. So if he is prosecuted, if he finds that somebody else is really guilty, it is enough for him to indicate in cross-examination that another man is guilty or that he is himself not guilty or that the case is shrouded in doubt. In that case he will be acquitted. I submit that the clause 101 is absolutely misconceived. No manager or occupier will take advantage of it unless he is defended by a mad lawyer or unless the man named is a willing scape goat and is ready to plead guilty. During my long experience of one third of a century in criminal courts and dealing with prosecutions under the Factories Act I have never seen or heard anyone taking advantage of this provision. The desire of the House to find the occupier or manager guilty for anything consciously or willingly done by him or at his instance, will be frustrated unless he is generous enough to put his head into the noose and get himself automatically convicted through the provision of Section 101. The desire of the House to find him guilty for whatever offence committed in the factory, whether he is conscious of it, or encourages it or connives at it or not will be signally frustrated. Section 101 will serve no useful purpose but will be used by the guilty by procuring the voluntary or collusive conviction of the innocent.

It is said that it has been copied from an earlier Act but I think the mistake should not be continued any further. There is the story that a small girl was told by her mother that she must obey her parents. The girl asked her mother who had told her so. The mother replied "I learnt it from my mother". "How did your mother learn it", was the next question of the little girl. The mother replied "My mother learnt it from her mother". The little girl remained silent for sometime. The mother asked her what she was thinking about. The girl replied "I am curious to know who started the mischief originally." I submit there is someone here who started the mischief. In fact some draftsman in his over-enthusiasm originally introduced this provision and we are carrying it from Act to Act. I submit that this clause would be innocuous and would fail to get hold of the guilty, because he would not fall into the trap. Section 101 should be entirely omitted. I ask the Honourable Minister to consider it or consult some experienced lawyer like Pandit Thakur Das Bhargava. He will never advise his client to take advantage of this section and he will never do it and the accused by taking advantage of it will never be generous enough to allow himself to be convicted without any guilt on his part. I submit that this clause should be deleted.

Mr. Speaker: It seems to be the fear of the honourable member that an occupier or manager will find some scape goat to take the responsibility.

Mr. Naziruddin Ahmad: It is just inviting him to find a scape-goat. It is something like the jail editor. An editor engages a man to go to jail on his behalf for writing dangerous articles. The occupier or manager will have a paid servant to deputise for him in the criminal court and accept punishment.

Shri Krishna Chandra Sharma: Sir, I have put in an amendment to this clause. This clause is not only absurd but it is also unnecessary and offends against good conscience. Good conscience is the *sine quo non* of all laws. The Honourable Minister while opposing my amendment advocated a strange principle that in the case of factories the occupier or manager has taken the responsibility upon himself that no offence under the Act would be committed in his factory but that in the case of a citizen, as such he takes no responsibility whatsoever that a murder would not be committed. He said that the analogy of murder does not therefore hold good in the case of offences under the Factories

Act. May I ask respectfully on what basis does a state exist? Does not the sovereignty whether King or Parliament, or whatever the sovereign body is, stand up and say, "I stand here to protect you" and does not the citizen stand up, bow down and declare his loyalty and civil obedience to the law of the land? Here is the guarantee of a citizen not to commit a crime. 'A' gives as much a guarantee or takes as much a responsibility not to commit a murder of any other fellow citizen as a factory owner or a factory occupier or a factory manager does in the case of petty offences under the Factories Act. Whether this has found place in the previous Act or not, there is no gainsaying the fact that this clause offends against good conscience and it offends against the fundamentals of law. I may remind the House that it is very good to gather here and pass laws then to say "We are the representatives of the people; on their behalf we pass this law and therefore it is good law because it is sanctioned by the will or the consent of the people". Sir, ages have passed and people have suffered from the tyranny of the King. The obstinate will of a man whose word was law and that law was forced on the people or was carried under force. It does not matter which way one governs. If he forces his will obstinately, without any concern whatsoever to what is called good conscience, to what is called decency, without any regard to the fundamentals on which society is based—whether one man rules or the people are multiplied in hundreds or for the matter of that in thousands—what matters is that in framing a law you should look to the conscience of the people from time to time; you should look to the evolutionary growth of the human conscience and you should look to decency and principles and under which circumstances society is run, under which society obeys law and under which circumstances workers do work and produce wealth and the state prospers. This is the question and my respectful submission is that by giving assent to this sort of law you exercise not the consent of the people, not the willingness of the people behind you, not the power of the vote behind you, but the obstinate will of a tyrannical authority. It will go against you. It will not be an Act of the Legislature but it will be an act of tyranny.

You say that "A" is to be punished even if he proves that he tried to avoid the offence being committed but despite his attempt somebody else has committed the offence. And you say that if within three months that somebody else—"B"—is not to be found, then A has to be convicted. I may point out a salutary provision in the Criminal Procedure Code—Section 403. When a trial takes place in the case of an offence and the offence is tried once, it cannot be tried again. The judge calls upon a man, he pleads his innocence, the plea of innocence is accepted—that not A but another man B has committed the offence. A cannot be tried again after once his plea is accepted. And as I said before, it is the most demoralising thing in the world to ask a man to produce his fellow worker and say "This man has committed the offence; therefore hang him". The victor forces the man to betray his colleague and to produce another as his scape goat for the purpose of saving himself. Nothing is so demeaning in human life than to get saved at the cost of another man. Surely this is not the way of a law but a brute way of dealing with things. There is nothing of civility, decency or soundness in a law that permits such state of affairs. In its own provision it is bad enough in the sense that it enables one to save oneself at the cost of another. That other man works under him, produces wealth for him and his activities are supervised and controlled by him. It is a thing which is demeaning and immoral.

Let me point out another thing. After once having given judgment that B has committed the crime and not A, you sit for three long months and after that you learn that B is not available. Then you say "Bring him or I will hang you". May I respectfully ask "Is this the way to legislate?" Does it do any good whatsoever; what would be the good of such a law and how would it work? Therefore, without appealing to passion, without appealing to sentiment,

[Shri Krishna Chandra Sharma]

I appeal to commonsense; I appeal to sound judgment; I appeal to equity and fairness; and I appeal to precedent. That is, the law has not found any precedent in any civilised society where industry is not to be born today or is of yesterday's birth but where industry has its predominance, where industry rules the people. I say that such a precedent does not exist anywhere else. If it existed here, it was because we were not old enough and we did not have enough of good conscience—whenever passed that law was devoid of good conscience. Therefore do not take your stand upon the fact that it found a place in the old Act. If it found a place in the old Act, many other things were done in the old time. We are not the people of that time. We have grown, and grown well. We are careful and we have sound judgment and reason and I appeal to you that this clause should be omitted. It does no good to anybody.

I shall refer you to the cases under the Defence of India Act. Take the case of possession of prejudicial document. What was the provision? It was laid down that the possession by itself would not be enough to convict a man, if a man could prove that he had no knowledge of the contents thereof that would be a sufficient defence. This was in the Defence of India Act. And what was that law made for? For the safety of the Empire, for the protection of millions of people and for the future of a generation here and the future of the posterity of the English people. If such a law can have a provision that in the case of possession of prejudicial document, if the accused could prove that though he was in possession of it yet he was not conscious of it—that he did not know the contents of the document—then that would constitute a sufficient defence, is not that provision enough in respect of a petty offence under the Factories Act? It does not matter practically because your Act will not go a long way. For, the owner knows well how to tackle the Magistrate. Magistrate will sentence him to a fine of Rs. 5 or something of that sort. Has a factory owner ever been sent to jail? Has any sentence of imprisonment ever been passed under the Factories Act? It is always a fine of Rs. 5, Rs. 10 or at the most Rs. 50. This is generally the case. So, rest assured that this particular clause which you want to enact, or the whole Factory Law itself, will not hit very hard the factory man because the factory man exercises political influence; he exercises social influence; he controls the district and the mofussal. There are so many ways for him to escape. Money and capital have grown into a powerful force now. Rest assured your law will not go a great deal to tell upon the factory man. Why I am fighting against this clause is because it offends against the fundamental principle of law. It offends against equity, it offends against justice and it offends against fairness. Therefore, I appeal to you, Sir, in the name of all that is sacred in law and in justice not to press it but to drop it.

Shri Gopikrishna Vijayavargiya (Gwalior State): Sir, I have to suggest only one thing, and it is this: after all, this whole clause is not so absurd.

Previously there were no clauses about sanitation and other things, but now those things have been included, but it appears very anomalous that punishment should go to the occupier or some other man. I think some exemptions may be made in this, for example, about spitting, etc. So these offences may be differentiated, and put into another category, and others such as security and other things put under a separate category. In this way the whole thing can be solved. But if it is so complicated then the Honourable Minister may hold it over for re-drafting.

The Honourable Shri Jagjivan Ram: Sir, I have nothing much to add. There is no question of inequity and things like that and nothing to indicate madness after independence.

Mr. Speaker: It appears there has been some serious misconception here. Of course it is not for me to explain, but the position appears to me to be clear. It is only legislating for presumption—nothing more than that, and no principles of law seem to have been seriously involved as the lawyer Members seem to suppose.

The question is:

"That Clause 101 stand part of the Bill."

The motion was adopted.

Clause 101 was added to the Bill.

Clauses 102 and 103 were added to the Bill.

Shri Krishna Chandra Sharma: I move:

"That in sub-clause (1) of clause 104 of the Bill, for the words 'opinion of the Court apparently', the words 'opinion of a certifying surgeon' be substituted."

My contention is that in the first place it is difficult for a lay man to judge the age of a boy. Generally the age in question would be 14 or 15 or 16 and it is very difficult to judge it for anybody much more so for a lay man. My objection is that a Magistrate, in the beginning of a case, should have no opinion whatsoever with regard to the age of a person.

Shri K. Santhanam: Even though there is a five-year old child?

Shri Krishna Chandra Sharma: No, no; my friend, I am sorry, has no experience of a court of law. An eight-year old child or a four-year old child will not come before the Court; it will come only if it is 14 or 15 or 16 and it is difficult to judge the age of a boy—whether it is 14, 15 or 16.

Mr. Speaker: Order, order. I do not know what the objection is, but "in the opinion of the Court" does not mean a Court "as a medical person", but opinion formed on the evidence recorded before the Court. I think the word "apparently" should very probably have been *prima facie*.

The Honourable Shri Jagjivan Ram: Yes, Sir.

Mr. Speaker: That seems to have been the idea. Therefore they may think of changing the word "apparently" into "*prima facie*".

The Honourable Shri Jagjivan Ram: That is the intention, Sir. "Apparently" means "*prima facie*".

Mr. Speaker: Well, it carries different meaning to some extent. But the Honourable Minister may consult the draftsman if he likes.

Shri Krishna Chandra Sharma: My objection is to the "opinion of the Court."

Mr. Speaker: If the expression "*prima facie*" is used, we as lawyers understand what it means; it means that the Court proceeds on certain evidence.

Shri Krishna Chandra Sharma: After some evidence.

Shri Ajit Prasad Jain: "Apparently" will mean "from the looks".

Mr. Speaker: So, I will put it to the Minister. I do not know what is the idea of the Government in this. Do they wish to leave it to the Court to decide merely by looking at the face of the person?

Shri K. Santhanam: This is intended where the Judge sees the person and obviously he appears a child; then the onus is shifted; it is not as if any conviction is made.

Mr. Speaker: The point is, how does the Judge decide? There may be some *prima facie* evidence in the case; suppose there is a birth certificate which may or may not be reliable or an affidavit of a person which may or may not be reliable. Then the Court *prima facie* is of opinion that the child is of a certain age.

The Honourable Shri Jagjivan Ram: *Prima facie* would be better.

Prof. N. G. Ranga (Madras: General): Some such thing has got to be there, otherwise how can a Judge ever possibly come and say, "This man is fifteen years old, this boy is fifteen years and that fourteen years"?

Mr. Speaker: "In the opinion of the Court *prima facie*" would have carried some judicial meaning about it, but I leave it to the Honourable Minister. It is entirely a concern of his and if he sees there is no objection, then it may be adopted; unless he wants to consult his draftsman.

Pandit Thakur Das Bhargava: This section is absolutely superfluous. In every case the prosecution must give some evidence before the Court before it can come to the conclusion that *prima facie* or otherwise the man is of such and such an age; then the burden shifts. If the boy says he is three years old, no Court will say fifteen. This is a useless section and you don't require it.

Mr. Speaker: But we might not go into it now.

The Honourable Shri Jagjivan Ram: "*Prima facie*" might be substituted.

Mr. Speaker: Does the honourable member press his amendment?

Shri Krishna Chandra Sharma: I have heard that for "apparently" "*prima facie*" has been substituted. My contention, Sir, is this. In a case, first the accused is called and the magistrate says, "This is the allegation". Then evidence comes in; when the evidence comes in, then the defence comes in. Where does the provision for opinion come in? There cannot be any opinion at all from the person of the Court. How can a Judge have any opinion? After all, the trial will be under the law.

Shri H. V. Kamath (C. P. and Berar: General): It is a *prima facie* opinion and not judgment of the Court.

Mr. Speaker: That is what is meant. If those words are dropped, then a difficulty will arise as to who is to decide "*prima facie*".

Shri Krishna Chandra Sharma: It is the Court; the procedure in such cases is that a doctor is produced.

Mr. Speaker: The honourable member will see that putting the words "*prima facie*" will be meaningless if the words "opinion of the Court" are not there. Who is to say that *prima facie* such and such a thing exists? It is the opinion of the Court.

Shri Krishna Chandra Sharma: My contention is that it would be opinion of the Court, but *prima facie* would imply that there is some evidence.

Mr. Speaker: Therefore, I am asking the honourable member whether after the substitution by the words "*prima facie*", he persists in putting this amendment to the House?

Shri Krishna Chandra Sharma: No, Sir.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That in sub-clause (1) of clause 104 of the Bill, for the word 'apparently' the word '*prima facie*', be substituted."

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 104 of the Bill for the word 'apparently' occurring in sub-clause (1) the words '*prima facie*' be substituted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 104, as amended, stand part of the Bill."

The motion was adopted.

Clause 104, as amended, was added to the Bill.

Shri Prabhu Dayal Himatsingka: What about the language of this clause, Sir? Is it quite all right? The clause says:

"No court shall take cognizance of any offence under this Act except by, or with the previous sanction in writing of, an Inspector."

Now, if you remove the alternative clause "or with the previous sanction in writing of", the clause reads:

"No court shall take cognizance of any offence under this Act except by an Inspector."

And now what exactly do we mean by saying "except by an Inspector"? It should be either "except on the complaint of an Inspector" or something similar to that.

Shri K. Santhanam: The honourable member is right. "except on complaint by an Inspector" it should be.

Shri Prabhu Dayal Himatsingka: Sir, I move:

"That in sub-clause (1) of clause 105 of the Bill, after the word 'except the words 'on complaint', be inserted."

Mr. Speaker: So, some words are missing. I shall then put the amendment. The question is:

"That in sub-clause (1) of clause 105 of the Bill, the words 'on complaint' be inserted between the words 'except' and 'by'."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 105, as amended, stand part of the Bill."

The motion was adopted.

Clause 105, as amended, was added to the Bill.

Clause 106 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I beg to move:

"That in sub-clause (2) of clause 107 of the Bill, for the words 'the other by such body representing the industry', the following words be substituted: 'one each by such bodies representing the industry and labour.'"

The intention of this clause is to provide assessors for the aid of the appellate authority. So far one assessor could be appointed by the industry and the other by the Government. The amendment which I have proposed provides for the appointment of two assessors in addition to the one appointed by the Government. One of those two assessors will be appointed by the industry and another by labour. I think the suggestion is fair and it does justice both to labour and industry. I commend it for the acceptance of the House.

Prof. Shibban Lal Saksena: Sir, I support it.

Mr. Speaker: I am not yet quite clear about the meaning of the amendment. Unless I am mistaken, it will mean that there will be as many representatives of industry and labour as there are sections of industry and labour, instead of there being only two assessors. The wording suggested is: "one each by such bodies representing the industry and labour". That means that there will be as many assessors as there are bodies.

Shri Prabhu Dayal Himatsingka: Even now the clause as it stands does not specify any limitation as to the number of assessors to be appointed.

Mr. Speaker: The limitation seems to be inherent in the words: "hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body"—that clearly means two assessors.

Shri Prabhu Dayal Himatsingka: But this amendment will make it three or more than three.

Mr. Speaker: That is what I am pointing out. It will not make it only three or more. It may make it even a dozen or more. May I know from the honourable member what is the meaning of the word "one each by such bodies"?

Shri Ajit Prasad Jain: That refers to labour and industry.

Mr. Speaker: That means two.

Shri Ajit Prasad Jain: Including the Government three.

Mr. Speaker: Yes. The honourable member's idea seems to be to give representation to labour. Is the amendment clear to the Honourable Minister?

Shri K. Santhanam: Yes, Sir. It is an inappropriate amendment, because let us see how the assessors come in. There is a case against the manager. He is accused. There is an appeal—he on one side and Government on one side. Now where does labour come in? If labour is brought in, there will be unnecessary confusion, complication and ill-will between management and labour. I do not think he is serving the cause of labour by this amendment.

Prof. Shibban Lal Saksena: Sir, I do not agree with my learned friend Mr. Santhanam's argument. Here is an industrialist prosecuted for violating the Factory Act and assessors are appointed.

Shri K. Santhanam: If labour should be represented, then Government should be left out.

Prof. Shibban Lal Saksena: Assessors are appointed. If the industrialist is to appoint an assessor, then I do not know why the labour should be deprived of the benefit of this privilege. They must surely have somebody to say whether it is proper or not. Government and industry having appointed an assessor each, one assessor should also be appointed by the labour. I therefore think this amendment is very proper and should be accepted.

Shri K. Santhanam: Then the appellate authority must go.

Prof. Shibban Lal Saksena: No. If you want only the appellate authority and no assessor, then you should drop all the assessors. If you want assessors, let there be three—one to represent Government, one to represent labour interests and one to represent industrial interests.

Shri K. Santhanam: Why should Government have any assessor at all? It is itself the appellate authority.

Prof. Shibban Lal Saksena: Anyhow, I think labour must at least be allowed to have one assessor.

Mr. Speaker: Is Mr. Jain particular about his amendment?

Shri Ajit Prasad Jain: I am rather particular, because I have seen the working of the Industrial Disputes Court in U.P. who are working with the aid of assessor. I have found that the assessor representing labour is generally helpful to the labour. I think that just as in the case of the industry it is compulsory that it should be represented by an assessor, so in the case of labour also there should be someone to speak for them.

Mr. Speaker: The case contemplated here seems to be different. It is not the settlement of an industrial dispute. It is a distinct allegation of violation of a particular provision and there is a sort of criminal trial. The point will not be about the interests of labour or otherwise; the point will be whether the accused is guilty or not. That is not a case of an industrial dispute. The principle seems to be that the person who is accused should better be declared guilty by people of his own class rather than by only an independent court—

something like trial by jury, just to give him a sop that, after all there is an assessor belonging to his own class. What has the Honourable Minister got to say?

The Honourable Shri Jagjivan Ram: Sir, I have thought over this amendment and I find there are complications in it. There may be difficulty in nominating the representatives of the workers in the industry concerned. I hope therefore that my friend will not press it.

Mr. Speaker: Does he press his amendment?

Shri Ajit Prasad Jain: I do not press, Sir.

Mr. Speaker: Then I need not put it to the House.

Shri Prabhu Dayal Himatsingka: As regards clause 107 will you not suggest the word 'another' before "by such body representing....."

Mr. Speaker: That is not necessary; the wording "one by the appellate authority and the other by such body", is all right.

The question is:

"That Clause 107 stand part of the Bill."

The motion was adopted.

Clause 107 was added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I beg to move:

"That in sub-clause (1) of clause 108 of the Bill all the words occurring after the words 'certifying surgeon', be omitted."

Sir, this is necessary for the purpose of the next amendment which I propose to move.

Mr. Speaker: He may move the next amendment also.

The Honourable Shri Jagjivan Ram: Sir, I beg to move:

"That in sub-clause (2) of clause 108 of the Bill, after the words 'factory shall be', the words 'in English and in a language understood by the majority of the workers in the factory, and shall be' be inserted."

Sir, the intention of this amendment is that all the notices that are required to be displayed under this Act and other notices that may be displayed should be in English and also in a language which is understood by the majority of the workers.

Shri Prabhu Dayal Himatsingka: Sir, the amendment should be in the second line. The words "be" and "displayed" occur in two places. This amendment should be in the second line.

Shri K. Santhanam: Yes; in the second line.

Mr. Speaker: The question is:

(i) "That in sub-clause (1) of clause 108 of the Bill all the words occurring after the words 'certifying surgeon', be omitted." and

(ii) "That in sub-clause (2) of clause 108 of the Bill after the words 'factory shall be', the words 'in English and in a language understood by the majority of the workers in the factory, and shall be', be inserted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 108, as amended, stand part of the Bill."

The motion was adopted.

Clause 108, as amended, was added to the Bill.

Clauses 109 to 114 were added to the Bill.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in clause 115 of the Bill, after the words 'official Gazette', the words 'within three months of the passing of this Act', be inserted."

Sir, my experience is that even though this House passes Acts, the rules are not made under the Acts for a long time. I have pointed out during this debate that although on the 21st of November 1947 we passed the Trade Union Amendment Act, yet, the rules have not been made, although ten months have passed. The same is the case with the Act relating to the Dock Workers and the scheme has not been put into force so far. Therefore, I want that this Act should become applicable as soon as possible. In section 1 it is stated that it shall come into force on the 1st day of April 1949; I think that date is too late. When we have passed this Act, it should not be delayed for such a long time; the date should be 1st of January 1949. The rules should be made within three months of the passing of this Act. In order to see that the officials of the department do not sleep over the Act, there should be a provision in this Bill that the rules should be made within three months. I would also request that in clause 1 the date should be put in as the 1st of January 1949. I hope the Honourable Minister will see that this provision would help his department to see that the rules are made as soon as possible. Otherwise, this Act will not bring any benefit to the workers. Sir, I move.

Mr. Speaker: Amendment moved:

"That in clause 115 of the Bill, after the words 'official Gazette', the words 'within three months of the passing of this Act', be inserted."

The Honourable Shri Jagjivan Ram: Sir, I wish it were possible to accept the amendment. As my honourable friend is aware, most of the rules under this Act are to be framed by the provincial Governments. We considered this question in the Select Committee as well and the least time that would be necessary for this purpose will be six months. After considering all these points, we fixed the date 1st April 1949 for the Act to come into force, and that is the least period that is necessary for all the formalities that are required under this Act. I do not think I can accept the amendment.

Shri Prabhu Dayal Himatsingka: Moreover, Sir, the rules can be framed from time to time. It is not obligatory that all the rules should be framed in the first instance. This amendment would make it absurd to require that all the rules should be framed all at once.

Prof. Shibban Lal Saksena: In view of the assurance given by the Honourable Minister, I wish to withdraw the amendment.

Mr. Speaker: In view of the explanation, not assurance. Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Speaker: The question is:

"That clause 115 stand part of the Bill."

The motion was adopted.

Clause 115 was added to the Bill.

Clause 116 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I do not propose to move the amendment, but I want to make some observations with regard to this clause. This clause gives complete protection for anything done in good faith or intended to be done in good faith. We have adopted a clause only a short while ago whereby we have fixed a responsibility upon the manager or occupier, constructively and rigidly.

But, here a very broad proposition has been laid down, that no person shall be prosecuted and no suit or other legal proceedings shall be launched against him for anything done in good faith. My feeling is that this Bill does not show the amount of clarity that is necessary for a legislation of this kind. What exactly the clause will mean is not clear. (*An Honourable Member:* "It applies to Government servants.") It does not say, Government servants. I gave notice of an amendment to that effect, but I found that it was not acceptable. I think this clause lays down a very broad proposition. I am doubtful if almost any man will not escape prosecution and conviction if he can show good faith, no matter whatever offence he may have committed under this Act. I shall wait for the explanation of the Honourable Minister as to what exactly this clause means and how it will apply.

Mr. Speaker: It is the usual indemnity clause.

Shri Ajit Prasad Jain: That applies to public servants. Here, the wording is, "any person".

Mr. Speaker: The point seems to be, you are going to have assessors here: do you not give protection to the assessors?

Shri Ajit Prasad Jain: It should apply to a limited class of persons and not to every person. This means that an occupier or a manager of a factory or the owner of some premises, only if he shows that he did a thing in good faith, will not be prosecuted and no suit or other proceedings will be instituted against him.

Shri Krishna Chandra Sharma: If the words 'public servant' are inserted it will be all right. If the assessor is a public servant.....

Mr. Speaker: But he might not be. It appears to give indemnity to people who have to carry out the provisions of this Act in an official or other capacity.

Shri Ajit Prasad Jain: The phrase 'any person' is not confined to an official or assessor or to a person performing duty in a public capacity. It will include anybody and everybody and I think the proposition as laid down in this clause is far too wide.

The Honourable Shri Jagjivan Ram: The intention, as the Chair has explained, is to include assessors and others who may be charged with the carrying out of the Act.

Shri Ajit Prasad Jain: Your intention does not matter; it is the language that counts. The phrase 'any person' would include any owner or occupier or any one else, who has committed an offence, provided he has done it in good faith.

Pandit Thakur Das Bhargava: This is one of the general exceptions that is found in the Indian Penal Code and many other Acts and applies to a public servant or any other person who is made immune from prosecution if he acts in a certain manner. I claim that any person who acts in good faith without *mens rea* should be free from penal consequences. There is not much difference in the Indian law as well as the law on which Indian law is based between a public servant and an ordinary man. It is not as if a public servant should be protected and another person should not be protected. As it is I do not see any objection in it.

Shri Ajit Prasad Jain: Please see clause 101. Does it or does it not take out the element of *mens rea*?

Mr. Naziruddin Ahmad: *Mens rea* will not apply. This clause does not apply to a crime because no crime can be committed in good faith that would be a contradiction of terms. This applies to acts done under this law. It may be that the occupier or manager would have to do certain things under this Act or some officers employed by Government would have to do certain acts,—to go into some houses and take evidence or seize some articles, etc. If he acts

[Mr. Naziruddin Ahmad]

in good faith, he should surely be protected. It does not at all support the crime. But there is a lurking suspicion indicated about clause 101 that if a man does something in good faith it will not amount to a crime at all. That may be argued—I do not know what view a Court of law will take. I should like that this clause should be retained in order to protect a man having done anything in good faith, whether official or not. This is an usual provision which is found in many Acts. It is necessary protection for people acting in good faith so that they may not be sued or prosecuted.

Mr. Speaker: Obviously this is the usual protection given and I think it is found in a large number of Acts.

The question is:

"That clause 117 stand part of the Bill."

The motion was adopted.

Clause 117 was added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That after clause 117 of the Bill, the following new clause 118 be inserted and the subsequent clauses be renumbered accordingly:

- 118. Restriction on disclosure of information.**—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes of this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.
- (2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.
- (3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both."

This amendment has become necessary as we have provided for licenses to be taken for the construction or extension of factories and the factory owners will have to submit plans and specifications of their factories. Therefore many things will come to the knowledge of the Inspectors; and under the Official Secrets Acts so long as the Inspector holds the post he is required not to disclose this information. But he may resign and disclose these secrets. Therefore this provision is necessary so that he may not disclose the secrets gained while he is in Government service.

Mr. Speaker: Amendment moved:

"That after clause 117 of the Bill, the following new clause 118 be inserted and the subsequent clauses be renumbered accordingly:

- 118. Restriction on disclosure of information.**—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes of this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.
- (2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.
- (3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both."

Shri H. V. Kamath: Sir, I am afraid this will present some difficulties in application. Sub-clause (1) says that an Inspector in service or out of it will not disclose information, etc. I wonder how after retirement from service he will be bound by any law or rule in force on this subject. Sub-clause (3) says that any Inspector contravening the provisions of sub-section (1) will be punishable. But after retirement he is no longer an Inspector; and if he discloses a secret then I do not see how he can be penalised. It is the 'Inspector' who is liable to be punished according to sub-clause (3); but after retirement he is no longer an 'Inspector'. So the clause will be difficult to enforce.

The Honourable Shri Jagjivan Ram: I have nothing to say.

Shri H. V. Kamath: My point was that an Inspector after resigning or retiring from service is no longer an Inspector. Under sub-clause (3) the Inspector is only to be prosecuted and not the ex-Inspector.

Mr. Speaker: The section read as a whole will make the position clear. In sub-clause (3) the word "Inspector" also means an Inspector even if he is no longer in service.

The question is:

"That after clause 117 of the Bill, the following new clause 118 be inserted and the subsequent clauses be renumbered accordingly:

- 118. Restriction on disclosure of information.**—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes of this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.
- (2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.
- (3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both."

The motion was adopted.

New Clause 118 was added to the Bill.

Mr. Speaker: The question is:

"That clause 118 (renumbered as Clause 119) stand part of the Bill."

The motion was adopted.

Clause 118 (renumbered as Clause 119) was added to the Bill.

Clause 119 (renumbered as Clause 120) was added to the Bill.

Shri H. V. Kamath: Sir, I move:

"That in item 6 of the Schedule to the Bill, for the word 'Arsenical', the word 'Arsenic' be substituted."

My amendment is the smallest and probably the simplest that the world has ever seen or known, and I hope.....

The Honourable Shri Jagjivan Ram: Very poisonous, I think!

Shri H. V. Kamath: Sir, the Oxford Dictionary, whose authority my honourable friend quoted the other day, will not let me down this time.

Mr. Speaker: Amendment moved:

"That in item 6 of the Schedule to the Bill, for the word 'Arsenical', the word 'Arsenic' be substituted."

[Mr. Speaker]

Is it very necessary? The amendment restricts the scope of poison. Why not extend it to other materials outside arsenic?

Shri H. V. Kamath: I think the scientific term is 'arsenic' and not 'arsenical'.

The Honourable Shri Jagjivan Ram: There are three adjectives given in the dictionary: 'arsenic', 'arsenical', and 'arsenics'. If my friend has a particular liking for 'arsenic', I have no objection.

Mr. Speaker: The question is:

"That in item 6 of the Schedule to the Bill, for the word 'Arsenical', the word 'Arsenic' be substituted."

The motion was adopted.

Mr. Speaker: The question is:

"That the Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Schedule, as amended, was added to the Bill.

Shri H. V. Kamath: Sir, I move:

"That in sub-clause (1) of clause 1 of the Bill, for the words 'the Factories Act', the words 'the Factory Labour Act' be substituted."

Because in the Preamble it is said "Whereas it is expedient to consolidate and amend the law regulating labour in factories" I thought it would be more appropriate to describe this Act as the Factory Labour Act, because we are going to regulate labour in factories. Sir, I move.

Mr. Speaker: Before I put it, I may inform the honourable member that it is open to him to move his amendment, but the clauses adopted by the House do provide for all sorts of amenities to labour and the special Factories Act will cover all that: for example, provision regarding factories in respect of conditions of labour, amenities and all these are covered.

Shri H. V. Kamath: My object is to bring this in line with the Preamble.

Mr. Naziruddin Ahmad: This Bill also repeals the Factories Act, as will appear from the table attached to the Bill. The Factories Act of 1934 is also repealed. So the contents of the Factories Act as well as matters affecting labour are all incorporated here. Therefore the name "Factories Act" will be a more comprehensive and more appropriate name. I also thought of an amendment but having seen this I changed my opinion.

Mr. Speaker: So here is an authority. Does the honourable member wish to press his amendment?

Shri H. V. Kamath: I do not want to press it.

Mr. Speaker: So I do not put it to the House.

Prof. Shibban Lal Saksena: The Honourable Minister has said that it will take six months before the provisions of this Bill come into force. I think it is possible for the various provincial Governments to put this Act into effect by 1st January 1949. Once this Act is passed the workers will expect the benefits of it and delay in giving its benefits to them will make them angry. This will be specially so in sugar factories as their season closes in March. So I desire that the fruits of our labour should be available to labour from the 1st January 1949. The Honourable Minister himself may amend clause 1 to change 1st April into 1st January 1949. I think that is very essential because this is a very fundamental Act and it is giving important concessions which will help in maintaining industrial peace.

Mr. Speaker: His request is that if the Honourable the Minister is agreeable the date 1st day of April 1949 should be changed into the 1st day of January 1949—just to expedite it by three months.

Shri Prabhu Dayal Himatsingka: Is it not that 1st April is better than 1st January?

Mr. Speaker: Is the honourable member agreeable? As Mr. Himatsingka has pointed out, it is better to start it from 1st April!

Mr. Naziruddin Ahmad: If this Act is meant as a huge joke, then this date 1st April is suitable!

Mr. Speaker: The question is:

"That Clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

Mr. Speaker: The question is:

"That the Title and the Preamble stand part of the Bill."

The motion was adopted.

The Title and the Preamble were added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That the Bill, as amended, be passed."

I just want to take this opportunity to express my thanks to the honourable members of this House who have whole heartedly co-operated with me in expediting the passage of the various clauses of the Bill.

At this stage Mr. Speaker vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava (one of the Panel of Chairmen).

I would make special mention of my friend Prof. Shibban Lal Saksena who has served both purpose of expressing his views in extenso thereby making it known to the working classes of the country that he is the one solitary champion of the working classes left in this country. On the other hand, he has been reasonable enough to see the trend of the House and to utilise his common sense in withdrawing most of his amendments.

One of the members of this House remarked that this Bill is a Charter of Rights to the working classes. Personally I do not claim that it is so. But certainly I do claim that it contains some important items of such a Charter of Rights. The Factories Bill and State Insurance Bill both taken together constitute a major portion of the charter of rights of the working classes and if I get the co-operation of this House in the way I have been getting I hope that it will not be long when we will be laying down a complete charter of rights of the working classes.

Sir, I do not want to take the time of the House at this stage. I wish to express once more my thankfulness to the honourable members of the House for extending their full co-operation in the passage of this Bill.

Mr. Chairman: Motion moved:

"That the Bill, as amended, be passed."

Mr. Naziruddin Ahmad: Sir, I desire to congratulate the Honourable Minister in having succeeded in eluding the members of the House in their attempt to effect some improvements. Prof. Saksena was really indefatigable: when others had absolutely abandoned the attempt he persisted but the Honourable Minister has not accepted a single amendment of his.

[Mr. Naziruddin Ahmad]

When dealing with a Bill like this and other Bills which have come before the House one cannot forget the fact that the drafting of Bills for a long time has been of the most unsatisfactory character, and is such that it is difficult to improve the Bills on the floor of the House. Again one cannot fail to notice that some amendments proposed in the House were extremely good but they could not for certain reasons be accepted on the floor of the House. I have a feeling that Honourable Ministers feel that a kind of prestige is somehow involved in this. I have found that when amendments are suggested to the Honourable Minister privately they are extremely willing to accept them but when they are moved on the floor of the House they are unwilling to accept them. That tendency has become very clear. In this case I had suggested a long list of amendments in the Select Committee stage and the Honourable Minister was kind enough to accept them but I should point out that the errors which I attempted to point out were of a routine character, such as spelling mistakes, use of capital and small letters, punctuation mistakes and so on. When I pointed out some of these errors outside the House they were accepted but similar errors which then escaped my eyes also escaped the eyes of the draftsman. They have again been incorporated in some of the amendments and they have been left to the draftsmen. This shows a lamentable state of affairs. Are these mistakes which were pointed out on the floor of the House and which are of a drafting nature so much above the capacity of the draftsmen that they could not correct them? It shows that the draftsmen are not sufficiently industrious.

Then again the question of proof reading is very important. One cannot fail to see that Bills are badly printed. It is no use blaming the printers for this. There is after all such a thing as proof-reading. Printers always make peculiar mistakes and therefore careful proof-reading is essential. Letters are inverted, words drop out, lines are not in proper alignment. These things are very common. I submit that the resources of Government should be ample enough to engage some one to do the job properly. Some one should be held responsible for their job.

Then again one important aspect of this Bill is that with regard to the rule-making power the draftsman became tired of the whole business. There are here a large number of places where rule making power is given, and it is the universal practice to collect them together in one section and give a list. Yet in the case of this Bill possibly the draftsman was overworked and he simply adds a few lines that the Provincial Government should have the power to make rules, as in clause 112. It consists of only four lines and the usual sub-clause giving a detailed list of the various rule making powers to make it convenient for reference has been entirely absent in this Bill. It shows some amount of slovenliness or habitual carelessness and the members are tired of pointing them out. Instead of improving, the thing goes on in the usual merry fashion and members are often blamed for pointing out these small errors. If the errors are pointed out it should not be resented. They are meant to be warnings for improvement but the improvement is never maintained or attained. In these circumstances the members have a genuine grievance and they are entitled to a better drafting service from

Mr. R. K. Sidhya (C. P. and Berar: General): Are you discussing the drafting of the Bill, which is now complete?

Mr. Naziruddin Ahmad: I am discussing the Bill and I believe the honourable member will recognise that the drafting of a Bill is part of the Bill. If one writes a letter to his friend or his wife one can indulge in bad draftsmanship.

Prof. N. G. Ranga: Question: Love and affection will excuse such faults. But in drawing up a statute the House is entitled to the best kind of draftsmanship: There should be nothing like second rate draftsmanship. The draftsmanship should be absolutely faultless and even elegant and the House is entitled to this service. After all the members of the Select Com-

mittee cannot go through the matter of drafting and punctuations. (*Shri H. V. Kamath*: What are you for?). Their attention is naturally and legitimately directed towards more important matters. It is in these circumstances that members of the Select Committee are often blamed for not looking into these things. It is not their business to do so. They have a right to expect faultless draftsmanship and comments have been frequently made in this respect, but with what effect the House known. (*Prof. N. G. Ranga*: No improvement.) No improvement as a distinguished honourable member points out. How long can we go on doing the business of the draftsman in this House?

Mr. Chairman: May I inform the honourable member that he has been very eloquent on this point and already taken too much time? I would suggest to him to deal with the other points.

Mr. Naziruddin Ahmad: Sir, I shall finish at once. One honourable member of this House, Babu Ram Narayan Singh, on this subject once pointed out that the draftsmen will take the pay and the members will have to do the drafting. That is more or less the position. It is very unjust. I think that this state of affairs should be remedied. Honourable members of this House deserve a better service from our draftsmen.

Shri B. Das (Orissa: General): Sir, I congratulate the Honourable the Labour Minister and this House for consolidating all the factory laws into one Act. I would not sing the swan-song of those on whose behalf I very often speak in this House that we are squealing. We are not squealing! We welcome this consolidated Act as it will help the employers and the lawyers' profession. They will not have to look in future into several factory laws; they will look into one consolidated Act.

Those who spoke in the House on behalf of labour spoke all the time with a sense of mistrust and malice against the employers class. I am pained that the House is not getting settled down and trying to examine Bills in their proper perspective. At times I felt that if I were in the place of the Honourable Minister I would have said *et tu Brute* to the various remarks that fell from the various socialist speakers of the House. None of them appreciated the extent to which the Honourable Minister has gone in consolidating the Bill and in trying to give labour all facilities. I do not separate the Honourable Minister from me, from the employer, from the official class of the factories and from the labour class. We are all one because he and I are committed to that splendid Resolution at the Industrial Conference. It is no use thinking of giving labour more facilities like spittoons which the Select Committee have provided without thinking of "production". And India cannot survive unless the production in India is raised and unless there is co-operation between labour and industrialists. I tried to listen to my honourable friend the Labour Minister and found he just touched the word 'production'. But he did not tell us that since that Conference he has been in closer touch with the various labour leaders that are present in the House or outside and that he has got their assurance that they would co-operate with the Government and the industrialists for larger production so that the battle of inflation may be fought properly in this country. I hope that when my labour friends rise they will say how they are going to stop inflation in this country—not by demanding more rest houses and spittoons or less working hours but by co-operating with Government and industries so that we will be able to tide over the great tragedy that is coming over us and which will soon engulf us. I ask the plain question of my labour friends, why this mistrust? At every stage the employer is thought as not being prepared to give the little comforts in life to the worker. Why not examine it from the practical point of view? He is a human being. We are all human beings and we are trying to work out the problems according to our way of life. All of us do not live in Bombay and Calcutta as does my honourable lady friend from Calcutta. When I said 'why

[Shri B. Das.]

punish the labourer because he could not spit in the spittoon provided in some corner of the factory?"—I raised the issue that we come from different groups of society and every Province has got its own standard of living—my lady friend got annoyed. She thinks that Bombay and Calcutta constitute the whole of India and everybody would carry out the command. I would ask my lady friend from Calcutta whether she would like that every worker should be fined five rupees and would also lose two days salary for being absent from work to attend the court of enquiry. I do not think my lady friend has realised that no provision is made in the Bill for summary trial in the factory itself—whether the punishment to be awarded is one which Professor Shibban Lal Saksena wanted or it will be just a warning.

I have my difference with my honourable friend the Minister for Labour. In every piece of legislation that he has introduced in this House, whether through his own examination or through the inspiration of the I.L.O. to which place we send a large number of representatives who return with high fangled ideas—and the Government goes on legislating more ameliorative measures in respect of labour conditions which even the European countries do not observe—he is placing a heavier financial burden on the Provinces. And my honourable friend Professor Shibban Lal Saksena always says 'Do it quickly'. If everything is to be done quickly, my honourable friend the Minister for Labour will employ more Secretaries and more Deputy Secretaries and Officers to expedite action on various legislations. Then we will have to face inflation and face a drastic economic cut everywhere in respect of which matter one understands that the Cabinet is getting alive to the fact that the country is facing a grave crisis and there should be no new recruitment or employment. If that be so, let us be realists. I want that labour should be satisfied. But I do not want that labour should live same standard of life as they live in Switzerland; they should fit into our national economy, into our national social condition of life, and not—as my honourable lady friend from Bengal desires—that they should all live in Calcutta.

Then I want to know from the Honourable the Labour Minister how he is going to train the Factory Inspectors. He has got the Chief Inspector and half a dozen more advisers under him. And every Province has a Factory Inspector. How is he going to co-ordinate the activities of the various Factory Inspectors so that they understand the implications of these labour legislations and try to work it for the betterment of the conditions of labour and for better production in India. My impression of the Factory Inspectors is that they are abettors of strikes, they do not understand the Acts and they behave as bureaucrats. Whether they side with capital or labour I am not concerned. But I think that we must create conditions whereby the Factory Inspectors understand Factory laws and the various pieces of labour legislation and implement them in the spirit the ultimate goal of which was defined in the Tripartite Industrial Conference, namely, that there should be more production. For the last four months no labour leader has said anywhere in India that it is his desire and it is his bounden duty to see that there should be greater production in India.

Sir, I would like to close my observations with one word about the draftsman and his mistakes about which my honourable friend Mr. Naziruddin Ahmad referred so much. (An honourable member: He is a specialist). Of course, he is a specialist in draftsmanship. But one thing struck me. If there is something wrong with the draftsmen of the Government of India, that shows that the class of lawyers, to which my friend belongs, has deteriorated. Because, the draftsman comes from the lawyer class. If the lawyer draftsmen of the Government of India have failed to satisfy my friend with regard to commas, semi-colons or articles, I can only say that the lawyers have deteriorated. (Mr. Naziruddin Ahmad: It is the unsuccessful lawyers that seek Government

jobs.). I think we should not mind the words, commas and fullstops. We should look into the substance. Speaking on substance, I welcome the new consolidated factories measure and I do hope my friend will give me the assurance that the Factory Inspectors will be human enough to work this Act and the labour leaders will also give me their assurance that they stand for greater production in India and not for strikes and slow downs.

Babu Ramnarayan Singh (Bihar: General): Sir, I welcome the measure and congratulate my honourable friend Babu Jagjivan Ram, the Labour Minister, on the successful and polite way in which he has piloted the Bill. Sir, he is my old friend and colleague. I am proud of the achievements with which his honest endeavour is daily crowned. (Hear, hear). But, Sir, in questions of labour matters, I am afraid it appears to me that there is too much law and too little good. I have long been in this Central Assembly. I have seen that so far as legislation is concerned, we are not behind any country in the world, (Hear, hear),—rather, we are much ahead of them. But so far as the actual good to the labour is concerned, Sir, we will find that we are far, far behind any country in the world.

Whenever—and I am talking of the old days also—whenever I have seen any question being discussed (*The Honourable Shri Jagjivan Ram: Old days only, I think?*) No, no. I think that is continuing.

Whenever the labour question was being discussed, tears were shed. Had they been actual tears, I think the Assembly hall would have been flooded by now! (*An Honourable Member: They were all crocodile tears?*) There is no doubt about it.

But, Sir, I sound a note of warning with the remarks I have made, and I request my honourable friend Babu Jagjivan Ram that having passed this measure he should transfer his capital from Delhi to the labour centres—although moving centres—sometimes at Jharia, sometimes at Jamshedpur and so on and so forth. He should stay there for some time and should see the condition of labour there. I know he knows it, I know he has seen it, but now having passed this factories law, he should see that things are actually done for the good of the labour.

With this remark, I should remind the House and the Honourable the Labour Minister that we have been talking of industrial labour whose number I think is something like 35 lakhs or so, but what about the millions and millions of agricultural labour for whom neither any crocodile tears are shed in this House nor any legislation taken up by the Government or by the Government representatives, the Labour Ministry? I think we are doing a wrong to the agricultural labour as well as to the country as a whole.

I am not going to take much of the time of the House on this matter, but so far as drafting is concerned I entirely agree with my friend Mr. Naziruddin Ahmad. I said once before also and repeat: Well, I do not understand it; so many mistakes are pointed out in this House and the draftsmen are not being dismissed? Well, I wonder why so much carelessness is done in the offices of the Government of India and no steps are being taken. I think it is disgraceful. I think the drafting should be so beautifully and correctly done that even a comma should not be given anywhere by mistake. They are so highly paid officers and so highly paid staff. If they will commit mistakes, then what are they paid for?

With these words, I again welcome the measure and congratulate my friend Babu Jagjivan Ram.

Prof. Shibban Lal Saksena: Sir, although I have been trying to move amendments after amendments knowing full well that the Honourable Minister is unwilling to accept them, still I thought it my duty to do so, so that when he comes with a new Bill in future it should cover the suggestions I have made.

[Prof. Shibban Lal Saksena]

I want to tell him that when we are independent we do expect that we shall have a labour legislation which will be in line with the most progressive countries in the world. Labour movement in this country is divided. There is the A.I.T.U.C., there is I.N.T.U.C. there is the Socialist Hind Mazdoor Panchayat and there are others. I talked to Mr. G. L. Nanda of the I.N.T.U.C.; he said he did not want a capitalist India but wanted in India something like the Labour Government in Britain. I talked with Mr. N. M. Joshi also and he said that he stood for demonstratic socialism as exists today in Britain. And Shri Jai Prakash Narayan goes on saying the same thing throughout the country. So the leaders of all the three Trade Union Congresses cherish the British Trade Union ideal. But Sir, when yesterday or day before yesterday I was moving amendments to a clause seeking to substitute registered and recognised trade unions for Works Committees, the Honourable Minister vehemently opposed it; in fact, he brought forward strange arguments which hardly did him credit. In fact, I personally think the whole system of Works Committees is a very obnoxious system. It should not have been introduced at all. I may read out the report of the British T.U.C. and show what they say about these Works Committees and Joint Boards. It is contained in a paragraph in yesterday's *Statesman*. This is what they say:

"Trade Union chiefs have rejected the suggestion that Britain's nationalised industries should be controlled by joint boards representing equally trade unions and management.

The main reason—fear that their independence would be in danger—is explained in the annual report of the Trade Unions Congress General Council issued today. The report will come before the 800 delegates, representing nearly 8 million who will attend this year's Congress opening at the seaside resort of Margate on September 6.

The joint boards proposal came up in debate at last year's Congress and since then has been investigated by the Economic Committee of the General Council.

The Committee report expresses the view that joint administrative boards would destroy the independence the unions at present have from the executive authority of the nationalised industries. The unions would be compromised in their relations with the public boards and also their own members.

"Trade unionists elected or appointed to serve on a public board, but still owing ultimate responsibility to the Union, would be in an embarrassing position, unsatisfactory to themselves, to the board, and to the work people concerned," the Committee states."

Prof. N. G. Ranga: What is their conclusion? Therefore

Prof. Shibban Lal Saksena: Therefore they do not want joint boards which is their name for our Works Committees.

Prof. N. G. Ranga: The Board should be managed by the Government itself?

Prof. Shibban Lal Saksena: They say that in the nationalised industries there should be regularly formed trade unions and these unions should have full power of bargaining with the nationalised management. The nationalised industry will have their management and the unions will have their own executives which will bargain with the management for proper conditions of work and service.

The Honourable Shri Jagjivan Ram: And not the workers?

Prof. N. G. Ranga: Neither the unions, nor the workers. It will only be the managers.

Prof. Shibban Lal Saksena: Unions represent the workers, and workers alone.

The Honourable Shri Jagjivan Ram: And Works Committees—are they also of Managers?

Prof. Shibban Lal Saksena: Works Committees are formed of management and workers in equal proportion. The British Trade Union Congress has rejected

proposal to form such Committees or Joint Boards. So after one year's study and consideration, 80 lakhs of workers of England have rejected this proposal even in nationalised industries. And now that all the great labour parties here want that we should have something of the kind of the Socialist Government in England, I think we should take a warning from the considered opinion of the Trade Union Congress in England. My own experience of the Works Committees is very sad. At present, as they have been working for the last few months, they have led to more disputes than settlements. There have been more stoppages of work on their account in the last six months. I have found that formerly disputes were settled much more quickly. What happens now is that first a dispute is referred to these Works Committees, and from there it goes to the Regional Conciliation Board and thence to the Industrial Court and so in going from one Committee to another it takes more time to settle a dispute than it did before. No settlement is possible in the Works Committees as there is always a tug-of-war between labour and management and the dispute is not resolved for a long time. I therefore suggested yesterday an amendment to substitute for the Works Committees "Recognised Trade Unions". I thought that would definitely improve the situation, but it was not accepted. I hope however that the Honourable Minister will consider this point and bring in necessary legislation later.

After all my criticism I must say that this Bill is a historic Bill and India today can boast that she has placed on the Statute Book one of the most important measures that have been adopted for labour welfare—most important measures like the limitation of the hours of work, for instance to 48. We have now come in line with the International Convention of 1919 and as I said the other day we must try to come in line with the Convention of 1935. The Honourable Minister said that he will try to do it as early as possible and it would indeed be a great achievement if he could go forward and fall in line with the Convention of 1935.

Then the other things that he has provided in this Bill are also things which were not so far on our Statute Book and we shall indeed be indebted to him for having done so.

One important thing about which there was controversy was about the employment of women at night. I am sure the House is indebted to the honourable member Mr. Santhanam for the support he gave to the cause of women in this respect. Even the British Act only provides for work by women between 7 a.m. and 8 p.m. I referred to the British Act to see if we are not going beyond what even an advanced country like England has done. The Honourable Minister cannot say that our women are more advanced than the women in Britain. Therefore I think he has made a mistake here and I hope he will soon realise it by experience and see his way to retrieve the error.

Sir, I wish that this Act extended to more fields than has been provided for. I mentioned particularly the dock workers and wanted them to be included under this Act. But the Honourable Minister said there were regulations for them. I have seen the regulations. They do not confer on the dock workers the same benefits as this Bill contains. Again, had this Bill included the building industry also, it would have meant a great deal for our workers, for after all, we have to put up numerous houses—probably several millions—and it would have been a blessing to our workers in that industry if something of the sort of this Bill were extended to them also. I hope that even though the Honourable Minister has not included those industries under this Bill, this Act will soon be extended to them also.

Then, there are certain clauses and certain portions of this Act which can be improved. For instance, about accidents. As I have pointed out, this Bill is not very comprehensive in that respect. Under the English Act, if there is an accident, there is an elaborate enquiry. The Secretary of State orders special

[Prof. Shibban Lal Saksena]

enquiry into certain accidents and special measures are taken. Here accidents take place and nobody cares for them on many occasions. I hope next time the Minister comes to the House the law in regard to accidents will be improved.

Then, again, in regard to the prohibiting of dangerous substances used in factories there are certain omissions here. It is law in England that in the manufacture of matches white phosphorus should not be used. No such provision is made here. I think therefore that we should take advantage of the experience and wisdom of other countries and utilise it in our legislations. I do not think that we should ignore other peoples' experiences and I hope that the next Bill when it comes will incorporate all the advances made by other industrial countries and see that our Factory Act is in advance even of the most advanced countries in the world.

In the end, Sir, I thank the Honourable Minister for having patiently borne up with my amendments. I think I have put a severe strain upon him. I thank him for the courtesy with which he has replied to my amendments.

Shri Ajit Prasad Jain: Sir, we have reached a stage, when after the welter of amendments and clauses, we can pause and ponder over our achievements and shortcomings. The Bill, as it is now going to be passed, is practically the same as it was when it emerged from the Select Committee. There has hardly been any changes worth the name. There is no doubt that the present Bill is a great improvement upon the existing factory law. Many things which were left vague and to the rule making power find a concrete shape in this Bill. I believe, therefore, that this Bill is quite a bit of achievement. But then the real benefit to the labour will not flow from what we have written on paper, but how it is actually translated into action. An honourable speaker before me has already referred to that aspect of the matter.

During the discussion of this Bill complaints were made that the Provincial Governments have been invested with too many powers for providing exemptions from the various provisions of the Bill. Those exemptions practically remain intact, as they were when the Bill was introduced. I would humbly suggest it to the Honourable Minister that in working this Bill he should give directions, of which he possesses power to do under this Bill, to the Provincial Governments that these exemptions should be made only in exceptional cases. They should not be the rule. In fact, the different provinces in India are at different stages of industrial development and on the part of the backward provinces there is apt to be a tendency not to enforce the Bill with all its rigour, but since we have legislated for the whole of the country and made a uniform law, it becomes necessary that in its actual application it must apply equally well to all the different provinces of the country. The Bill provides for a machinery for supervision and compliance with the provisions of the Bill.

It provides for the appointment of Chief Inspectors and Inspectors. The Honourable Minister said that there were 82 Inspectors for 13,000 factories in this country. Numerically, the number of Inspectors may not be too small; but judging from the extent of the country, the wide area over which the factories are spread over, and the distances between the different factories, I think, Sir, there are good reasons for strengthening the Inspectorate. My own experience is that in many places the work of the Inspector is left to the Collector. The Collector is hardly the person fitted to do that kind of job. He has so many other problems. He has neither the aptitude nor the knowledge nor the will to do this kind of work. I hope that the Honourable Minister will provide a net work, rather a steel frame, of Inspectors who should see to the efficient working of this Act.

I know, Sir, that the Honourable Minister is always very anxious for the welfare of labour and that he will leave no stone unturned to make this Act

work as efficiently as possible. It is in this hope that I congratulate the Honourable the Minister for steering this Bill in the House through its various stages in such good humour and amiable spirit. I hope the same spirit will prevail in its execution and the Honourable Minister will see that the Act benefits even more by its implementation than from the provisions that it contains.

Shrimati Dakshayani Velayudhan (Madras: General): Mr. Chairman, Sir, the Bill that is before the House now for discussion is nothing but a co-ordination of all the legislation that were passed in the previous years. Formerly, the Central Government was acting in an advisory capacity; but through this Bill, the Central Government is giving directions to the provinces as well as to the States as regards labour legislation. I can say and if necessary I can quote examples to show that the provinces and some of the States have gone even ahead of the Centre as regards labour legislation. If I may be permitted to quote one example, I can say that in one Legislative Council in South India, a Bill was brought in the Council giving the right to the worker to get a maximum of 50 per cent. of the profits. I think that is a piece of legislation which went ahead of the Centre. I do not find any reason to say that there is anything new in this Bill, or that it is an invention. I do not want to say that it is a charter of rights; I do not even want to call it now—revolutionary as the Honourable Minister put it in the beginning, because, we find that this Bill is only a copy of the summary of the previous Labour legislations.

Sir, when we examine the Bill we find a certain amount of confusion and lack of perspective about labour problems on the part of those who are responsible for this Bill. I can cite examples of this. Labour welfare, factory inspection, fixing of hours of work, etc. are all brought about in one Bill. Take for example the case of spitting. In the Bill, provision is made to punish a labourer by fine up to a maximum of Rs. 5 if he spits in an unauthorised place. Now, Sir, labour legislation is intended to regulate the conduct of both the employer and the employee. If a labourer spits in an unauthorised place, who is to report the matter? It is the employer who has to report and all the formalities of an investigation will have to be done. The Factory Inspector will have to come and try both the employer and the employee. Suppose a machine tool or a piece of chemical touches the mouth of the labourer, he will all of a sudden spit on the spot; he will not go in search of the spittoon. Are we to impose a fine on that labourer and make an enquiry? This clause makes provision for an enquiry as in the case of a sitting strike or a strike without notice. We must also note that spitting comes under public health and sanitation. It is the duty of the Government and the management to teach the labourers to have clean habits. I think the provision of such a clause in the Bill is futile and we are thereby showing to the public ignorance about labour problems.

Then, Sir, I do not think this Bill is going to bring about a millenium to the working classes of India. The labourers will not feel that there is anything better as soon as this Bill is introduced. There is one principal demand from the labourers: what the labourers want today is better wages and decrease in the number of working hours. Then, there is the fundamental demand which will affect the present social structure. I think the Indian National Trade Union Congress is evolving a formula to solve that problem. That fundamental demand, I can say boldly is profit-sharing by the labourer. If the Government could introduce that system, I think that is the only solution by which we can develop the industries of this country. If the industrialists of this country accept that principle, I think we can avoid even nationalisation of industry. I can assure the House that labour will not sit idle as long as this demand is not conceded. All the other legislation brought about by this House, whether it is bonus or an insurance scheme, or any other scheme, is not going to give satisfaction to the working classes of this country. It is only by giving a proper share in the profits that we can satisfy the labourers and I hope the Government will see that this is the only solution.

[Shrimati Dakshayani Velayudhan]

Then, Sir, the other day I referred to the insertion of a clause which gives power to a District Magistrate to act as Factory Inspector. I gave my reasons for objecting to that clause and I should like to know from the Labour Minister the reasons for his retaining such a clause in this Bill.

The honourable member Prof. Shibban Lal Saksena said it is a historic Bill. But I wish to refute the argument. I say it is historic in the sense that it has allowed the management to employ women in factories at night which, if we analyse it in the proper perspective, we can see that it will lead to complete disruption of happy family life of many women.

Sir, I have nothing more to say.

Several Honourable Members: The question may now be put.

Mr. Chairman: The question is:

"That the question may now be put."

The motion was adopted.

The Honourable Shri Jagjivan Ram: Sir, I am conscious that this is the third reading of the Bill and I am not expected to give replies to all the points which have been raised in regard to specific clauses which we have already considered and passed. These points were made then and I replied to them duly.

One or two points have been raised here to which I have to give a reply. I have never claimed that this Bill is going to bring about a millenium for the working classes; I have not claimed that it is a charter of rights for them. I think that it is irrelevant, inopportune and without any relation to the context of the Bill to raise the question of wages and profits. That is a separate question altogether; as to what is to be done in that respect, I may say that Government are fully alive to their responsibilities, and do not stand in need at this late stage of being reminded of their duties in the matter of reasonable wages for the workers or a fair share in the profits. I hope many of the honourable members of this House are aware that we have already proceeded to some extent in the matter of wages and profit-sharing, and any suggestion is too belated at this stage. My honourable friend Prof. Saksena was very sore about the formation of Works Committees. I hold very strong views on this question; I have made it clear on more than one occasion that I stand for the healthy growth of trade unionism in this country, but not the type of trade unions that we come across in this country every day here and there. He has drawn the analogy of trade unions in the United Kingdom. I would like to put a direct question to him. How many of the office-bearers of the trade unions in the United Kingdom are non-working-class people? Is there any non-worker who happens to be President or Secretary or office-bearer or member of the executive committee of a trade union in the United Kingdom? How many such trade unions can you claim in this country where the affairs and the management of the trade unions are in the hands of people who happen to be workers or who have been workers at any stage of their life? (Prof. Shibban Lal Saksena: A very large number.) I challenge that statement. All my efforts are directed towards that end; I want that the management of the affairs of the trade unions in this country should pass into the hands of those who are actual workers or who have been actual workers at any stage of their life. And that is the reason why I want to encourage the Works Committees, so that the workers may learn to stand on their own legs. And I repeat what I said the other day that I do not want these workers to be spoon-fed by outside leaders for all time to come, I do not want the workers to be exploited by trade union leaders for all time to come. It is surprising that opposition to this comes from those who claim to be interested in the welfare of the workers; they say that Works Committees

should not be encouraged because they will make the unions useless. It means that they have created a vested interest which they want to retain at all costs and which I am determined to break.

Prof. Shibban Lal Saksena: The English workers are not spoon-fed but they have also opposed them.

The Honourable Shri Jagjivan Ram: I have drawn a distinction between trade unions here and those in the United Kingdom. There the working class movement is for the working class and by the working class; in India the movement is no doubt for the working class but it is not run by the working class. (Prof. Shibban Lal Saksena: Question.) I want to make the working class movement in India for the working class and by the working class. I know it will be unpalatable to those who have created a vested interest for themselves and based that vested interest on the meekness of the unsophisticated labourers of this country. But I will not mind that opposition. I stand for the workers and for their solidarity and unity; and in any step or action of mine which is going to make them stand on their own legs and promote their unity and solidarity I will not care for any opposition. This is the one way which is going to make the workers bold,—these Works Committees where not people like Jagjivan Ram or Shibban Lal Saksena go to negotiate with the employer and sit with him in the chair. It produces a great psychological effect when a subordinate worker goes to his Manager, sits with him and negotiates with him on equal terms. I cannot forget that psychological effect, and we have provided for that in the Works Committees. I wish trade union leaders of this country to realise the importance of the formation of these Works Committees and the psychological effect that this very simple factor is going to create in the working classes; and the sooner they realise the better for the working classes of India though it may work to the detriment of the vested interest of the leaders who are opposed to the formation and growth of Works Committees.

Then, Sir, Babu Ramnarayan Singh has pointed out about the implementation of the provisions of this Act. I am quite alive to this aspect of the question as well. I frankly admitted that up till now the strength of the inspection service in this country has not been adequate and I quoted some figures. I admitted at the same time that in view of the extension of the scope of the Factories Act, the present strength of the inspection service in the country is not adequate, and we have been insisting upon the Provincial Governments to increase their staff. There have been difficulties. The one difficulty is to get the requisite number of the required personnel. In order to make up that deficiency, as I informed the House the other day, we have started a sort of training centre here, and so far we have held two courses. In the first course twenty-two inspectors from the Provincial Governments attended. In the second course eighteen inspectors attended. Every year we are going to have these courses in order to train these inspectors who are engaged in this work in the provinces. With the passage of this Act, when a larger number of workers will come under its purview, we will certainly require a larger number of inspectors. We have been holding regular conferences of provincial Labour Ministers as well as of Provincial Chief Inspectors of Factories so that we may have as much of uniformity in different provinces as is possible. So we are quite alive to this aspect of the thing, namely that the service should be strengthened and there should be maximum possible uniformity in the framing of the rules and in the execution of the provisions of this Act in the different parts of the country.

Babu Ramnarayan Singh has asked me to go and visit the Labour centres and see the condition of the workers. (Babu Ramnarayan Singh: And to stay there!) I think this suggestion has come rather too late. I am afraid, Sir, I passed that stage much earlier and there is no necessity for my going and seeing the condition of the working classes. Not only have I seen that condition but I have lived in that condition. That may be an experience for other members of

[Shri Jagjivan Ram]

this House. But it has not been an experience for me and therefore I say that I stand in no need of studying the conditions of the labourers in this country.

Shrimati Dakshayani Velayudhan: Then why was a Special Officer appointed to study labour conditions especially agricultural labour.

The Honourable Shri Jagjivan Ram: But the lady member presumes that if a Minister knows a subject, he stands in no need of having officers or secretaries or experts or special officers. That is a queer presumption and queer things may emanate from a lady, which one cannot help. (Mr. P. K. Sridha: *That is not an answer!*) Much has been made of one provision in this Bill which gives authority to the Provincial Governments that they may make rules whereby women can work up till 10 p.m. in the night, and one member has been good enough to remark that the Bill is historic in that respect. I may remark, Sir, that this exemption may not be necessary in the case of those ladies and women who do not stand in need of earning something, who may not stand in need of looking to the help of even their husbands. But certainly it is necessary in the case of those women who have nothing to fall back upon, who are widows, who have orphans to support, who have no lands, no income and no asset except their labour. Are we not to provide that they can earn something to support themselves and their orphans?

Then it has been said that in a country advanced much more than ours—even in the U.K.—this provision has not been made.

Prof. N. G. Ranga: They wanted women to work till midnight! As a matter of fact women are trying in the U.K. to get this provision done away with because they think women are not getting a chance and that these restrictions are standing in the way of their work and so this provision is a very important one.

The Honourable Shri Jagjivan Ram: I was just going to quote one sentence from the English Act which I have in my hand in order to remove an impression that women are not allowed to work beyond 8 p.m. It reads:

"Women may be employed on a system of two-day shifts subject to the following conditions:

One of the conditions is:

"The morning term shall not begin earlier than 6 A.M. and the afternoon shift shall end not later than 11 P.M."

We have provided up to only 10 p.m. Here in the English Act it is up to 11 p.m.

Prof. Shibban Lal Saksena: Section 70 of the English Factories Act, 1937 says:

"Subject to the provisions of this Part of this Act, the hours worked, the period of employment, and the intervals for meals and rest, for every woman or young person employed in a factory shall conform to the following conditions, namely:

(a) the total hours worked, exclusive of intervals allowed for meals and rest, shall neither exceed nine in any day nor exceed forty-eight in any week.

(b) the period of employment shall not exceed eleven hours in any day and shall neither begin earlier than seven o'clock in the morning nor end later than six o'clock in the evening in the case of young persons who have not attained the age of sixteen, or in other cases eight o'clock in the evening, or, on Saturday, one o'clock in the afternoon."

So, for women 8 o'clock in the night is the limit.

Prof. N. G. Ranga: That is not the latest position.

Prof. Shibban Lal Saksena: It is the prevailing Law today.

The Honourable Shri Jagjivan Ram: I do not proceed solely on the analogy of western countries. We have to look to the interests of our country, and even if the English Act does not provide

Prof. N. G. Ranga: It does!

The Honourable Shri Jagjivan Ram: I say it does and I have just quoted from the English Act. But even if it does not so provide, I do not proceed simply on the example of the western countries and I shall never agree that whatever is done by the Western countries, nay, whatever is done by the United States of America and the United Kingdom, is such as should be blindly imitated by us.

Therefore, in the interests of those women who have to maintain their orphans, who have to stand on their own legs, it is necessary that an opportunity is given to them so that they may earn their bread and be able to support their orphans. I therefore feel that that provision is a healthy one. After all we are giving power to the Provincial Governments. We are not giving power to children.

Shri K. Santhanam: You should have made it mandatory!

The Honourable Shri Jagjivan Ram: The Provincial Governments will utilise that power. I do not want to take more of the time of the House. As I said I am not going to reply to the minor points raised about spittoons and 5 P. M. spitting. I cannot be blamed if some members cannot think of anything else but spitting and spittoons.

Shri Prabhudayal Himmatsingka: Sir, I make a request to the Honourable Minister to consider the other suggestion of Prof. Saksena to extend the scope of the Bill to include a place as a factory where speeches are made and Bills and resolutions as produced so that on the basis of the legislation passed you can have more breathing space and fresh air for every member in this Assembly?

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday, the 30th August, 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES
(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Monday, 30th August, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 a.m.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF WORKS,
MINES AND POWER.

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power):
Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of Works, Mines and Power, *vice* Dr. Sir S. V. Ramamurthy resigned."

Mr. Speaker: Motion moved:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of Works, Mines and Power, *vice* Dr. Sir S. V. Ramamurthy resigned."

Prof. N. G. Ranga (Madras: General): May I know from the Honourable Minister whether this Committee has met since it was appointed and if so, how many times, whether the plans with regard to the various projects have been placed before the Committee and the Committee had been given an opportunity to consider the plans and advise the Government in regard to the priority to be given to them?

The Honourable Shri N. V. Gadgil: This Committee since its appointment last March met three times in Delhi and once at Khasolkvasala where the Central Irrigation Station is located. Every plan was put before them and every proposal for legislation when it goes before them is scrutinised by the members of the Standing Committee.

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of Works, Mines and Power, *vice* Dr. Sir S. V. Ramamurthy resigned."

The motion was adopted.

ELECTION TO STANDING COMMITTEE FOR ROADS

The Honourable Dr. John Matthai (Minister for Railways and Transport):
Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two members to serve on the Standing Committee for Roads, until the end of the current financial year, *vice* Shri Mohanlal Saksena and Shri B. P. Jhunjhunwala resigned."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two members to serve on the Standing Committee for Roads, until the end of the current financial year, *vice* Shri Mohanlal Saksena and Shri B. P. Jhunjhunwala resigned."

The motion was adopted.

ELECTION TO INDIAN CENTRAL COCONUT COMMITTEE

The Honourable Shri Jairamdas Daulatram (Minister for Food and Agriculture): Sir I beg to move:

"That in pursuance of clause (g) of section 4 of the Indian Central Coconut Committee Act, 1944, the members of this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member from among themselves to be a member of the Indian Central Coconut Committee, *vice* Haji Abdus Sattar Haji Ishaq Seth."

Mr. Speaker: The question is:

"That in pursuance of clause (g) of section 4 of the Indian Central Coconut Committee Act, 1944, the members of this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member from among themselves to be a member of the Indian Central Coconut Committee, *vice* Haji Abdus Sattar Haji Ishaq Seth."

The motion was adopted.

Mr. Speaker: I have to inform honourable members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely:—

	Date for nomination	Date for election
Standing Committee for the Ministry of Works, Mines and Power	1-9-48	3-9-48
Standing Committee for Roads		
Indian Central Coconut Committee		

The nominations for these Committees will be received in the Notice Office upto 12 Noon on the date mentioned for the purpose. The elections, which will be conducted by means of the single transferable vote, will be held in the Assistant Secretary's Room (No. 21) in the Council House between the hours 10-30 A.M. and 1 P.M.

ELECTIONS TO STANDING COMMITTEES FOR MINISTRIES OF DEFENCE AND COMMUNICATIONS

Mr. Speaker: I have also to inform the Assembly that upto the time fixed for receiving nominations for the Standing Committees for the Ministries of Defence and Communications, one nomination in the case of the first and two nominations in the case of the second were received. As the number of candidates is equal to the number of vacancies in each of the two Committees. I declare the following members to be duly elected:

I. *Standing Committee for the Ministry of Defence*.—Shri Gopikrishna Vijayavargiya.

II. *Standing Committee for the Ministry of Communications*.—(1) Shri K. Hanumanthaiya, (2) Shri Mahavir Tyagi.

INCOME-TAX AND (BUSINESS PROFITS TAX (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I beg to move:

Shrijut Rohini Kumar Chaudhuri (Assam: General): Sir, on a point of order, the Honourable Minister is not speaking from his seat.

Mr. Speaker: I may inform the honourable member that before the honourable Minister changed his seat he had taken my permission.

The Honourable Shri K. C. Neogy: May I explain the circumstances. The House is aware that I came to be in charge of this measure only very recently and I wanted to have the advantage of the assistance of my honourable colleague the Law Minister, who was the chairman of the Select Committee and therefore I sought the Honourable the Speaker's permission to sit near him, so that between us two we can pilot the Bill in the House.

Sir, I beg to move:

"That the Bill further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947, as reported by the Select Committee, be taken into consideration."

Sir, I should like on this occasion to make a few remarks about the principal provisions of this measure, around which some amount of controversy has raged. I refer to the provisions of clauses 7 and 8, in particular. If I may recall the circumstances in which these provisions came to be placed before the Legislature, I would remind the House that among the provisions of the Act which led to the appointment of an Investigation Commission in regard to taxation is a duty which is laid upon that body "to investigate and report to the Central Government on all matters relating to taxation on income with particular reference to the extent to which the existing law relating to and procedure for the assessment and collection of such taxation is adequate to prevent the evasion thereof."

Soon after the appointment of the Commission, which took place about the end of 1947 the Commission addressed themselves to the task of examining the state of the law in so far as it acted as a kind of encouragement to the tax-evader. The Commission, about whose high authority I need not remind the House, drew up a long memorandum and circulated it to 60 different institutions interested in the subject, besides calling for information from others concerned. In the course of their investigation they also discussed the matters at issue with representatives of various interests and as a result of this careful examination they made a report to the Government suggesting that very early action should be taken for the purpose of carrying out their recommendations in this behalf. These recommendations were duly considered by the Government and were accepted *in toto*. As a matter of fact the draft of the Bill in regard to these matters is in the main a reproduction of the draft suggested by the Commission themselves. It was anticipated, as a matter of fact it has been suggested by the Commission, that the measure should be passed into law during the last session. When the measure came up, my predecessor was expected to make a motion for taking the Bill into consideration straightaway but as a result of an amendment moved, I think by my honourable friend Mr. Ananthasayanam Ayyangar, the Bill was referred to a Select Committee. We have now the report of the Select Committee before us and I am glad to find that so far as the main provisions of this measure are concerned the Select Committee have approved of it and if they have made any amendments anywhere, they have not touched the underlying principles of the provisions to which I have referred. Sir, my intention in referring to these circumstances is to emphasize the urgency as also the

[Shri K. C. Neogy.]

importance of enacting the provisions to which I have referred without any amendment in this House.

I should not like to take any more time of the House by way of referring to the other provisions of the Bill, but I find that there are certain amendments, particularly with regard to clause 4, on which I might have something to say when it comes up.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947, as reported by the Select Committee, be taken into consideration."

Mr. Naziruddin Ahmad (West Bengal: Muslim): I rise to support the motion. I have, however, a small grievance in this respect, namely, the copy of the Bill which the Secretary is required to make available to every member and which was supplied to me really consists of two copies of the report alone pasted together and the Bill which is the essential thing was entirely absent. I discovered it on the night of Thursday last and I could not procure a copy because Friday was a holiday. I got the Bill on Saturday but I was engaged in the House throughout that day and I have sent notice of some amendments today, that is the earliest day for me. They will, I believe be circulated in that form. I hope that taking these circumstances into consideration on the ground of hardship these amendments may be considered, unless they are obviously unnecessary.

With regard to this Bill, I support the principle outright. There has been a large number of evasions by the tax-payer and also evasions in which the Income-tax officers do not go scot free. Things have come to light due to the labours of the Investigation Commission which is now sitting, and in view of their recommendations, and in view of their experience these provisions of the Bill have come up before the House. I submit, Sir, that the Bill should be passed without any serious amendment.

With regard to clause 9, however, I find that the provision requires a little amount of strengthening. Clause 9 is nothing but an addition to sub-section (5A) to section 46. This consists of a number of paragraphs which I have suggested should be numbered as separate sub-sections, but that is another matter.

With regard to paragraph 3 of the proposed sub-section, it is provided that if the assessee is left without any property, but if anybody owes any money to him, namely a banker or a debtor or a tenant, the Income-tax Officer will serve a notice upon him not to pay the amount to the assessee and the Income-tax Officer will direct that man to pay such amount as the Income-tax Officer thinks necessary to the Income-tax Officer himself and that would be regarded as payment to the assessee. It is provided in this paragraph that if that man does not pay it to the Income-tax Officer but rather pays to the assessee disregarding the provisions of the notice, no penalty is provided for. It may be that the assessee owes really a large amount of tax to the Government and he has some money or other property with a third person and this third person may otherwise, apart from being the custodian of the money, be a man of straw and the section simply says that if he does not pay the money to the Income-tax Officer, the money will be realised from him. I submit that if he is an insolvent or a man of straw, this would not be sufficient; the Income-tax Officer will have to run after him and proceed against him in the Civil Court. I think some punishment should be attached to this and if a notice is served upon a man not to pay the amount to the assessee but hold it for the Income-tax Officer, then that notice should not be disregarded. I feel that some penalty of a deterrent character should be attached to this disregard of the

notice; otherwise on the matter of tax evasions we are dealing with men who are nothing better than bad characters and rascals. This is what I want the Honourable Minister to consider. The provision should be made rather deterrent so as to make evasions absolutely impossible. These are some of the few remarks which I have to make; otherwise, I am in full agreement with the principles of the Bill and I hope that the Government should proceed full steam ahead with the scheme before them.

پنڈت تھاکر داس بھارگو: اس بل کے بارے میں میں چند ایک

جذاب کی خدمت میں پیش کرنا چاہتا ہوں ان میں سے پہلی بات جو میں عرض کرنا چاہتا ہوں وہ یہ ہے کہ دراصل جو آج ہمارے Income-tax administration کی حالت ہے وہ نہایت ہی تکلیف دہ ہے۔ ایک طرف تو اس میں صداقت ہے کہ بہت سارے لوگ tax خوشی سے دینا نہیں چاہتے۔ کچھ تو انسانی فطرت اس طرح کی ہے کہ کوئی شخص اپنی آمدنی کا کوئی حصہ کسی اچھے کام کے واسطے بھی دینا نہیں چاہتا اور دوسرے ابھی لوگوں میں یہ احساس نہیں ہوا ہے کہ اب جب کہ گورنمنٹ کی نوعیت تبدیل ہو گئی ہے اور گورنمنٹ ہماری National Govt. ہو گئی ہے تو اس وقت جو گورنمنٹ کا due ہے اس کو نہ دینا ایک بڑا بھاری پاپ ہے۔ اب اس کی ضرورت ہے کہ لوگ اس بات کو محسوس کریں کہ کوئی جرم اتنا معیوب نہیں ہے جتنا کہ اس رقم کو سرکار کو نہ دینا جس کے دینے کی قانون ہدایت کرتا ہے۔ لیکن اس mentality میں لوگوں کا کچھ زیادہ تصور نہیں ہے۔ ہم کو یاد ہے کہ خود Income-tax Deptt. کے tribunals اور ہمارے ملک کی High Courts نے یہ فیصلہ دیا تھا کہ اگر legitimate means سے کوئی evasion ہو سکتا ہے تو یہ نہ کوئی پاپ ہے اور نہ یہ کوئی گناہ ہے۔ یہ mentality صرف اسی چیز میں نہیں بلکہ پورے طور پر قانون پر چلنے میں بادھا پہنچاتی ہے۔ اور یہ صرف income-tax ہی کے Tribunal کا فیصلہ نہیں ہے بلکہ یہ کتنے ہی criminal courts کے فیصلے ہیں کہ اگر کوئی شخص legitimate طریقے سے قانون کو evade کر سکتا ہے تو اس کو قانوناً اختیار ہے کہ وہ ایسا کرے۔ اور بھی بہت سی وجوہات ہیں۔ جن میں میں جانا نہیں چاہتا۔ ہر ایک tax دینے والا یہ جانتا تھا کہ جو tax اس کی جیب سے نکلتا ہے وہ اسی کی آزادی کو دبانے کے واسطے کام میں لایا جاتا ہے۔ اس طرح اس tax evasion کی تہہ میں یہ وجہ بھی تھی اور اپنا لالچ بھی تھا لیکن اپنے moral conscience کو satisfy کرنے کے واسطے وہ ان تجویزوں پر بھی عمل کرتا تھا۔ آج حالت تبدیل ہو گئی ہے اور میں چاہتا ہوں کہ ہر ایک آدمی اب اپنی ذمہ داری کو محسوس کرے اور tax دینے کے معاملہ میں اتنی ہی ایمانداری سے کام کرے جس طرح کہ وہ کسی دھرم کے کام میں کرتا ہے۔

یہ عرض کرنے کے بعد دوسری چیز جس کی طرف میں جذاب کی توجہ دلانا چاہتا ہوں وہ ایک بہت ضروری چیز ہے جیسا کہ لوگ ہماری National Govt.

[بلڈت تھا کو داس بھارگو]

کے آنے سے پہلے سمجھتے تھے اس طرح آج بھی Income-tax سے بچ جانا معیوب چیز نہیں ہے اسی طرح سے Income-tax کے افسران بھی اپنا بڑا بھاری گزرو (گور) یہ سمجھتے تھے کہ جہانتک ہو سرکار کی آمدنی کو بڑھانا چاہئے چاہے غریب assessee کی کچھ ہی حالت ہو۔ ان کی ترقی کا دارومدار اسی پر تھا۔ ان کے پیچھے ایک طاقت دھتی تھی جس کا نام Inspecting Assistant Income-tax Commissioner تھا وہ ان افسران کی چاہے جب گردن مڑو سکتا تھا اگر کسی Income-tax افسر کے ضلع میں کم ٹیکس (tax) وصول ہوا تو اس کو حکم ہوتا تھا کہ اتنا tax کم کیوں ہوا۔ یہ دونوں ہی چیزیں غلط ہیں۔

آج جو بڑے بڑے لوگ ہیں اور جو بڑے بڑے کام کرتے ہیں ان کو نہیں معلوم کہ غریب لوگوں کے ساتھ معمولی درجہ کے لوگوں کے ساتھ Income-tax افسر کیا سلوک کرتے ہیں۔ ایسی حالت میں کوئی تعجب کی بات نہیں کہ ادھر تو ہمیں یہاں پر اسمبلی (Assembly) میں بڑے بڑے اصول بتلائے جاتے ہیں اور Practice کے اندر آج ہم جا کر دیکھتے ہیں تو ان اصولوں کو دیکھتے ہیں جو نااہل برداشت ہیں۔ انکم ٹیکس (Income-tax) افسران اور Inspector صاحبان کو اتنی بڑی طاقت ملی ہوئی ہے کہ وہ چاہے جس شخص کو چاہے جس طرح دبا سکتے ہیں۔ آپ اس واسطے ان بے اعتدالیوں سے بچنے کے لئے ان دونوں چیزوں کو دور کریں۔ جو ضروری چیز ہے وہ یہ کہ ہم ایسا قانون نافذ کریں جو certain ہو۔ جو arbitrary power انسپیکٹر اور انکم ٹیکس آفیسر کے ہاتھ میں نہ دے۔ اور جہانتک غریب assessee کا سوال ہے اور middle class assessee کا سوال ہے جو عام طور پر tax دینے سے نہیں بچتے ہیں۔ ان کے اوپر بیجا سختی نہ کی جائے۔ جو investigating commission بنا ہے وہ بڑے آدمیوں کے واسطے تھیک ہے کیونکہ ان لوگوں نے غبن کیا ہے۔ ان کے واسطے آپ جو طاقت چاہیں لے لیں۔ گو کہ میں اس طاقت کے واسطے بھی یہ چاہتا ہوں کہ وہ arbitrary نہ ہو۔ لیکن تاہم جو ایسے جرم کرتے ہیں اور جو state کو نقصان پہنچاتے ہیں ان کے لئے تو کوئی justification ہو سکتا ہے۔ لیکن ان کے نام سے یہ کہہ کر یہ طاقت لی جانی ہے کہ یہ انہیں کے خلاف استعمال کی جائیگی مگر یہ honest assessee کے خلاف استعمال ہوتی ہے۔ وہ Income-tax افسر جو اس طاقت کو استعمال کرتا ہے وہ یہ تمیز نہیں کرتا کہ کونسے honest assessee ہیں اور کونسے dishonest ہیں۔ dishonest لوگ تو اپنے رویے کئی طاقت سے بچ جاتے ہیں لیکن honest assessee کو پریشان کیا جاتا ہے۔ اس لئے میں ادب سے عرض کرنا چاہتا ہوں کہ ہمیں اس قانون کے نافذ کرنے میں جو ضروری بات دہیان میں رکھنی چاہئے وہ یہ کہ اس طرح کی طاقت جس پر پورا control نہ ہو سکے

Income-tax افسران اور Inspectors کو نہ دینی چاہئے۔ اگر اس نکتہ خیال سے اس قانون کو دیکھیں تو میں ادب سے عرض کروں گا کہ یہ قانون اس کسوتی پر پورا نہیں اترتا۔

اور جو Investigating Commission قائم کی گئی ہے اس کے ہر فیصلے کے بارے میں گورنمنٹ کے منسٹر صاحبان کہتے ہیں کہ یہ ایک expert committee کا فیصلہ ہے۔ اس کو تبدیل کرنے سے expert committee کا status تبدیل ہو جائیگا۔ میں سمجھتا ہوں کہ اس معاملہ میں کوئی expertness کا سوال نہیں ہے۔ ہم اور آپ ان سوالوں کو اچھی طرح دیکھ سکتے جو روزمرہ ہمارے سامنے آتے ہیں اور جن سے ہم کو سخت تکلیف ہوتی ہے۔

جو بڑے بڑے اکسپرت (Expert) صاحبان انویسٹی گیشن کمیٹی Investigation Committee میں ہیں۔ وہ بھی سب غریب اور اوسط درجہ کے طبقہ کی تکلیف کو نہیں جانتے ہیں۔ اور انکو نہیں معلوم ہے کہ کس طرح یہ اختیارات برتے جاتے ہیں۔ محض تھیورٹیکل (theoretical) طریقے پر فیصلہ کرتے ہیں۔ اس لئے میں جناب والا کی خدمت میں عرض کروں گا کہ دفعہ سات اور آٹھ پر ان تین باتوں کے خیال سے جانچ کی جائے کہ آیا یہ طاقت جو دی گئی ہے وہ تھیک دی گئی ہے یا غلط دی گئی ہے۔ اول تو جو چیز میں نے عرض کی ہے وہ یہ ہے کہ قانون سرٹین (certain) ہونا چاہئے۔ دفعہ سات اور آٹھ کو پڑھنے سے معلوم ہوتا ہے کہ انویسٹی گیشن کمیٹی (Investigation Committee) نے جو کسوتی رکھی تھی اس پر وہ پوری نہیں اترتی ہیں۔ میں نے کہا تھا کہ جہاں تک ایرر آف لا (error of law) کا سوال ہے اس میں کمشنر (Commissioner) کو طاقت دی جائے اور جہاں تک سوال ہے فیکٹ (fact) کا وہاں انکم ٹیکس آفیسر (Income-tax Officer) کو طاقت دی جائے اگر کوئی ممبر (Member) اس بات میں کوشچن (question) کرتا ہے تو میں اس کی توجہ انویسٹی گیشن کمیٹی (Investigation Committee) کی جو رپورٹ (Report) ہے اس کے صفحہ تین پیرا (para.) سات کی طرف دلانا چاہتا ہوں جس میں یہ درج ہے

"We, however, agree that it is possible to maintain that an assessment should not be allowed to be reopened under section 34 merely on the ground that the Income-tax Officer who made the assessment has misunderstood or misapplied the law or that a different view of the law or of the facts is possible. The proper remedy in such cases, if the Department considers the matter to be one of sufficient importance, is to allow the matter to be right on appeal or in revision."

میں ان الفاظ یعنی شیفتنٹ امپارٹینس (sufficient importance) کی طرف جناب والا کی توجہ دلاتا ہوں جو اس رپورٹ (Report) میں صفحہ تین پر پیرا (para.) سات میں درج ہے اور پھر صفحہ ۴ کے نوٹ میں بھی یہ درج ہے

"Cases of error of law or erroneous inference of fact will no longer fall under section 34, the Commissioner must, therefore, have power to pass appropriate orders in such cases under section 33-B itself. That is also the reason why we have now provided for an appeal by the assessee to the Tribunal against the Commissioner's order."

[پنڈت تھاکر داس بھارگو]

جناب والا! میری ادب سے گزارش یہ ہے کہ دفعہ 33 (b) اور 34 اگر موجودہ صورت میں دیکھی جائے تو یہ ایک دوسرے کو اوورلیپ (Overlap) کرتی ہیں کیا وجہ ہے کہ انکم ٹیکس افسر (Income-tax Officer) صاحب کو بھی اور کمشنر (Commissioner) صاحب کو بھی ایک اسیسی (assessee) کے خلاف اس کے سارے انکم ٹیکس اکاؤنٹ (Income-tax account) کو ری اوپن (reopen) کرنے کی اجازت دی جائے۔ اگر مقصد یہ ہے کہ کمشنر (Commissioner) صاحب صرف قانون کے معاملہ کو ری اوپن (reopen) کر سکیں اور انکم ٹیکس افسر (Income-tax Officer) صاحب صرف فیکٹس (facts) کے معاملہ کو ری اوپن (reopen) کر سکیں تو یہ ایک بات سمجھ میں آسکتی ہے۔ لیکن دونوں کو اختیار دیئے جائیں کہ دونوں کے دونوں ان معاملوں کو ری اوپن (reopen) کر سکتے ہیں تو میں ادب سے عرض کرتا ہوں کہ اس کے لئے کوئی وجہ نہیں ہے کہ ان دونوں کو یہ طاقت دی جائے۔ یہ ایک دوسرے کو اوورلیپ (overlap) کرتی ہے انویسٹی گیشن کمیٹی (Investigation Committee) کی رپورٹ (report) میں جس کے لئے کہ ہر ایک ممبر (member) گورنمنٹ کی تعریف کے پل باندھتا ہے یہ اختیار نہیں دیا گیا ہے تو پھر میں نہیں سمجھتا کہ دفعہ (B) 33 کے قرائت (draft) میں کیوں نہیں یہ الفاظ رکھے گئے کہ صرف کمشنر (Commissioner) صاحب کو یہ اختیار دے گا کہ وہ قانونی معاملہ کو ری اوپن (reopen) کر سکتے ہیں۔ اب تو یہ جو قانون آپ بنا رہے ہیں وہ بالکل نا مناسب ہوگا۔ ہر ایک انکم ٹیکس افسر (Income-tax Officer) چاہے گا تو محض قانون کی بنا پر ری اوپن (reopen) کر دینا اور اس طرح سارا قانون کنفیوزن (confusion) میں پڑ جائیگا جو کہ رپورٹ کمیٹی کی منشا کے خلاف ہوگا اور شاید منسٹر (Minister) صاحب کی منشا کے بھی خلاف ہو۔ اسلئے میں عرض کرتا ہوں کہ یہ جو انویسٹی گیشن کمیٹی (Investigation Committee) کی رپورٹ (report) میں جو درج ہے اس پر عمل کیا جائے اور اس بات کو بالکل صاف کر دیا جائے کہ کمشنر (Commissioner) صاحب محض لا (law) کی بنا پر کارروائی کر سکیں گے۔

دوسری چیز جس کے بارے میں میں توجہ دلانا چاہتا ہوں وہ یہ ہے کہ جناب والا لوئر مڈل کلاس (Lower middle class) کے غریب اسیسی (assessee) کے خلاف اس کا عمل نہیں کیا جانا چاہئے ابھی میں نے پڑھ کر سنایا کہ انویسٹی گیشن کمیٹی (Investigation Committee) کی رپورٹ (report) میں یہ درج ہے کہ جب تک معاملہ سنی شنیت اہمیت (sufficient importance) میں ہو تب تک کیس کو reopen نہ کیا جائے یہ صفحہ تین پر درج ہے۔

“The proper remedy in such cases, if the Department considers the matter to be one of sufficient importance, is to allow the matter to be set right on appeal or in revision.”

اور جب میں نے اس معاملہ کا ذکر کر دیا ہے تو میں یہ چیز صاف کر دوں کہ جب یہ چیز تسلیم کر لی گئی تھی تو یہ خیال تھا کہ بڑے کیسز (cases) کے لئے یہ چیز استعمال ہوگی اور چھوٹے معاملوں کے لئے نہیں۔ لیکن جنہوں نے اس اصول کو مانا تھا وہ آج فائننس منسٹر صاحب اکثر سیٹ (seat) میں نہیں ہیں اور میں نہیں جانتا کہ کل فائننس منسٹر (Finance Minister) کا کام کون کریگا۔ سلیکٹ کمیٹی (Select Committee) میں یہ مانا گیا تھا کہ یہ بڑے کیسز (cases) پر لاگو ہوگا اور چھوٹوں پر نہیں ہوگا اسلئے میں نے جو امینڈمنٹ (amendment) بھیجے ہیں ان میں سے ایک کا منشا یہ ہے کہ اگر قانون کی بات ہو تو اس کو انکم ٹیکس افسر (Income-tax Officer) صاحب ری اوپن (reopen) نہ کر سکیں میں سمجھتا ہوں کہ اس پر مناسب غور کیا جائیگا اور اس امینڈمنٹ (amendment) کو منظور کر لیا جائیگا۔

اب ایک دوسری چیز جو میں عرض کرنا چاہتا تھا وہ یہ ہے کہ یہ جو معیاد منسٹر (assessment) کو ری اوپن (reopen) کرنے کی وہ دوسرے ملکوں میں یہاں سے کم ہے گو ان کا سپین آف لائف (span of life) یہاں سے بہت زیادہ ہے یہاں پر آٹھ سال اور چار سال کی تجویز کی گئی ہے ایسے اشخاص کے بارے میں کہ جنہوں نے اپنی رٹرن (return) کو چھپا لیا ہے یا رٹرن (return) نہیں دیا ہے تو ایسی صورت میں آٹھ سال کی معیاد مقرر کی گئی ہے۔ باقی کے واسطے چار سال مقرر ہے۔

لیکن دوسرے ملکوں میں یہ معیاد چھ سال کی ہے۔ آٹھ سال کی معیاد میں سمجھتا ہوں کہ زیادہ ہے۔ آدمی اتنے عرصہ تک زندہ نہیں رہتے ہیں۔ یہ معیاد کم کر دینی چاہئے اور خاص کر کے ایسے اشخاص کے بارے میں کہ جو اور جڈل اسیسی (original assessee) نہ ہوں۔ یہ شاید ہر ایک شخص کے تجربہ میں ہے کہ جو بزنس مین (businessman) آج لکھتی ہے وہ کل بھوکا ہو جاتا ہے اور جو آج بھوکا ہے وہ اگر سپیکو لیٹو بزنس (speculative business) کرتا ہے تو ایک سال کے اندر اس کی حالت دگر گوں ہو جاتی ہے کہاں آٹھ سال اور چار سال کا ذکر ہے میں عرض کرتا ہوں کہ اگر وہ مرجاتا ہے تو اس کے کرائم (crime) کا نتیجہ اس کی اولاد کو دینا تھیک نہیں ہے۔ اسلئے میں عرض کروں گا کہ اس معیاد کو کم کر دینا چاہئے۔ اور اس معیاد کو ایسے آدمیوں کے لئے نہیں رکھنا چاہئے کہ جنہوں نے ایمان داری سے اپنی اپنی رٹرن (return) داخل کی ہو۔ جنہوں نے اپنی انکم کو چھپایا نہ ہو اور جنکے اوپر کسی طرح کا الزام نہیں رکھا جاسکتا ہے۔ ایسے آدمیوں کے سر پر چار سال تک ڈیموکلس (Damocles) کی سورت (Sword) رکھنا میری سمجھ میں نہیں ہرگز مناسب نہیں ہے۔ یہ انصاف

[پنڈت تھاکرداس بہارگو]

کے خلاف ہے۔ پبلک پالیسی (public policy) کے خلاف ہے۔ جناب والا! ایسے شخص جو ٹیکس سے بچنا چاہتے ہیں ان کے لئے آپ جو چاہیں کریں میں ٹیکس اویڈر (tax evader) کا دوست نہیں ہوں لیکن میں نہایت ادب سے عرض کرنا چاہتا ہوں کہ نان اویڈرس (non evaders) جن کے لئے آپ آنسو بہاتے ہیں ان کے ساتھ آپ کیا ہمدردی کا سلوک کرتے ہیں آپ کے انکم ٹیکس آفیسر (Income-tax Officer) جس طرح کام کرتے ہیں۔ اسکا حال آپ کو پورا معلوم نہیں ہے پھر اسکے بعد آپ آٹھ سال یا چار سال کا عرصہ جانتے ہیں کہ وہ جسقدر ٹالچ چاہیں کرسکیں میں ادب سے عرض کرتا ہوں کہ یہ انصاف کے خلاف ہے عدالتوں میں ریس جوتی کیٹا (resjudicata) کے اصول ہوتے ہیں اور دفعہ ۳۰۳ ضابطہ فوجداری کے اصول سے ان کے اوپر مجھے زیادہ کہنے کی ضرورت نہیں ہے۔

میں عرض کرنا چاہتا ہوں کہ ری اوپن (reopen) کرنے کا اختیار ایسی حالت میں چاہئے جب کہ پورا پتہ چل جائے کہ کوئی غلطی کی گئی ہے یا بعد میں ایسے واقعات علم میں آگئے ہوں کہ جن کو وہ پہلے نہ جانتا ہو اور جنکو ایسی (assessee) بھی نہ جانتا ہو۔ میں نہیں چاہتا کہ جس شخص کو کوئی زیادہ ٹیکس دینا ہو تو وہ اس سے بچ جائے۔ لیکن تاہم اتنا بڑا عرصہ reassessment دوبارہ کے لئے نہیں دینا چاہئے آپ اتنے بڑے اختیارات اس طرح لائٹ ہارٹیڈلی (light heartedly) دے رہے ہیں۔ یہ اختیارات انکم ٹیکس (income-tax) کے ہر ایک غریب آدمی (honest) آدمی کے خلاف کام میں لائے جاسکتے ہیں۔ آپ چاہیں تو ایک نیا قانون بنا دیں کہ جن کی آمدنی بہت زیادہ ہے ان پر وہ لاگو ہو لیکن غریب آدمی کے خلاف آرڈی نری لا آف دی لینڈ (ordinary law of the land) میں اس طرح کا آرڈی ٹیری (arbitrary) قانون بنانا ہرگز جائز نہیں ہے۔ قانون اس طرح کا ہونا چاہئے کہ جس سے غریب اور آنیسٹ (honest) ایسی (assessee) بچ جائے۔ چنانچہ میں نے ان چند ترمیمات کی طرف آپ کی توجہ مبذول کرائی ہے جو کہ اس میں کی جانی ضروری ہیں۔ اور جب وہ ترمیمات پیس ہونگی تب میں ان پر بحث کروں گا۔

اس کے علاوہ میں دو باتوں کی طرف جناب کی اور ہاؤس کی توجہ دلانا چاہتا ہوں اور وہ یہ کہ مضمون دفعہ نمبر ۴ کی نسبت قانون بالکل صاف ہے۔ سنٹرل گورنمنٹ کو اختیار ہے کہ وہ انکم ٹیکس عاید کرے۔ ان کے علاوہ اور کوئی Authority ایسی نہیں ہے جو کہ انکم کے اوپر ٹیکس حاصل کرے۔ اگر گورنمنٹ کو یہ معلوم ہو کہ کسی جگہ انکم پر قبل ٹیکس لیا جاتا ہے وہاں پر ان کو اس کو ہٹانا چاہئے۔ اگر ایک پراونشل گورنمنٹ کو یہ اختیار ہے کہ وہ ایسے ٹیکس لگائے

تو سنٹرل گورنمنٹ کو بھی تو یہ اختیار ہے کہ اس کو ہٹائے۔ اس وقت پراونسیز میں چند ایسے ٹیکس لگائے گئے ہیں جو کہ انکم ٹیکس کے نوعیت کے ہیں۔ مثلاً پلنچاب میں اس وقت ایک ٹیکس لگایا گیا ہے۔ وہ یوں ہے کہ ایک لینڈ لڈ کو جو کچھ بھی بارہ مہینے کا کرایہ کسی مکان پر آتا ہے اس میں سے ایک مہینے کا کرایہ بطور ٹیکس وصول کیا جاتا ہے۔ اس قسم کا ٹیکس بھی تو انکم پر ٹیکس ہے۔ اور اس طرح سے یہ قبل ٹیکس ہو جاتا ہے۔ یہ جو اس قسم کے ٹیکس لئے جاتے ہیں ان سب کو exempt کرنا چاہئے تاکہ غریب لوگوں پر خامخواہ کا بوجھ نہ پڑے۔ اب جہاں تک مونیسیپل ٹیکس کا تعلق ہے اس کو سلیکٹ کمیٹی نے نہایت غور و خوض سے consider کیا ہے اور میں اُمید کرتا ہوں کہ اس پر اب نئے سرے سے دوبارہ چھان بین کرنے کی ضرورت نہیں ہے۔ اس کو اسی form میں رہنے دینا چاہئے جس فارم میں کہ وہ سلیکٹ کمیٹی نے پاس کیا ہے۔

جہاں تک دفعہ ۴۹ کا تعلق ہے۔ میں نہایت ادب سے گزارش کروں گا کہ اس دفعہ میں ترمیم کی ضرورت ہے۔ اگر ایک شخص نے کسی سے قرضہ لیا ہے۔ تو اس سے وہ گورنمنٹ کے ذریعہ سے وصول نہیں کر سکتا ہے اس کو یہ کہا جائے کہ وہ یہ سب اپنے risk پر دے دے یہ ٹھیک نہیں ہوگا۔ مثلاً اگر میں نے کسی سے قرضہ لیا ہے اور دوسرے شخص نے میرا قرضہ یا کوئی اور claim دینا ہے تو مجھے یہ اختیار ہونا چاہئے کہ میں یہ کہوں کہ میں نے اس سے روپیہ لینا ہے مجھے یہ claim کرنے کا حق ہے جو کہ مجھکو اپنا claim یا روپیہ ملنا ہے۔ تاکہ ایک آدمی جسکو حق وصولی روپیہ خود ہو وہ Defendant کے اس claim کو resist کر سکے اور یہ وصولی debtor سے نہ کی جائے۔ اس کے علاوہ میں یہ بھی عرض کرنا چاہتا ہوں کہ دفعہ نمبر ۹ کی بھی ترمیم کی جائے۔

ان باتوں کے علاوہ میں ایک اور عرض کرنا چاہتا ہوں اور وہ Hindu Joint Family کے بارے میں ہے۔ اس بارے میں جناب کے روبرو بہت دفعہ میں عرض کرچکا ہوں۔ اور اب اس کو دہرانے میں مجھکو شرم بھی آتی ہے۔ اس دفعہ یہاں پر گورنمنٹ کی طرف سے ایک Hindu Code Bill آ رہا ہے۔ جس کی رو سے Hindu Joint Family کو بالکل ہی out of existence کر دیا گیا ہے۔ اور جب یہ ہندو کوڈ بل نافذ ہوگا تب Joint family system ختم ہو جائیگا۔ ایک طرف تو آپ اس قسم کے قانون بنانا چاہتے ہیں اور دوسری طرف سے آپ کچھ اور کہتے ہیں۔ حالانکہ ابھی تک Hindu Joint family system یہاں موجود ہے۔ لیکن میں یہ عرض کروں گا کہ میں ان آدمیوں میں سے نہیں ہوں جو کہ اس Joint family system کے بہت زیادہ دلدادہ ہیں میں سمجھتا ہوں فی زمانہ یہ system ختم ہو چکا ہے اور اب آئندہ نہیں رہ سکتا۔ تو کیوں نہ سرکار اور انکم ٹیکس کا محکمہ اس اصلیت

[پنڈت تھاکرداس بھارگو]

کو کم نہیں کرتا اور ہندو خاندان کو دوسرے ٹیکس سے خارج نہیں کر دیتا جب ایسی حالت ہے تو مجھے سمجھ نہیں آتی کہ آپ بے وجہ ہر بل میں کیوں ایک Joint family کے ممبروں پر بوجھ ڈالتے ہیں۔

پچھلی دفعہ آنریبل فائننس منسٹر نے یہ کہا تھا کہ دفعہ نمبر (۱) ۲۶ کے تحت اگر کوئی یہ claim کرے کہ میرا partition ہو چکا ہے - تو اسکو partition ہوا ہوا ہی سمجھنا چاہیئے - اور اُس کے زبانی کہہ دینے پر یہ تصور کیا جائے کہ partition ہو گیا ہے - لیکن آج تک اس قسم کی کوئی instructions اس بارے میں نہیں ہوئے ہیں حالانکہ ایسا اقرار کیا گیا تھا - مجھے سمجھ نہیں آتی کہ جس وقت یہاں پر قانون بنائے جاتے ہیں تو اس وقت یہاں پر ہمیں یہ کہہ دیا جاتا ہے کہ اس میں اس قسم کی کوئی بات نہیں ہے - کہ جو خطرے والی ہو - اس لئے ان باتوں میں جانے کی ضرورت نہیں ہے - لیکن بعد میں ہمیں اُن ہی مشکلات کا سامنا کرنا پڑتا ہے جن کے بارے میں ہم نے قانون بناتے وقت ایسا خدشہ ظاہر کیا ہوتا ہے پچھلی دفعہ آنریبل فائننس منسٹر صاحب نے Investigation Commission کے سلسلے میں کہا تھا کہ کل تیس کیس refer ہو جائیں گے - لیکن بعد میں صرف احمد آباد ہی میں ۱۳۰ (ایک سو تیس) کیس ہوئے ہیں اور اس کے علاوہ اور ۸۰۰ (آٹھ سو) کیس refer کئے گئے ہیں - لیکن یہاں پر کہا گیا تھا کہ صرف ۳۰ (تیس) کیس refer ہونے ہیں -

میں جناب سے نہایت ادب سے یہ گزارش کروں گا کہ اس وقت جو ملک میں حالت ہے - اُس سے لوگ نہایت dissatisfied ہیں اور آپ لوگوں کی اس dissatisfaction کا تخمینہ نہیں لگا سکتے ہیں کہ کس قدر ہے - اس لئے میں یہ عرض کروں گا کہ ہندو joint family کے بارے میں آنریبل منسٹر کو بہت ہی غور و خوض کرنا چاہیئے اور ایسے اقدام اُٹھانے چاہیں جو کہ مناسب اور فائدہ مند ہوں اور تکلیف دہ نہیں ہوں اس وقت کچھ ایسی تجویزیں سامنے آرہی ہیں جن سے کہ Hindu Joint Family کے ممبران پر بہت بھار پڑ جاتا ہے - ایسا نہیں ہونا چاہئے ایسی تدابیر عمل میں لائی جانی چاہیں جن سے لوگوں کو سختی نہ ہو -

ان حالات کو دیکھتے ہوئے آنریبل منسٹر جو کہ فائننس منسٹر کی جگہ کام کرتے ہیں اُن سے میں یہ اُمید رکھتا ہوں کہ وہ اس بارے میں اپنی توجہ دینگے اور میری چند ترمیمات میں سے جو ترامیم اُن کو پسند آئیں اُن کو قبول فرمائیگی -

(English translation of the above speech)

Pandit Thakur Das Bhargava (East Punjab: General): Mr. Speaker, Sir, I beg to make a few observations in regard to this Bill. First of all, I would like to point out that the present condition of our Income-tax Administration is indeed very distressing. In the first instance, it is true that people generally do not want to pay the tax willingly. It is in human nature that people do

not want to part with any portion of their income for any work connected with public good, and secondly they have not yet been able to realise fully well that now when the Government has changed and we have our own National Government, it would be a great sin not to pay what is due to the Government. Now it is the high time that the people realize that no crime is more reprehensible than to evade the payment to the Government of the amount enjoined by the law. But people are not to be blamed very much for this mentality. We are very well aware that a decision was given by the Tribunals of the Income-tax Department and the High Courts in our country that if any evasion can be made by legitimate means, it is neither a sin nor an offence. This mentality is not only confined to this particular sphere, but acts like a snag in the full enforcement of the law generally. This is not only the decision of the Income-tax Tribunal but of many other courts having criminal jurisdiction that if any person can evade the law by legitimate means there is nothing to prevent him from doing that. There are many other reasons into the details of which I do not want to go. Every tax-payer knew that the tax which went out of his pocket was utilized to suppress his freedom. So this fact coupled with the sordid motives was the reason underlying the evasion. But tax payer also followed these devices to satisfy his moral conscience. The conditions have changed now and I want that everybody realises his responsibility and acts scrupulously in the payment of tax just as he would do in matters of religion.

Having explained this, the other point to which I would like to draw your attention, Sir, is very vital. Even today it is not considered a reprehensible act to try to escape from the payment of Income-tax; they consider it just as the people considered prior to the advent of our National Government. Similarly the officers of the Income-tax Department considered it their prestige to increase the revenues of the Government to the maximum extent possible without regard of the condition of the poor assesseees. Their promotion solely depended on this. There is another officer the Inspecting Assistant Income-tax Commissioner above them who can make them do what he likes. Whenever there was a decrease in the amount of Income-tax collection in any district, the Income-tax Officer concerned was called upon to explain. Both practices are wrong. Well placed persons are perhaps not aware of the treatment meted out to the common people by the Income-tax Officers. Under such circumstances, it would not therefore be surprising to say that while in this Assembly we are told of very high principles, but actually we come across practices which are impossible to put up with. The Income-tax Officers and Inspector have been armed with such wide powers that they can oppress anybody in any manner they like. With a view to suppress these two evils, we should eradicate such mal-practices. The most essential thing is that we should enforce such a law which should be certain, and should not place arbitrary powers in the hands of Inspectors and Income-tax Officers. And so far as the poor and middle class assesseees are concerned, who cannot generally evade payment of the tax they should not be illegally coerced. The setting-up of the Investigation Commission is quite appropriate for the big people, who commit fraud. You may take whatever powers you like to deal with them, but for that too I would not like to be exercised in an arbitrary manner. Nevertheless there can be some justification in the case of those persons who commit offences which are prejudicial to the State. Power is taken to be exercised against such persons but on the contrary it is used against the honest assesseees. The Income-tax Officer who exercises these powers does not discriminate between the honest and dishonest assesseees. The dishonest persons manage to escape with the help of money and the honest assesseees are harassed. Therefore, I would respectfully submit that the most essential thing which we should bear in mind in enforcing the law is that such powers on which it may not be possible

[Pandit Thakur Das Bhargava.]

to exercise complete control should not be given to the Income-tax Officers and Inspectors. If we see this law from this perspective, I will respectfully submit, it is far below the criterion. In regard to each and every decision given by the Investigation Commission, it has been asserted by the Honourable Ministers that this represent the decision of an expert Committee and any alteration thereof is bound to change the status of the Committee. I realize that there is no question of expertness in such a matter. All of us can very well appreciate these problems that confront us daily and which cause us considerable hardship. Those big experts who are on the Investigation Commission are not aware of the hardships to which the poor and middle class people are subjected and they do not know the manner in which these powers are exercised. They decide merely on theoretical grounds. Therefore, I will submit, Sir, that Clauses 7 and 8 should be scrutinized in the light of these three points whether it would be right or wrong to confer these powers. First of all what I have stated is that the law should be *certain*. It would be observed that Clause 7 and 8 do not fulfil the object which the Investigation Commission had in view. I had pointed out that the Commissioner should be given the powers to rectify errors of law, the Income-tax Officer should be empowered to deal with errors of facts. If any honourable member questions this, I would like to draw his attention to para. 7 at page 3 of the Report of the Investigation Commission:

"We, however, agree that it is possible to maintain that an assessment should not be allowed to be reopened under section 34 merely on the ground that the Income-tax Officer who made the assessment has misunderstood or misapplied the law or that a different view of the law or of the facts is possible. The proper remedy in such cases, if the Department considers the matter to be one of sufficient importance, is to allow the matter to be set right on appeal or in revision."

Sir, I would like to invite your attention to the words "sufficient importance" in para. 7 at page 3 of this Report. It has been further laid down in the note at page 6:

"Cases of error of law or erroneous inference of fact will no longer fall under section 34; the Commissioner must, therefore, have power to pass appropriate orders in such cases under section 33-B itself. That is also the reason why we have now provided for an appeal by the assessee to the Tribunal against the Commissioner's order."

I will respectfully submit, Sir, that the existing Sections 33(B) and 34 as they stand seem to overlap. What is the reason for empowering the Income-tax Officer and Commissioner to re-open the entire Income-tax account of a particular assessee. If it is the intention that the Commissioner and the Income-tax Officer should be authorized to re-open the cases connected with the law and facts respectively, then this is of course comprehensible. But I will submit that there is no reason why both these officers should be empowered to re-open such cases. There is therefore overlapping. The Report of the Investigation Commission for which every member eulogizes the Government does not give such a power. I cannot, therefore, understand why no provision has been made in the draft of revised Section 33(B) enjoining that only the Commissioner will be empowered to re-open the case involving points of law. Now the legislation which you are framing will be quite improper. Every Income-tax Officer will re-open the cases as and when he desires simply on the grounds of legal technicalities, and in this way there will be confusion in the entire law which would be contrary to the intention of the Report of the Investigation Commission and perhaps also against the wishes of the Honourable Minister. Therefore, I submit that the decisions contained in the report of the Investigation Commission should be carried out and the point clarified that the Commissioner will be able to institute proceedings only on points of law.

Another thing that I would like the attention of the House drawn is that this should not be enforced against the poor assessee of the lower middle

class. Just now I quoted from the Report of the Investigation Commission which lays down that unless the matter is of sufficient importance the case should not be re-opened. It has been stated at page 3:

"The proper remedy in such cases, if the Department considers the matter to be one of sufficient importance, is to allow the matter to be set right on appeal or in revision."

As I have referred to this matter I might elucidate this point that when this was accepted it was considered that this power would only be used in big cases.

But the Finance Minister who had agreed to this principle is not in his seat today and I do not know who will perform the duties of the Finance Minister tomorrow. It was agreed in the Select Committee that it will apply to big cases only. Therefore the object of one of the amendments tabled by me is that if a question of law is involved the Income-tax Officer may not be able to re-open the case. I hope that this amendment will be accepted after due consideration.

Now another thing which I want to submit is that the time-limit fixed for the re-opening of the assessment is comparatively shorter than that prevailing in other countries although their span of life is much longer than ours. The limit of eight years and four years has been proposed in this Bill. The period of eight years has been laid down in the case of an assessee who has evaded submission of the Return or has not submitted the Return. In other cases it has been fixed as four years. (But in other countries such limit is fixed as six years. I feel that eight years' time-limit is very long. People do not live for such a long period. This limit should be reduced especially in respect of those persons who are not the original assessee. This is perhaps within the knowledge of everybody that the businessmen who are millionaires today become paupers tomorrow; and conversely one who is starving today and if he does speculative business, his condition becomes changed within a year. Eight or four years is a long time. I will submit that if a person dies, it will not be proper to punish his children for his crime. Therefore, I would request that this limitation may be brought down and this should not be fixed in respect of those assessee who had submitted their return honestly. I think that it is not always expedient to keep hanging the sword of Democles for all these four years over such assessee who have not concealed their income, and against whom no charge can be levelled.

This is against the canons of justice and public policy. Sir, you may take whatever action you like in regard to the tax-dodgers. I am not a friend of tax-evaders. But I would respectfully enquire what sympathy have you shown for non-evaders for whom you shed tears. You are not fully aware of the manner in which your Income-tax Officers are working, and moreover you can realize that during this period of eight or four years they will be free to tyrannize as much as they like. With due respect, I will submit, Sir, that this is against the principles of justice. The principle of *Res Judicata* is followed in the Courts and I need not dilate much upon the provisions of Section 403 of Criminal Procedure Code.

I will like to say that the power to re-open should be exercised only when it is finally established that some mistake has been made or some new facts have come to the knowledge which were not known before and of which even the assessee was ignorant. I do not want that any person who has got to pay more tax may evade payment, but in any case such a long period for the re-assessment should not be fixed. You are giving such wide powers light-heartedly. These powers can be exercised against any assessee who may be poor and honest. If you like you may frame a new law which would apply to persons with larger incomes, but it is not proper to put in such an arbitrary

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measure in the ordinary law of the land which may penalize the poor. The law should be framed in such a manner that it safeguards and protects the poor and honest assesses. In fact, I have drawn your attention to such amendments which should necessarily be made in this Bill and I will discuss them when those amendments are moved. Apart from this, there are two other points to which I would like to draw your attention and that of the Honourable Minister. Firstly the law regarding Clause 4 is quite clear. The Central Government has the power to impose Income-tax, and besides them there is no other authority competent to levy taxes on the income. If the Government are in know of the fact that at a certain place double tax is levied on Income, they should remove this. In case any Provincial Government has levied such taxes, the Central Government has also got the authority to abolish and remove them. At present some taxes have been imposed in Provinces which are of the nature of Income-tax. For example, a tax has been imposed in the Punjab at present, the basis of which is that out of the total annual rental of a house, one month's rent is recovered from the landlord in the form of tax. So this is also a kind of tax on income and in this way this amounts to the payment of double tax. All such types of taxes which are levied should be removed so that the poor people be not unduly burdened.

So far as the levy of Municipal taxes is concerned, the Select Committee has very carefully considered this and I think there is no need to scrutinize this again. This should be allowed to remain in the same form in which it was approved by the Select Committee.

With due respect I will submit that Section 46 needs to be amended. If any person has borrowed money, he cannot realize it through the agency of the Government. It will not be proper to ask him to lend on his own risk. For instance, if I have borrowed money from somebody and another person has to repay my debt or discharge the claim, then I ought to have this right to assert that I have to get money from him. I have the right to claim that I should be repaid my money or whatever is my claim so that a man who himself is entitled to recover the amount due may be able to resist such a claim of the Department and this should not be recovered from the debtor. Besides this I would like to get Section 9 also amended.

In addition to these matters, I would like to say a little more and that is in regard to the Hindu Joint Family. Sir, I have already said much on this point on the previous occasions and feel somewhat ashamed in repeating this. During this session, the Government are bringing forth a Hindu Code Bill which seeks to put the Hindu Joint Family absolutely out of existence and when this Bill is enacted the Joint Family system will be liquidated. On the one hand you want to frame such kind of legislation and on the other you say something else. Although this Joint Hindu Family system is still existing, yet I will say that I am not one of those persons who are very much enamoured of it. I think that in the present times this system has practically ceased to exist and cannot live long. Why then does not the Government and the Income-tax Department admit this fact and grant exemption to the Joint Hindu Family from the category of taxable units? If this is the state of affairs, I really fail to understand why unnecessary burden is placed on the members of the Joint Hindu Family in every such legislation.

The Honourable the Finance Minister had stated on the previous occasion that if any body claims under Section 26(A) that his family has been partitioned, he should be treated as a separated member, and his statement should be taken as sufficient. But so far no such instructions have been issued, in spite of a promise to this effect. I do not understand why while passing Bills in this House we are told that they do not contain any harmful provisions and therefore, it was no use going deep into the matter? But later on we have to

face those very difficulties which we have apprehended while enacting the measure. While alluding to the Investigation Commission on a previous occasion, the Honourable Finance Minister had stated that thirty cases in all will have to be referred to it. But subsequently, 130 cases have been detected in Ahmedabad alone and in addition to this 800 more cases have been referred. But we were told that only thirty cases were to be referred.

Sir, with due respect, I will submit that the people are utterly dissatisfied with the conditions which are at present prevailing in the country and you cannot estimate their dissatisfaction. Therefore, I will submit that the Honourable Minister should accord very careful consideration to the matters connected with the Joint Hindu Family and should take such steps as may be appropriate and useful; and these should not in any case be harmful. At the moment many such proposals are being mooted out which tend to put a heavy burden on the members of the Joint Hindu Family. It should not so happen, and such steps should be taken which may not prove harmful to the people. Keeping all these things in view, I hope that the Honourable Minister who is in charge of the Finance portfolio, will consider the matter and accept such of the amendments proposed by me as he deems fit.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Mr. Speaker, Sir, the Honourable the Finance Minister has been pleased to say that the provisions which he has introduced are in consonance with the recommendations of the Income-Tax Investigation Commission. I would like to point out some of the important deviations that we find in the Bill the recommendations made by the Commission. My honourable friend Pandit Thakur Das Bhargava has dealt with some of them and he has drawn your attention to the fact that Section 33B which was really intended to give power to the Commissioner for re-opening cases if there was an error of law has been made so wide that it will overlap Section 34 and a case can now be re-opened by the Income-Tax Commissioner under Section 33B whether it is a question of fact or of law and similarly, under Section 34 a case can be re-opened by the Income-Tax Officer. I cannot understand why there should be two overlapping provisions for re-opening such cases.

There is another respect wherein the scope of Section 33B has been very much widened. The draft made by the Commission is as follows: "The Commissioner may call for and examine the record of any proceedings under Sections 23, 27 or 34 of this Act if he considers" and so on. Now, Sir, the clause as introduced in the Bill says: "The Commissioner may call for and examine the record of any proceedings under this Act" thus, it is not confined to Section 23 or 27 but any proceedings or any order 'under this Act.' Now, Sir, you know in an appeal against an order of assessment under Section 23 or 27 the assessee can go to the Appellate Assistant Commissioner and an order is passed. That is section 30. Then there may be an appeal to the Tribunal. That would be perhaps Section 33. Therefore, if the words "under this Act" are used and we do not specify the power of the Commissioner to re-open cases only under Section 23 and 27, the result will be that even in cases where there has been an appeal and where the matter has been considered by the Appellate Assistant Commissioner or by the Appellate Tribunal, even then matters which have been dealt with in appeal can be touched and re-opened by the Commissioner. Where, then, are we going to make a case final? If, a matter which has gone on appeal to the Appellate authorities, if cases which have been decided in appeal, can be re-opened by the Commissioner, well rather do not give the power to the assessee to appeal. No one will have any sympathy with the dishonest assessee who evades taxes and is responsible for the higher rates of taxes. If those who evade taxes indirectly are made to pay what they should, I am definite that the rate of tax may possibly go lower. In any

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event, there will be lesser burden on other honest persons. Therefore, do what you like. Take such powers as you think proper for roping in persons who deliberately and dishonestly evade taxes, but to give such wide powers which were not recommended even by the Investigation Commission does not appear to fit in with the necessities. Another aspect is

Pandit Thakur Das Bhargava: With your permission, Sir, may I just put a question to the Honourable Minister in charge whether what my friend says is correct, because according to me it is the Income-Tax Officer alone whose orders can be reviewed by the Commission and not those orders that have been the subject of appeal. I want elucidation on this point.

Mr. Speaker: I was just thinking of inviting the honourable member's attention to the words 'orders of the Income-Tax Officer'.

Shri Prabhu Dayal Himatsingka: That is true, but then that will be a matter for interpretation in the courts. It will be a question of interpretation as to whether orders passed in appeal by the Assistant Appellate Commissioner or by the Appellate Tribunal is not really an order by the Income-Tax Officer. If that is made clear, then of course the position becomes a bit better, but there are other Sections under which the Income-Tax Officer can assess—Section 52 or 52(a) when cases are compromised. Even those cases can be re-opened under this Section. A case where the Income-Tax Officer comes to an arrangement with the assessee when there is a prosecution or something like that, such a case can also be re-opened. Therefore, if the Income-Tax Commission recommended this power to be given only in respect of certain specified Sections, I cannot follow why the scope has been enlarged.

The Honourable Shri K. C. Neogy: In order to shorten the discussion on this particular point, I may inform my honourable friend that the form in which the Bill stands at present has received the fullest approval of the Investigation Commission and if they, at one stage, specified certain Sections in this context, they have realised that it is not right to confine the remedy given in clause 7 to any proceedings arising out of those Sections only and that any order passed under any provision of the Income-Tax Act which may involve the interests of the revenue should be open to revision under this particular clause.

Shri Prabhu Dayal Himatsingka: And whether they are on fact or on law?

Shri T. T. Krishnamachari (Madras: General): That is another point.

Shri Prabhu Dayal Himatsingka: And whether they are on fact or on law, they can be re-opened. If this House is going to accept the result of the discussions that is said to have taken place among the members of the Commission and the Department, it is for the House to see, but what I was pointing the attention of the honourable members to was that the scope has definitely been enlarged from what the Commission suggested in their report.

Then, Sir, as regards Section 34, you know that in 1939 when the Income-Tax Act was amended in a special session, the Congress Party under the leadership of the late Shri Bhulabhai Desai of revered memory were responsible for the word "definite" being introduced in Section 34. That word was not there when the Bill was introduced. My honourable friend Shri T. T. Krishnamachari was also a member then.

Shri T. T. Krishnamachari: No.

Shri Prabhu Dayal Himatsingka: I am sorry. I thought you were. On that occasion the Honourable Sir James Grigg who was in charge of the Bill

gave the assurance on the floor of the House that if the Opposition were satisfied that the addition of the word "definite" would make it sure that the Income-Tax Officers will not be able to re-open cases simply as and when they like, he would be prepared to put in the word "definite". On that basis, the word "definite" was inserted. The Honourable Minister has not given us any indication as to why it has become necessary to drop the word "definite" and to make it general. If he had given an indication as to how many cases of escapement of assessment could not be roped in because of the presence of the word "definite" we would certainly be prepared to support the Government on the draft as it has been introduced, but no such indication has been given.

Another thing that I would like the attention of the House drawn to is that there seems to be no definite difference between an honest assessee and a dishonest assessee. The dishonest assessee has been dealt with or intended to be dealt with by clause (a) of Section 34 and the honest one in clause (b). But if an assessee files a return and files the particulars of his profits etc. and even if he produces before the Income-Tax Officer his account books and other evidence from which material facts could, with due diligence, have been discovered by the Income-Tax Officer, even then he will be branded as a dishonest person. If you look at the explanation to section 34, it says: "Production before the Income Tax Officer of account books or other evidence from which material facts could with due diligence have been discovered by the Income-tax officer, will not necessarily amount to disclosure within the meaning of this section." Therefore, what is required of the assessee is not only to file the return, not only to produce his account books and other materials, but supply also the brain to the Income-tax Officer. What is now happening is that certain persons are able to evade the tax not because they try to do so, but because the Income-tax Officer has not got the time to apply his mind to the case or does not care to look into the account books. If the assessee has filed the return, and produced all the books of account that he has, and other material facts from which with due diligence the Income-tax Officer can come to conclusions, I cannot see how a person can be called dishonest. In view of these circumstances, I wish that the Honourable the Finance Minister will consider that there must be some stage where a case decided may be final and there must be some limit beyond which a case should not be re-opened.

Shri T. T. Krishnamachari: Mr. Speaker, Sir, I rise to support the motion made by my honourable friend the Finance Minister. In doing so I feel that the arguments adduced by my honourable friend Mr. Himatsingka are not relevant at this stage. They are really arguments that should have been advanced at the time the Bill was referred to the Select Committee. I have no idea of what my honourable friend Pandit Thakur Das Bhargava said about this Bill, though I can glean from his speech that he also went into the fundamentals of the question and I do not know if he had a right to do so in view of the fact that he was a member of the Select Committee even though he had appended a minute of dissent to the report of the Select Committee.

I would like to take up some of the points raised by my honourable friend Mr. Himatsingka. In the first place, he followed more or less the scheme of the amendments that he has given notice of, and the first thing that he tackled was about section 33-B. He holds section 33-B must be more or less confined to cases where there have been errors of law. I do not think that such an eminent solicitor and businessman like my honourable friend should not have read paragraph 7 of the Investigation Commission's Report,.....

Shri Prabhu Dayal Himatsingka: I have looked into that carefully.

Shri T. T. Krishnamachari:which really formed the basis of this particular

[Shri T. T. Krishnamachari] legislation before the House. In fact, the Investigation Commission after discussing the need for expanding the scope of section 34 as it stands today, have also sought to provide for certain cases which ought not to form the point of propriety be re-opened under section 34. In fact, if section 33-B is taken out, I do not think the interests of those people whom my honourable friend seeks to represent will be well served. Paragraph 7 of the Investigation Commission's Report says: "We, however, agree that it is possible to maintain that an assessment should not be allowed to be reopened under section 34 merely on the ground that the Income-tax Officer who made the assessment has misunderstood or misapplied the law or that a different view of the law or of the facts is possible." This, I think, more or less, answers the questions raised by my honourable friend Mr. Himatsingka.

Shri Prabhu Dayal Himatsingka: Instead of being an answer, that supports what I have said.

Shri T. T. Krishnamachari: I suppose there may be different interpretations of what is written in this language which is a foreign language to all of us. As I understand the language the Commission felt that section 34 should not be used for purposes which are contemplated to be used under section 33-B and they specifically added "or that a different view of the law or of the facts is possible" and this shows that they did not mean to exclude cases which have a factual basis from being dealt with under section 33-B. In fact, if I had the misfortune of being the Finance Minister, I would have said, if the House does not want section 33-B, delete it, and nobody would be worse off except perhaps the interests whom my honourable friend seeks to serve.

In regard to section 34, it has a history. My honourable friend said that I was here in 1939; I was not. I was here in 1945 when an identical question was taken up. I am quite familiar with the arguments. In fact, I would like to mention as I have mentioned before when the Bill was referred to the Select Committee that it was the opinion of the late lamented Mr. Bhulabhai Desai that section 34 should not be left as it is in the Act. The Taxation Investigation Commission merely echoes the opinion of that well known lawyer when they say in paragraph 6 of their report: "We are unable to agree with the argument that there is no need or justification for the amendment of section 34. The 1939 legislation (as interpreted by the Courts) is unduly restrictive....." And, that is exactly the reason why they have recommended that section 34 should be amended. The very words which my honourable friend have quoted are the words which have done mischief to the revenue to be obtained through the Income Tax Department. Every legal decision has gone against the Department by reason of the fact that a Judge can interpret section 34 and hold that no definite information has now been brought to light. Section 34 as it now is reads: "If in consequence of definite information which has come into his possession the Income-tax Officer discovers that income, profits or gains chargeable to Income-tax have escaped assessment in any year....." The inability of the Officer to precisely tie himself up to the definiteness is the reason why this Commission has sought to draft a very long clause—section 34 is a very long clause—so that all points of view can be met. One point that my honourable friend has suggested is not true for the reason that the Commission has felt that a distinction must be made, as between a dishonest assessee by reason of the fact that it was not within his knowledge that there was any defect or mis-statement in his return should be treated in a different way, and a person who has deliberately submitted a false return. I think that is a matter going into the fundamentals. When the House accepted the motion for Select Committee, more or less it gave its approval to the fact that section 34 had to be amended and the Select Committee has more or less accepted the recommendations of the Investigation Commission.

In regard to the other clauses about which my honourable friend spoke, I am glad he has raised this question of an action under section 33B being barred under certain circumstances and probably he is going to move his amendment to section 33B. The other question is regarding the explanation to section 34 (1). He said that this explanation should not be there. The explanation reads like this: "Production before the Income Tax Officer of account books or other evidence from which material facts could, with due diligence have been discovered by the Income-tax Officer will not necessarily amount to disclosure within the meaning of this section." I am afraid this is an argument which will not stand scrutiny. What happens in actual practice is that very often, the Income Tax Officer wants all the account books to be produced and in the order that is issued to the assessee all possible books are mentioned. If the Income Tax Officer feels any necessity for going into the books, he goes into certain items in one or two books. If the assessee is a partner of a firm, he takes up his personal account, his drawings account and checks them up with his Bank account; one or two such items are checked. There is no obligation cast on the Income-tax Officer to conduct an entire audit. What my honourable friend wants is that the Income-tax Officer must conduct an audit with regard to all the books of account placed before him. That is the only way in which this Explanation can be avoided. I do not think my Honourable friend's friends whom he represents would like that position. If all the books of an assessee are taken by the Income-Tax Officer and notwithstanding the fact that his account has been audited and certified by an auditor they want to run right through the whole scheme, take about a month or two over it and keep all his staff there, naturally every assessee will complain; and that is the position that my honourable friend wants to be brought into existence. I would certainly recommend to the Finance Minister to take away this Explanation provided the House will sanction perhaps a lot more of staff for the Income-tax department and people will not grumble that their account books are kept with the officers for two and three months. I happen to know that these complaints are already made and people do complain that their account books are called for and kept for a long time and people do resent any meticulous examination of accounts except in so far as certain particulars are concerned, particularly when they are audited accounts. But when we resent any action by the department in this regard we cannot object to an Explanation of this sort which merely says that the fact of all the books being in possession of the Income-tax Officer, the assessee having been summoned to produce and kept on the table of the officer does not mean that there has been a full disclosure. It is open to people to say at any time that he has produced all the books and the Income-tax officer could have looked into them. That is the position. The whole question is does the mere fact of production of all books mean that all the facts have been placed before the officer concerned—the House will have to recognise that all assessments are made on imperfect data. If all assessments are to be made on after scrutiny of all data available we will have to have an enormous Income-tax Department and the harassment of the assessee will also to that extent be proportionately greater. The officers have to accept certain facts make certain cursory checks. Later on either by reason of diligence on the part of the Income-tax Officer or by reason of cross-checks of some other account revealing new information or by reason of the fact that an employee of the assessee having been dismissed is prepared to vouchsafe information, there is an opportunity for reopening the matter. And if that contingency occurs certain cases can be dealt with under section 34 as that is now contemplated to be amended. In certain other type of cases where there is justification for reopening a summary procedure is envisaged. So the position is that if you grant that section 34 has to be amended, as I think the House will grant, I think the scheme in its entirety has to be preserved. The mere question of an amendment here seeking

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to weaken the powers of the Income-tax Officer, in effect bringing back the position to what it was in the Act as it was passed in 1939 means that you are defeating the very purpose of this particular amendment, and all the work done by this House in the Select Committee will be more or less rendered nugatory. So I feel that all the arguments advanced by my honourable friend Mr. Himatsingka go to the root of the problem as to whether we require the amendment of section 34 or not. His objection is to clothing the Income-tax Officer with any powers by which he can rectify his mistakes and remedy the position so far as Government revenue is concerned. His objection is to the providing of summary revision by giving powers under section 33-B to the Commissioner in which case the House has merely to brush aside those objections because the House has already ratified the principles of the amending Bill.

Sir, I feel there is no substance in the objections raised and the Finance Minister's motion has to be supported.

श्री रामसहाय : स्पीकर महोदय : मुझे यह निवेदन करना है कि यह जो तरमीमी बिल इस इनकमटैक्स ऐक्ट में आया है उस में मुखालफत तो नहीं करना चाहता हूं। लेकिन मैं एक बात हाऊस के सामने जरूर रख देना चाहता हूं और वह यह है कि जितनी भी तरमीमें इस वक्त आ रही हैं और जितने भी बिल अभी आ रहे हैं उन सब का मतलब हम यह देख रहे हैं कि हमारे मिनिस्टर साहबान अपने आफिसरस को ज्यादा से ज्यादा पावर्स (powers) देने की फ्रिक में रहते हैं। लेकिन मैं देखता हूं कि जो करप्शन (corruption) प्रतिदिन बढ़ रहा है, उस पर वह कन्ट्रोल नहीं पा रहे हैं। लेकिन फिर भी अपने आफिसरस साहबान को एक लाइसेंस के तरीके पर ऐसे अख्तियारात देते जा रहे हैं जो उनको करप्शन बढ़ाने में सहायक होते हैं। अभी कल जो फैक्ट्री बिल पास किया है और मौजूदा ऐक्ट में जो सुधार किये गये हैं मैंने देखा कि उनमें लेबर मिनिस्टर साहिब ने जितने भी सुधार किये हैं वह सब के सब चीफ इन्स्पेक्टर की मरसी (mercy) पर छोड़ दिये गये हैं ऐसी हालत में उन सुधारों का क्या उपयोग हो सकेगा यह नहीं कहा जा सकता। जहां मिल मालिक और कैपिटलिस्ट्स (capitalists) बड़े बड़े आदमियों को खरीद सकते हैं वहां यह छोटे छोटे अफसरों को क्यों नहीं खरीद सकेंगे, यह बात समझ में नहीं आसकती है। फिर भी इस किस्म के अख्तियारात उनको दिया जाना कहां तक मुनासिब होगा। मैं समझता हूं कि हाऊस इस परिस्थिति में नहीं है कि जो अमेंडमेंट (amendment) हमारे सामने आये हैं उनको किसी तरह से नामंजूर करें और पास न करें। लेकिन फिर भी मैं मिनिस्टर साहब की तव्वजह दिलाना चाहता हूँ, श्रीमान के जरिये कि वह इस बात पर गौर करें और इस बात पर अच्छी तरह से ध्यान दें कि वह किस तरह से इस बढ़ते हुए करप्शन को रोक सकते हैं। ऐसे अख्तियारात जहां तक हो इन आफिसरस को कम से कम दिये जायें। इनकमटैक्स डिपार्टमेंट में करप्शन के बारे में जितनी भी बातें जनता में फैल रही हैं उन सब को ध्यान में रखते हुए इस बिल में कोई ऐसी बात नहीं है जिससे यह बताया जा सके कि इतने बड़े बड़े अख्तियारात अफसरों को क्यों दिये जायें। कमीशन की रिपोर्ट जरूर इस

किस्म की है कि उनको अख्तियारात दिये जायें। मैं मानता हूं कि कमीशन ने बहुत गौर करके उन सब अख्तियारात को देना तजवीज़ किया। लेकिन फिर भी हमें यह जरूर देख लेना चाहिये कि इस किस्म के अख्तियारात का नतीजा क्या होगा। यह बात जरूर है कि बहुत से बेईमान व्यापारी इस तरह से टैक्स इवैड (evade) करते हैं, लेकिन जब तक कि कानून में कोई बेईमान करार न दिया जाये, हमें उसे इमानदार ही मानना पड़ता है और जब हम उसे इमानदार मानते हैं, तब हमें ऐसे कानून बनाने में इस बात का जरूर ध्यान रखना चाहिये कि जो इनोसेंट (innocent) आदमी है, वह उसकी गिरफ्त में न आसके। इन चन्द तरमीमों का यह नतीजा होने वाला है कि जो इमानदार है, या बेईमान है उन सब के सिर पर एक नंगी तलवार आठ साल या चार साल तक लटकती रहेगी उनको यह शंका बनी रहेगी कि नहीं मालूम कब उनके ऊपर क्या खतरा आ सकता है। सातवें सेक्शन में जो तरमीम की गई है, उसमें भी जो अख्तियारात दिये गये हैं उनके बारे में यह अर्ज करना है कि ख्वाह वह आफिसरस की ही गलती क्यों न हो लेकिन इस में व्यापारी या टैक्स देने वाले ही उस गलती को भुगतेंगे और उनके ही खिलाफ एक्शन (action) लिया जायगा। तो मैं पृष्ठना चाहता हूं कि क्या यह एक तरीके से लाइसेंस देना नहीं है कि आफिसरस (officers) मनमानी कार्यवाई करें। मैं हाऊस का ज्यादा टाईम न लेकर मिनिस्टर साहब की तव्वजह इस तरफ जरूर दिलाऊंगा कि वह इस बात पर गौर करें कि ऐसे अख्तियारात ज्यादा से ज्यादा उपयोगी हो सकें और ऐसे अफसर रखें जो इन अख्तियारात को सही इस्तमाल कर सकें गद्दी मेरा कहना है।

(English translation of the above speech).

Shri Pam Sahai (Gwalior State): Mr. Speaker, Sir, I do not want to oppose this Bill which seeks to amend the Income-Tax Act. But one thing which I would like to mention for the information of the House is that we find in almost all the Bills and amendments which have been placed before us during these days that the Honourable Ministers are always anxious to arm their officers with powers to the maximum extent possible. But I notice that they are unable to control the corruption which is increasing every day, and even then they are giving powers to their officers in the form of a licence which helps them to indulge in corruption. I find from the Factory Bill passed yesterday and the amendments made in the existing act, that all the amendments which have been moved by the Honourable the Labour Minister leave the things at the mercy of the Chief Inspector of Factories. Under such circumstances, it cannot be said, as to what useful purpose will these amendments serve? It is not all comprehensible as to why the mill-owners and capitalists who can buy the big people will not be able to purchase these petty officers. How far then it would be advisable to vest them with such powers? I realize that the House is not in a position to reject the amendments which have been placed before it for one reason or the other. But even then I would like to draw the attention of the Honourable Minister through you, Sir, that he should earnestly consider over the matter and devise ways and means for checking the corruption which is on the increase. Such powers should be

[Shri Ram Sahai.]

given to these officers to the minimum possible extent. Keeping in view the feelings which exist in the minds of the people in regard to the corruption in the Income-tax Department, this Bill does not mention any justifications for giving such wide powers to the officers. The Report of the Commission is surely in favour of giving them the powers. I admit that the Commission decided to give all these powers after careful consideration, but even then we must see as to what will be the result of giving such powers? There is no doubt that there are many dishonest businessmen who evade payment of the tax in some manner. But unless he is held to be dishonest under the law, we will have to treat him as an honest person. When we treat him as an honest, we should invariably bear this in mind while framing such legislation, that the innocent persons are not roped in. The result of these few amendments is likely to be that the sword of Damocles will be kept hanging over the assessee for all these years, and they will all a'long be exposed to fear and danger. In regard to the amendment made in Clause (7) and the power given in pursuance thereof, I may submit that even though there may be an error on the part of the Income Tax Officer, yet the businessman or the assessee will be penalised and action will be taken against them. Is it not, therefore, may I ask, in a way, granting a licence to the officers to act arbitrarily? Without taking much time of the House, I would like to draw the attention of the Honourable Minister to this aspect and request him to ensure the best possible use of these powers and to appoint such officers who would exercise these powers in a proper way. This is all I have to say.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I support the motion for consideration of this Bill. Sir, various taxes are collected at the Centre and the people who pay these taxes in various forms do not complain at all about them. Under Customs *ad valorem* duties are imposed and no one complains about the decision of the officers who assess the value of the goods. From Customs we thus get 50 or 60 crores of rupees. And no one has ever made any complaint about that either in this House or elsewhere. Then there are the excise duties on matches and sugar and various other industries like tobacco, etc. There is absolutely no complaint as regards these excise duties; or if there have been complaints the assessee is not as vociferous as the income-tax assessee. But all the complaint is about this income-tax because the assessee wants the right to evade but not the liability to pay. I would have stoutly opposed these powers being given if it were an alien Government. This matter was brought up when Sir James Grigg was Finance Member. The then Leader of the Opposition Mr. Bholabhai Desai was in favour of giving this power even to that Government. He was one of the foremost lawyers in India with a large income-tax practice and he knew the devices by which the tax-dodgers have been successfully evading payment of the tax. In income-tax there is an exemption up to Rs. 3,000, and people with larger incomes have to contribute. Should they not contribute? Should the poor people only contribute? The Provincial Governments levy taxes on every inch of land; land revenue is collected and there is no exemption there. But here exemption is granted to people who have an income up to Rs. 3,000 a year. There are some other persons who receive only salaries. They have no houses or lands and to the extent of Rs. 3,000 they do not pay any tax at all and at the same time the salary earners get all the benefits provided by the Government.

Having regard to the fact that more than 80 crores remained uncollected in the shape of dues last year and the year before last, the Government is pledged to appoint a special Commission to go into these matters in respect of those persons who have made enormous profits during the war period and who have failed to pay their just dues. Under these circumstances, this Bill has been brought in under a new setting where our own Government is anxious to get

more revenue by legitimate methods. Of course, there must be some safeguards. In the Penal Code there are certain sections in which punishment is provided for 7 years. Ordinarily the Magistrate's powers are limited but where even larger powers are granted, even then they do not apply the seven year rule to every case. Likewise, the officers will take care to see that the assessments have been made for a long number of years. They would also, I am sure set a limit for reopening, except in case of a glaring fraud. The present Finance Minister's predecessor when in office gave an assurance in sub-committee. There was an attempt to refuse cases for revision and only those cases could be reopened where the matter involved was Rs. 20,000. If the Honourable Minister who was then in charge was not prepared to accept such a rigid demarcation of Rs. 20,000 there might have been cases where great fraud might have been perpetrated and though the tax he was bound to pay was less than Rs. 20,000, there was no justification to leave aside such tax dodgers. That would be placing a premium on fraud. Up to an extent we are prepared to tolerate it. We are not prepared to tolerate it beyond that. Therefore, I understand the difficulties of the Department and Minister in imposing a rigid demarcation of that kind. I am sure the Honourable Minister would not allow trivial cases to be placed before the Commission or by way of revision allow it to be reopened under Section 34. I am sure he will give such an assurance to the House if such an assurance is necessary.

I would also say that the provisions in various ways have improved the present Bill and made it as harmless as possible. My friend who spoke against some of the provisions of the Bill as oppressive ought not to forget that the gentleman who presided, or who was in charge of the Bill at an earlier stage was not an ordinary commoner or poor man but one of the richest men in this country. And yet, he, Mr. Chetty, allowed those provisions to stand. He did not raise his voice against them. On the other hand we thought that we must in the interests of taxpayers, to avoid oppression, have to make certain provisions reducing their powers. He agreed wholeheartedly. Under those circumstances, we are thoroughly satisfied that the person who has to pay has to be put under those restrictions lest he should avoid payment of tax.

There were one or two other matters which arose in the Select Committee. One was as regards the question of law. I am afraid both my honourable friend Pandit Thakurdas Bhargava and Shri Himatsingka have misunderstood the position.

Mr. Speaker: If the honourable member is going on to further points, we had better adjourn and re-assemble at Half Past Two of the Clock.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Shri M. Ananthasayanam Ayyangar: Sir, I was referring in the morning to the powers of the Commissioner under Section 33(b). I stand corrected. I find that the Investigation Commission has suggested that interference by the Commissioners should be only on matters of law so far as revision is concerned and that reopening of an assessment already made within a period of four or eight years must be only on a question of fact. But under the Select Committee report power is given to the Commissioner to revise an assessment both on matters of law and on matters of fact. Also the income-tax officer who was responsible for the original assessment is given power to reopen an assessment both on questions of law as also on fact. It is for the House to consider whether it is desirable or not. In this respect we are no doubt going a little beyond the recommendations of the Income-tax Investigation Commission. The demarcation of the line between fact and law is very narrow. Inference from

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 a set of facts has also been held to be a question of law. Under these circumstances even if power is given to the Commissioner to revise an assessment made by an income-tax officer both on a question of law and on a question of fact, because a lot of revenue is involved if the assessment is allowed to stand, personally I do not see any objection to the course. If any lower authority than the Commissioner is given the power to revise an assessment, it may not be acceptable but the Commissioner would not ordinarily revise trumped up cases. He will revise only in extraordinary cases where by an oversight or by any irregular procedure the income-tax officer has caused a considerable loss to revenue. So I do not see any reason why the Commissioner ought not to have that power. Likewise the income-tax officer may be allowed to re-open an assessment both on a question of fact and on a question of law. In this respect I do not think the Commission's recommendation should be the last word. They have no doubt said that hitherto there is no such provision and that only on a question of law there may be revision but it is open to us to go further and give power to the Commissioner to revise assessments both on a question of law and on fact. Personally I am in favour of the provision but it must be acknowledged that it goes beyond the recommendation of the Commission.

As regards the pecuniary limit below which the Commissioner ought not to interfere, it is not specifically stated in the Act. I am sure instructions would be given to the Commissioner and the income-tax authorities regarding that.

The two years period that is given for the purpose of revision by the Commissioner is not too long, for this reason that there may be a number of cases disposed of by an income-tax officer in each district and normally they will be looked into once a year by the Investigating Income-tax Assistant Commissioner. Wherever he finds that there are faults he has to report to the Commissioner and this will take a certain amount of time. To curtail the period of two years to one month or six months, which is the time allowed for assesses to prefer appeals would put too much strain upon the income-tax authorities. This power of revision should be exercised and not merely remain on paper and if it is to be used this period of two years is not too long. (An Honourable Member: "What about the suspense on the part of the assessee?") The suspense is always there for a period of four years. It is no doubt true that in the existing law it is open to the income-tax authorities to keep an assessment for a year pending for a period of four years. Even the original assessment they can keep on pending for four years. That is also a hardship. I know a case where a merchant submitted his return and he also said that he and his sons had divided from one another and on that basis he had submitted his return. The partition was not accepted for four years by the income-tax authority and at the end an assessment for all the four years was levied against him. The accounts were also not accepted by the income-tax officer. I might illustrate this with some details so that you may be able to see the hardship caused to the assessee. In the first year the man with a joint family had an income of about four or five lakhs. When he had a partition from his sons the income would be divided between himself and his four sons. The income-tax would therefore be Rs. 20,000 or 30,000. On this basis he submitted his return. It is open to the income-tax officer to decide whether he should accept the partition or not but he kept the case pending for a period of four years and at the end of the fourth year he refused to accept the partition. So the man had to pay not only income-tax on his own earnings but upon the earnings of all the members of his family. At the end of four years the income-tax officer refused to accept the partition or the accounts and imposed an assessment of 20 lakhs, where normally the return that the man submitted would entail a payment of Rs. 1 lakh. What the

poor man had done was that he had deposited the admitted amount and then he was assessed and asked to pay 20 lakhs. In a district place if a man has Rs. 200 or has two meals a day he is considered richer than the man who has only one meal. So richness is rather a relative term. During the war if the man had one oil crusher he had two or three more installed and he would have earned not more than 3 lakhs. In the whole district the talk went round that this man had suddenly become enormously rich. He had not become as rich as Rockefeller. He may have earned ten lakhs or let it be even 15 lakhs. But suddenly he is asked to pay Rs. 20 lakhs. The income-tax officer was not prepared to accept either the partition or the man's return of income. He asked the district collector to realise the sum, who in his turn passed an order for the attachment of all the man's moveable and immoveable properties and all his assets in the banks were frozen and even his clothes and utensils were attached.

Now 8,000 gunny bags were sold in public auction as an attachment for 4 pies per bag. Do you dream of such a contingency anywhere? Ten motor lorries which he purchased at a cost of Rs. 10,000 were sold away for a song. His silver plates and other household things were removed to the Tehsildar's office and were sold in public auction for Rs. 1,000. Is the value of 20 lakhs worth of goods Rs. 1,000 and on top of that on the old man 65 years old and the mother 85 years old, a warrant was issued against them for paying the balance. This naturally will irritate anyone and if my friends like Pandit Thakurdas Bhargava get up and say that is an oppressive case of legislation, I have to agree with them. As a lawyer you know that even with respect to small cases they are divided over a range of judicial officers, the Munsiff or second class subordinate judge has got pecuniary jurisdiction over Rs. 300 and not more. The other subordinate judge has jurisdiction over Rs. 5,000; then there is unlimited jurisdiction. Now with respect to judicial officers when such limits are imposed with respect to the Income-tax Officer, there is absolutely no question and he need not accept any accounts and an Income-tax Officer who draws a salary of Rs. 250 can deal with cases ranging from Rs. 100 to 10 crores, call any man to order, enter any house at any time and refuse to accept the account and on his volition impose one crore of rupees. Reopening of an assessment within a period of 4 or 8 years and not giving the assessee notice—these are no doubt the other picture before him. These are the inconveniences and that is why there has been so much opposition by members who would otherwise have gladly supported the Government. The choice is between the two, the honest man ought not to be oppressed and the dishonest man ought not to be let off. Therefore, more than ordinary prudence and care is necessary. The moment, it is said, you take a small stick and call it a son-in-law, immediately it begins to jump, that is the proverb in our parts; he arrogates all the powers to himself, oppresses the daughter and tries to squeeze the father-in-law. Likewise an Income-tax Officer, call him an Income-tax Officer—that will be enough. We poor mortals can never escape. There is no meaning in saying that every industrialist is bad or every Income-tax Officer is bad. The powers will certainly corrupt any particular man. In these circumstances, I would appeal that as early as possible and within the term of my honourable friend, Mr. Neogy he must so devise means whereby if an Income-tax Officer does not accept accounts and the assessment is beyond a particular amount, it ought not to be allowed. He ought not to be given the power. Then a higher officer should impose the assessment, should levy the assessment or decide it, and the limits of pecuniary jurisdiction must be placed over the authority of an Income-tax Officer and Assistant Income-tax Commissioner and so on. That is not purely within the scope of this Bill. Under the circumstances, I need not pursue that matter further. In view of these dangers I am only appealing to my friend in order that he may take care to see that such powers are circumscribed.

[Shri M. Ananthasayanam Ayyangar]

It is true that in section 34 accounts are to be re-opened within a period of 8 years only in case of fraud and in other cases within 4 years. My honourable friend's predecessor, Mr. Chetty said he would see to it that all assessments are made hereafter within the year for which the amounts are due or at any rate not more than two years, but why on earth should the Income-tax authorities alone keep in assessments pending with them for long periods? It is said they have not got sufficient staff or establishment with them and sometimes the assessee do not return proper accounts in time. If they have not got sufficient establishment, they must increase their staff. I do not see any reason why on account of want of staff the people should suffer. So far as the assessee taking time, the authority can on the facts available come to any conclusion. In every case progressive efforts must be made to see that within the year of assessment, within the year of charge the assessment should be settled. In short no assessment paper ought to be kept pending beyond two years. That provision also can be made, but I only refer to it in this connection, so that my honourable friends need not be terror-stricken, but this is a very dangerous provision in the hands of small Income-tax Officers and I am sure the Honourable Minister will take all these matters into consideration and will bring in an amending Bill to rectify them. As it is, I feel that sufficient safeguards have been placed by the Select Committee and I support the motion for consideration.

Shri Satyanarayan Sinha (Bihar: General): The question be now put.

Babu Ramnarayan Singh (Bihar: General): Mr. Speaker, there has not been a full discussion.

Mr. Speaker: About half a dozen speakers have already spoken.

Babu Ramnarayan Singh: The House consists of 300 members.

Mr. Speaker: May be; I find they are practically repeating the same argument.

The question is:

"That the question be put."

The motion was adopted.

The Honourable Shri K. C. Neogy: The debate has traversed a wider ground than I could ever anticipate. In many of the speeches, the detailed provisions of the different clauses were criticised, a practice which I cannot recall to my mind as being the uniform practice of this House. I am very thankful to some of my honourable friends who are members of the Select Committee who have defended the report and they have made my task lighter on that account. There are, however, a few general points on which I should like to make a few submissions. I detected, at least I seemed I detected a sort of a note of want of confidence in the Investigation Commission, as expressed by one honourable member of the House. May I once again remind the House that this Investigation Commission has made this report in the fulfilment of the statutory obligation which this House has placed upon that Commission. It is not right therefore on the part of any honourable member in this House to challenge the authority even indirectly of such a body of persons. Sir, a good deal has been said as regards the harassment that is caused to the smaller assessee and a peculiar suggestion has come from a member of the Select Committee itself, my honourable and esteemed friend, Mr. Ananthasayanam Ayyangar, that there should be a limit, a limit of Rs. 20,000 which should represent a kind of immunity from any penal action under this Act.

Shri M. Ananthasayanam Ayyangar: I am afraid the Honourable Minister has misunderstood me. I only suggested that general instructions should be issued to the Income-tax Officers in this regard.

The Honourable Shri K. C. Neogy: It very much comes to the same thing, whether we give a charter to the tax evader in the body of the law or I give an undertaking in this House that if a person cheats the Government revenue up to Rs. 20,000, he is perfectly safe and that I am going to carry out my honourable friend's request by way of a departmental circular. I am afraid I am not in a position to give any such undertaking. Reference has been made to an assurance which my predecessor is supposed to have given on this particular point. I am afraid I am at a disadvantage in this matter because I had to take this up at very short notice only the other day and when I referred to my honourable colleague on my left, the Honourable Dr. B. R. Ambedkar, I found that according to his recollection—and my honourable colleague had presided over the Select Committee.....

Shri Bikramlal Sondhi (East Punjab: General): He was not presiding over it at that time.

The Honourable Shri K. C. Neogy: Sir, I stand corrected. Whatever it is, from the point of view of public policy and from the point of view of the reputation of this Government and of this House, I am not in a position to give any assurance of that kind. But I am prepared to give this assurance, namely, that this measure, and particularly the clause that my honourable friend has in mind, would be utilised only for the purpose of safeguarding public revenues and that petty cases would not be raked up. This is all the assurance I can give. As a matter of fact, it would be physically impossible to delve into thousands and thousands of cases for the purpose of utilising the provisions of this particular clause. There must be some line drawn somewhere, but we must limit it to the judgment of the Commissioner himself.

Sir, reference was made to certain principles of law. *Res judicata* was mentioned, as also limitation, finality and all that. Let me tell my honourable friend who is himself a distinguished lawyer, that it would be absurd to claim that the principle of *res judicata* should be applied to a fiscal measure of this kind. This principle has never been accepted with reference to a fiscal measure of this kind in any part of the world.

As regards finality, the Investigation Commission themselves recognize that there must be some limitation to this doctrine of finality in a measure of this kind. You cannot have an absolute finality. As a matter of fact my honourable friend well knows that in many other countries of the world there is absolutely no finality of any kind in these matters. As a matter of fact the time-limit you are fixing is unknown in some systems of law.

Srijut Rohini Kumar Chaudhuri: On a point of information, Sir, the Honourable Minister said that petty cases would not be raked up. May I know what he means by 'petty cases'? They will certainly be assessable cases.

The Honourable Shri K. C. Neogy: If some persons altogether escape assessment they would certainly come within the purview of this particular clause.

Then, Sir, my honourable friend Mr. Ananthasayanam Ayyangar indulged in jibes at the Income-tax Officers.

Shri M. Ananthasayanam Ayyangar: What does the honourable member mean? I am really sorry that my honourable friend who is a good parliamentarian and who has been here for so long should misunderstand what I said; he ought not to have done so. While supporting this measure and the powers

[Shri M. Ananthasayanam Ayyangar]
that are necessary, I only said that there are extreme cases where these things are done. I do not know, Sir, if it is proper on the part of my honourable friend to say that I 'indulged' and then 'in jibes'.

The Honourable Shri K. C. Neogy: I did not know that the word 'indulge' is an unparliamentary word.

Shri M. Ananthasayanam Ayyangar: I can also use words which are parliamentary but which are offending.

Mr. Speaker: There will be no end to that. What I understood the honourable member, Mr. Ananthasayanam Ayyangar, to suggest was—I am putting it of course in my own words—that, just as we have certain limits in civil jurisdiction namely that smaller suits may be tried by certain judicial officers and that bigger suits may be tried by men higher up in the service, similarly, I think, his suggestion was that so far as assessments are concerned, estimated liabilities to the extent of Rs. 5,000 approximately should be tried by certain Income-tax Officers, cases involving liabilities higher than Rs. 5,000 but less than say Rs. 50,000 should be tried by another class and so on; and I think he was suggesting Income-tax Officers of I, II and III class. He was making suggestions on these lines. And he said that while in civil jurisdiction, we are not conferring jurisdiction in respect of the whole subject to the lowest subordinate judge, here, instead of following that kind of principle, we are giving the fullest jurisdiction even to the lowest of Income-tax Officers.

The Honourable Shri K. C. Neogy: That is so, Sir. That is a constructive suggestion. But I had in mind the rather colourful imagery of the stick behaving as the son-in-law which he utilised for the purpose of supporting this particular suggestion. Not merely that. He took quite a few minutes in describing the acts of particular Income-tax Officers of putting up to sale property worth thousands and thousands for a few annas, and so on and so forth. But may I tell my honourable friend that this body of officials has got to do a very very unpopular duty and that they deserve well of this country?

Some Honourable Members: No, no.

The Honourable Shri K. C. Neogy: I thought that our attitude towards our own officers, who are our own flesh and blood, would have changed with the achievement of freedom.

Babu Ramnarayan Singh: No, they have not changed.

The Honourable Shri K. C. Neogy: But in reply to that argument I do not want to—I shall use again that expression with reference to myself—indulge in an exhaustive account of the very many distasteful practices which the assesses resort to for the purpose of defeating public revenue.

Babu Ramnarayan Singh: The assesses are more honest than the Income-tax Officers.

The Honourable Shri K. C. Neogy: As regards the question whether the Investigation Commission intended facts, as also law, to be brought within the purview of the proposed section 33B, my honourable friend Mr. T. T. Krishnamachari has dealt with that point, but I am afraid the argument has been lost on my honourable friend from Calcutta. My honourable friend from Madras read out a portion of paragraph 7 of the Report of the Investigation Commission where they say as follows:

"We, however, agree that it is possible to maintain that an assessment should not be allowed to be reopened under section 34 merely on the ground that the Income-tax Officer who made the assessment has misunderstood or misapplied the law or that a different view of the law or of the facts is possible."

My honourable friend did not read the rest of the paragraph. This portion really contains the genesis of the proposed section 33B. After mentioning the difficulty in providing for this class of cases under section 34, the Commission go on to suggest:

"We, therefore, prefer to give the Commissioner a power of revision."

In what cases? In the class of cases that the Commission referred to in the beginning. That is to say, they say "well, it may be rather difficult under section 34 to deal with such class of cases; we therefore suggest that a power of revision should be granted to the Commissioner for dealing with such category of cases". That is really the argument which my honourable friend Mr. T. T. Krishnamachari wanted to adduce in reply to my honourable friend Mr. Prabhudayal Himatsingka.

Sir, I was rather interested to hear from my honourable friend Shri Ram Sahai about the woes of the assesseees and the oppression practised on them by the Income-tax Department. I understand, my honourable friend comes from an Indian State where there has been no income-tax all these years. It is common knowledge, and I claim some amount of personal knowledge also in this matter, that the Indian States have been a paradise for the black-marketeer and the tax-dodger. It is because of the ready asylum which the Indian States have so far provided for these enemies of society that they have been able to advance some of their financial and personal interests to a certain extent. I hope that hereafter we will be getting a greater degree of co-operation from the Indian States in this matter and that this shameful chapter will be closed.

Sir, I have nothing further to say.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Speaker: Now we shall take the Bill clause by clause.

The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Shri K. Santhanam (Madras: General): Sir, I am moving amendment No. 2. I move:

"That part (a) of clause 4 of the Bill be omitted."

Sir, I do not want to make a long speech in favour of this very obvious amendment. You may remember that in the Finance Bill a clause similar to this was incorporated. It was discussed in the Select Committee 3 p.m. on the Finance Bill and then it was found that the implications of giving exemptions for the municipal taxes should be properly investigated before any such step could be taken.

Sir, this clause means that up to 20 per cent. of the rents received from urban house property may be exempted from income-tax. If you take the big cities of Bombay and Calcutta it may mean almost an exemption of 20 per cent. of the total income-tax now paid by these assesseees. In these days when everyone is speaking about inflation, about the need to balance the Central Budget, of levying more taxes on the poor peasants, I think it is a wholly unwarranted procedure to lose taxes which are now coming into the Central revenues. No absolute necessity has been proved for this particular exemption. I understand there is a case pending before the Privy Council where the contention that even under the existing law this exemption should

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be given is under inquiry. I think it is not quite proper that the Legislature should legislate when a case is under examination in the highest judicial tribunal

Nobody has told us what will be the actual loss to the revenues by this particular clause. My own estimate is it may be anything from five to six crores of rupees, but it is only if you know the total income-tax derived from urban house property all over the country that you can properly estimate the implications of this clause. In any case, we should not hastily embark upon it. It may also mean that in order to deprive the Central Government of its revenues the municipal taxes will be stepped up. It is said in this clause—“payments which are made for services rendered or amenities supplied”. Sir, the theory of municipal taxation is that almost the entire tax is for these purposes. In many systems of municipal taxation the charges for services are incorporated in the property tax itself and it will be practically impossible to separate these taxes.

Therefore, for all these reasons I move that this part should be deleted and that we should not lose any Central revenue on this account.

Mr. Naziruddin Ahmad: Sir, I have given notice of some amendments with regard to the deletion of (b). There are two amendments in the Supplementary list—items No. 1 and 2—which deal with the last part of the proposed sub-section (8) and the Proviso. So, it would be proper at this stage to move them.

Mr. Speaker: The honourable member has handed over his amendments just today?

Mr. Naziruddin Ahmad: Yes, Sir.

Mr. Speaker: I should prefer the honourable member just to consult the Honourable Minister, and if the amendments are substantially of an agreed nature I would waive the notice. Otherwise I am not inclined to waive notice in the case of amendments tabled at the last moment.

Mr. Naziruddin Ahmad: I may suggest that I may move them, and if the Honourable Minister does not accept them I will not press them.

Mr. Speaker: The point is that if he is allowed to move them, that means the waiving of the notice.

Shri M. Ananthasayanam Ayyangar: It is not the honourable member alone who is concerned—others also must know the various amendments.

Mr. Speaker: The test which I have always placed before this House in waiving notice is that an amendment proposed should be a substantially agreed amendment, if it does not come in time. Therefore, when I say the Honourable Minister, I take it that he represents generally the view of the House. That is why I said that before I waive notice, I should like to know whether the amendment is acceptable or not.

The Honourable Shri K. C. Neogy: I had hardly any time to consider it.

Mr. Naziruddin Ahmad: I was in difficulty because I did not get a copy of the complete Bill. That was my difficulty. I fully understand and realise the difficulties of the Honourable Minister; that is why I do not claim anything as a matter of right but only as a matter of grace.

Mr. Speaker: I should not be led to show him a grace that is likely to act as a prejudicial precedent.

Mr. Naziruddin Ahmad: Yes, Sir. But may I argue those points which I have in mind? They arise out of the amendments suggested by the honourable member because he refers to the deletion of certain parts.

Mr. Speaker: But the amendment refers to the deletion of the entire clause. If the entire clause is deleted he has no grievance?

Mr. Naziruddin Ahmad: No, Sir; that will not serve my purpose.

Mr. Speaker: Then I will put the amendment before the House.

Amendment moved:

“That part (a) of clause 4 of the Bill be omitted.”

Mr. Naziruddin Ahmad: Sir, I beg to submit that this part (a) is a very necessary provision.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Shri K. Santhanam (one of the Panel of Chairmen).]

This is a very important and necessary part of the Bill. It provides for exemptions in certain cases of compulsory payment. In cases of house property in towns where taxes or other rates are payable, this proposed new sub-clause (viii) provides that amounts payable by the landholder to the municipal or other authorities in taxes etc. should be deducted from the amount of rent. If a man is entitled to get an annual rent of Rs. 5,000 and if he has to pay municipal taxes during the year to the extent of Rs. 1,000, the amount that he will actually get is Rs. 4,000. In all fairness this is the amount which is his income. It is never the gross income that is taken into account in income-tax; the gross income minus proper expenditure and allowances is the income. In the illustration the owner is entitled to an allowance of Rs. 1,000. This is what this sub-clause attempts to provide.

With regard to the Privy Council case it should be remembered that there was no specific provision in the Act and therefore there was the doubt. We are not sitting in judgment over the Privy Council case at all. The courts found a lacuna in the Act itself and so a difference of opinion arose. The proposed sub-clause (viii) removes that lacuna. I submit therefore that this is a very important and necessary exemption and a very just exemption and the amendment would be unjust and would cause hardship.

Sir, with regard to the new sub-clause (viii), the latter part of it is really mischievous. The main part of this sub-clause says that exemption should be given with regard to “any sums paid by the owner on account of local rates or municipal taxes in respect of property”. Remission of this amount should be given. Then there is the important condition: “other than such portion thereof which represents payments made for services rendered or amenities supplied”. I submit, Sir, that municipal taxes are paid for the purpose of rendering service. Water taxes are paid for supplying water. Latrine taxes are paid for cleaning latrines. House taxes are paid partly for repairing roads. All these are services rendered and a necessary and compulsory expenditure which the landlord has to incur and therefore this exception should not be accepted. This exception takes away what is attempted to be given by sub-clause (viii). These taxes must be fully exempted and this mischievous part should be absolutely removed.

Then there is the proviso. The proviso sets a limit to exemption to the extent of 20 per cent., but in some municipalities taxes are to the extent of 22, 23 or 25 per cent. The principle should be whatever is compulsorily payable by the landlord out of the rent must be deducted from the total income and that would give the real income and on that alone tax should be levied. Under these circumstances, if the deletion of the last part of clause (viii) and the proviso is acceptable, then I may formally move it. I should like the Honourable Minister to consider the matter.

Shri T. T. Krishnamachari: If the amendment is accepted, there is no chance of any further amendment.

Mr. Naziruddin Ahmad: If the whole amendment is accepted, then the whole thing goes phut, but I submit that the principal amendment should not be accepted; on the other hand, the sub-clause should remain and only the mischievous part should be deleted. That is what I ask the Honourable Minister to consider.

There is, again, a small spelling mistake in the proviso. There is the word "authorize". It is spelt with the letter "z". It is usual to spell it with the letter "s".

Mr. Chairman: I suggest the honourable member may leave that alone.

Mr. Naziruddin Ahmad: Yes, I do not move it but I only draw attention to it.

Shri T. T. Krishnamachari: Mr. Chairman, Sir, I rise to support the amendment moved, and in doing so, I would like to call the attention of the House to one particular fact which I think must be conceded by every member of this House. Since the Select Committee has reported, the House knows that the economic situation in the country has grown from bad to worse and the Government is now at pains to devise ways and means of curbing inflation. The Department estimates that if this particular sub-clause which is sought to be deleted by this amendment is allowed to remain, at least Rs. 75 lakhs would be pumped into the hands of income-tax payers which will give them additional purchasing power to that extent. If for no other reason, at least for the reason that the Government saves a sum of Rs. 75 lakhs from going into circulation and absorbs it, I think the House has to agree to this amendment.

The other fact which I urged before the Bill went to the Select Committee still holds good. My honourable friend Mr. Naziruddin Ahmad said that the Privy Council has decided something. It has not.

Mr. Naziruddin Ahmad: It is deciding it.

Shri T. T. Krishnamachari: Yes, it is probably deciding. Actually in the Allahabad case of Gopumal Kanyalal—where the High Court has decided that municipal taxes should be treated as expenditure and therefore should not be added to income, the matter is before the Privy Council. After the Privy Council decides, if it decides in favour of the assessee it is open to the Government to review the matter. If the economic situation of the country is by that time such that they can give this concession to the income-tax payer, then they can perhaps either accept the Privy Council's verdict. If the Privy Council decides against the assessee they can re-enact the law in such a manner that it will meet the situation should the Government still want to give this concession. It is also a fact that two other High Courts have held that the present practice is quite in order. I do not think therefore that that is a matter the House need concern itself with at the moment. The very fact of the economic situation itself is in my view enough justification for accepting this amendment.

Sir, it is not true, as my honourable friend put it that there are no deductions so far as rents that are received are concerned. Actually, if my honourable friend recollects, at the time when he makes the income-tax return, he will find on the last page he has to give details of the annual valuation of the house, and the repairs thereon and the income-tax authorities do allow one-sixth of the rent as against repairs and where the house is rented out they allow 5 per cent. on collection of rents. There are thus certain allowances given even as it is and it is not so bad as my honourable friend Mr. Naziruddin Ahmad pictures it to be. I think, Sir, in the present circumstances and in view of the fact that there was a general body of opinion even at the time the Bill

went to the Select Committee against this concession which is doubly reinforced by the present economic situation, the House must support this amendment.

Mr. Naziruddin Ahmad: May I ask the honourable member a question? If the country needs more money, that is a case for enhancement of the rates of income-tax. Should we try to cut down a just exemption? That. . . .

Mr. Chairman: I do not think the honourable member is entitled to argue again. He has opposed the amendment and that is all.

Shri Prabhu Dayal Himatsingka: Sir, in so far as this clause is concerned, I have not been able to follow the argument put forward by the Honourable Mover. If the present economic conditions require that this allowance should not be made, then I think it ought to be provided that this will not be allowed. So far as the present law is concerned, the Allahabad High Court has allowed this deduction. The case is before the Privy Council and if the Privy Council upholds the decision of the Allahabad High Court, then the position will be that the amount that is paid as municipal taxes will have to be allowed as a deduction in the future assessments. Therefore, if the House wants that this municipal tax should not be allowed as a deduction to the house-owners from the income, then we ought to make a concrete provision that this will not be allowed. Otherwise, the position will be in a flux and if the Privy Council comes to the same decision as the Allahabad High Court the allowance will have to be made. The pendency of the case is no reason why if the Government be of the opinion that it should not be allowed as a deduction they should not clear it up now.

The Honourable Shri K. C. Neogy: Ever since this tax remission was announced by my predecessor, I have noticed that there has been a wide divergence of opinion in the House as regards the equities of the proposal. As a matter of fact, this particular proposal was included in the Finance Bill and the Select Committee on the Finance Bill actually turned it down on the ground that the Select Committee was not satisfied about the equities of the proposal. Later, it came to be incorporated in this Bill. As my honourable friend Mr. T. T. Krishnamachari has said, the economic situation in the country has meanwhile deteriorated. During the last Budget discussions, my predecessor was in a position to think in terms of tax relief. Now the situation is quite otherwise. From that point of view alone if from no other, we would be justified in accepting this amendment, but there is this added ground, namely, that the whole matter is under consideration by the Privy Council. Now, if the Privy Council decision is given either in favour of a relief of this kind or otherwise, it will be time enough for us to consider whether to accept the Privy Council decision or to undertake legislation to nullify its effect. That is all I can say now and for the time being I would ask my honourable friend Mr. Naziruddin Ahmad to hope for better times when we may once again reconsider the position.

Mr. Chairman: The question is:

"That part (a) of clause 4 of the Bill be omitted."

The motion was adopted.

Pandit Thakur Das Bhargava: In view of the fact that the clause has been omitted, my amendment goes automatically.

Mr. Chairman: The question is:

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

The motion was adopted.

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

Clauses 5 and 6 were added to the Bill.

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Shri Prabhu Dayal Himatsingka: In view of the statement of the Honourable Minister, I do not want to move the amendment. But, now that clause 33B is being taken up, I would just like to draw the attention of the Honourable Minister.

Mr. Chairman: If you are not moving the amendment, you can speak later on.

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir I beg to move:

"That in clause 7 of the Bill, in clause (a) of sub-section (2) of the proposed section 33B for the words 'in respect of an order of re-assessment', the following be substituted:

'to revise an order of re-assessment made'."

Sir, the reason for moving this amendment can be explained very briefly. The words in the original clause as it stands are "in respect of" and the rest of the amendment really carries over the other words in the original clause. My contention is that the words "in respect of" are much wider than the words "to revise an order of re-assessment". There is no difference of opinion between myself and the Select Committee. The only point is that the words "in respect of" are much wider and consequently they will restrict the action of the Commissioner much more than is intended either by the Government or by the Select Committee. For instance, there may be an order which may be incidental to an order of re-assessment made under section 34, although it may not be an order to revise the order of re-assessment. Let me give an illustration. For instance, under the re-assessment made under section 34, the Commissioner will none-the-less have power to pass an order under section 45 of the Income-tax Act, which deals with the question of the right of an assessee to withhold payment. That is a section under which the Commissioner has the power to make an order that the section will apply both to an ordinary assessment under the original section 22 or under section 34 as enacted by the present Bill. Surely, it is not intended that the right of the commissioner to act under section 45 is not to be in operation merely because we intend that he should not revise an order of re-assessment when he is acting under section 33. It is to save his powers of acting in relation to orders of re-assessment made under section 34, which he is perfectly competent to do, that I propose to take away this wider expression "in respect of" and to confine the provision "to revise an order of re-assessment". There is nothing also in this amendment.

Mr. Chairman: Amendment moved:

"That in clause 7 of the Bill, in clause (a) of sub-section (2) of the proposed section 33B for the words 'in respect of an order of re-assessment', the following be substituted: 'to revise an order of re-assessment made'."

Shri Prabhu Dayal Himatsingka: Sir, I had given notice of an amendment for the addition of the words "and is caused by an error of law" after the word 'revenue'. The Honourable the Finance Minister has been pleased to point out paragraph 7 of the Investigation Commission's report and he has expressed his surprise when I said that that refers only to a question of law. I still stand by what I said and I would invite the Honourable Minister's attention to the language. We all agree that section 34 enables cases to be reopened. There is no doubt that a case can be reopened on a question of fact. That has not been disputed at all. The dispute so far as section 34 is concerned is as to whether a case can be reopened on ground of law. Now, Sir, with this background, you please see the report which is as follows: "We, however, agree that it is possible to maintain that an assessment should not be allowed to be reopened under section 34 merely on the ground that the Income-tax Officer who made the assessment has misunderstood or misapplied the law or that a different view of the law or of the facts is possible." Here, a different view of the law or a different interpretation of the facts before the officer is possible.

Certain facts are placed before the Officer and the Income-tax Officer takes a particular view of the law on those facts and that again becomes a question of law. If in such cases a mistake has been made in the application of the law to a particular set of facts, that is what is referred to in that sentence.

The Honourable Shri K. C. Neogy: You are reading something into it which is not there.

Shri Prabhu Dayal Himatsingka: That was stated in paragraph 7 of the Investigation Commission's Report: "different view of the law or of the facts", that is, law as applied to the facts.

Shri T. T. Krishnamachari: You read the whole thing, later on.

Shri Prabhu Dayal Himatsingka: "The proper remedy in such cases, if the Department considers the matter to be one of sufficient importance, is to allow the matter to be set right on appeal or in revision. As we have already observed, many of the replies received by us recognise the appropriateness of such a course. The present Act has in principle recognised the need for such a method of correction in so far as it has provided for an appeal at the instance of the Commissioner against a decision of the Appellate Assistant Commissioner."

The Honourable Shri K. C. Neogy: That is the genesis of section 33B.

Shri T. T. Krishnamachari: Hence, section 33B.

Shri Prabhu Dayal Himatsingka: Therefore, it is a question of law that is referred to. Of course, if the Honourable Minister still thinks that this is a question of fact, I leave it there.

Shri T. T. Krishnamachari: Sir, I have got only one point to make. As a matter of fact, I would like to draw the attention of the House to this particular paragraph which they would all read. It concedes that there is already a power of revision in the hands of the Commissioner, but that is restricted only in the case where there is an order of the Appellate Assistant Commissioner. It is not clear, whether in the case of an order made by an Income-tax Officer that power exists. They are giving the power under section 33B to the Commissioner. It is only regularising a position where the legal position is not quite clear. I do not think the position is materially altered by my honourable friend's explanation.

Srijut Rohini Kumar Chaudhuri: Sir, I only wanted to make one thing clear. This clause says that in certain cases, the assessment would be modified. I wanted to be satisfied that this word modification includes also that an assessment may be reduced or in deserving cases the present assessee may be declared to be illegally assessed and exempted from paying income-tax or entitled to a refund of the tax: whether the modifying includes not only reduction of the assessment, but also entire cancellation of the assessment if it is to be found in the course of the enquiry that the assessee was unjustly assessed. I think that is the object of the Bill. It is only common sense that we find that wherever there is an application for enhancement of sentence before a High Court and when the parties are asked to show cause why it should not be enhanced, and even then the man can show that he was illegally convicted, the High Court not only decreases the sentence but acquits him.

Mr. Chairman: The honourable member will see that the word "cancelling" is also there.

Srijut Rohini Kumar Chaudhuri: That is cancelling with a view to fresh assessment.

Mr. Chairman: But the right of cancellation and direction is there.

Srijut Rohini Kumar Chaudhuri: When the Commissioner finds that a particular assessee was unlawfully assessed—if he is satisfied from the records that he has been unjustly assessed—will he have jurisdiction to completely exempt him from payment of income-tax during that period?

Mr. Naziruddin Ahmad: The House will be pleased to consider the new section 33B. It says therein that "the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue", that is if the authorities find that there is no assessment, not over-assessment—that is the key: then later on it gives them the power to enhance. That is quite intelligible because we are curing under-assessment.

Then we come to the word "modifying". Our object is never to reduce but always to increase the assessment. Then there are the words 'enhancing or modifying': what is the modification in contradistinction to enhancement? We start with the theory that we should not reduce. So the word 'modifying' is ambiguous.

Then as pointed out by you, Mr. Chairman, there is "cancelling the assessment and directing a fresh assessment". But the cancellation is when the assessment is wrong and the whole thing should begin on a fresh basis. This cancellation must be read along with that.

In these circumstances, the stand taken by Mr. Chaudhuri is that the words "or modifying" is wrong in the context. It goes against the very trend of the whole section and must be removed.

I had an amendment to that effect. It was a last minute amendment to the same effect. I hope that the whole matter should be considered.

The Honourable Shri K. C. Neogy: As a matter of fact it should be for the Commissioner to interpret those words according to his judgment in the circumstances of a particular case and it may be that the "modification" may not relate to the amount of assessment in any particular instance. It may relate to certain matters of procedure or method. For instance, certain things, like losses are shifted from one year to another. So it would not necessarily lead to a reduction.

Shri Bikramlal Sondhi: But that reduction is covered.

The Honourable Shri K. C. Neogy: That may not be covered. As pointed out the controlling clause is that the power of revision will be exercised only when the interests of revenue have to be protected. That is exactly as my honourable friend, Mr. Ahmad has stated.

Mr. Naziruddin Ahmad: That gives right to reopen. But once reopening is made, then there is the power to protect.

Mr. Chairman: So long as the Court is there, it is for the Court to interpret.

Shri Bikramlal Sondhi: What is the idea?

Mr. Chairman: The Honourable the Minister has already made that clear.

Srijut Rohini Kumar Chaudhuri: Does the word "modification" entirely preclude the idea of 'reduction'?

The Honourable Shri K. C. Neogy: I say the whole thing is controlled by the words "In so far as it is prejudicial to the interests of the revenue."

Pandit Thakur Das Bhargava: So far as the purpose of section 33B goes, the Commissioner can only reopen the assessment. He can look at the case only if he finds *prima facie* that the order is erroneous in so far as it is proju-

dicial to the interests of the revenue. If he finds this, he has to give an opportunity to the assessee of being heard and after making or causing to be made such enquiry as he deems necessary he has to pass the final order. After hearing the assessee he can come to a conclusion that as a matter of fact his previous idea was wrong. He can come to the conclusion that as a matter of fact the order of the Income-tax Officer was wrong or was quite right. He can come to the other conclusion that it was neither wrong nor right. But he has not to come to the conclusion at the final stage that the order of Income-Tax Officer is prejudicial to the revenue. All that he has to see after he has heard and made the enquiry is that he makes a just order. There can be no law which would say that he could pass the order of enhancement only. . . .

Mr. Chairman: As the honourable member must know, there can be no speech after the Finance Minister has spoken.

The Honourable Shri K. C. Neogy: There is no intention on the part of Government to circumscribe the powers of the Commissioner for interpreting this clause. After all it may be a matter for interpretation by a properly constituted judicial Court.

Pandit Thakur Das Bhargava: What are we here for?

Mr. Chairman: The question is:

"That in clause 7 of the Bill, in clause (a) of sub-section (2) of the proposed section 33B for the words 'in respect of an order of re-assessment', the following be substituted:

'to revise an order of re-assessment made'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 7, as amended, stand part of the Bill."

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Mr. Naziruddin Ahmad: I had a drafting amendment into which the draftsman may look.

Pandit Thakur Das Bhargava: With your permission I would like to speak on this clause also if you will give me another opportunity to speak when the clause is put to the House.

Mr. Chairman: The honourable member may speak afterwards.

Pandit Thakur Das Bhargava: Sir, I move:

"That in clause 8 of the Bill, in part (b) of sub-section (1) of the proposed section 34, after the words and figures 'of section 22', occurring in line twelve, the following be inserted:

'and such further particulars as constitute the basis of giving such notice'."

A perusal of clause 8 would indicate that the clause has been materially altered and the real objections which are taken to the present law under section 34 have been removed. But one thing which does not seem to be clearly realized is that it has been divided into two parts (a) and (b). So far as these are concerned, they contemplate two kinds of cases: In the first place cases in which we can say that they pertain to those assesseees who have not been fair towards the Income-tax Department; in regard to (b) cases of honest assesseees who can come within the mischief of the section because of honest mistakes. But in regard to both the law requires that a notice might be served on them and according to the present section the law is that the notice, like the one to be served under the old section 22, might be sent to the assessee. This amendment seeks to say that the notice should contain such further particulars as would constitute the basis for giving notice.

In regard to the case of honest assesseees, my claim is that according to the position propounded in the report as we have understood it, they have not been

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dishonest. As a matter of fact they have not given inaccurate particulars in their returns. If any new information has come to the Income-tax Officer and he has sought to give notice to that assessee, it appears that that new information is available to the Income-tax Officer alone. The assessee does not know what is at the back of the mind of the Income-tax Officer. When a notice is being sent it is but fair that the man should be apprised of the new information in the possession of the Income-tax Officer. In all cases under (b) the presumption is that he does not know why he is proceeded against because the information is not with the assessee, it is with the Income-tax Officer, so that if the notice goes with the particulars of information he may come prepared to meet the new information which is in the possession of the Income-tax Officer. When a person is charged he has to know what he is charged with. There must be a charge sheet. Even so in regard to income-tax cases the assessee must be given to understand what he has to meet when he comes before an Income-tax Officer. Therefore I have suggested that such further particulars as are known to the Income-tax Officer should be entered in the notice. It may be said that the man would take advantage when he is warned beforehand and he may come prepared with his defence. But as soon as the man comes before the Income-tax Officer the case is not decided. Nothing will be lost if in the notice itself such new information is mentioned beforehand so that the assessee may come prepared. Ordinary canons of justice require that this information should be entered in the notice when it is sent to an assessee so that he may come prepared.

Mr. Chairman: Amendment moved:

"That in clause 8 of the Bill, in part (b) of sub-section (1) of the proposed section 34, after the words and figures 'of section 22', occurring in line twelve, the following be inserted:

'and such further particulars as constitute the basis of giving such notice'."

Shri T. T. Krishnamachari: Sir, I have got every sympathy with my honourable friend who seeks to enlarge the rights of the assessee by introducing appropriate words in the appropriate place in this clause but I think the Honourable the Finance Minister will not be misled by the anxiety of my honourable friend Pandit Thakur Das Bhargava. I would invite my honourable friend to read section 34 as it is today. It reads:

"If in consequence of definite information which has come into his possession the Income-tax Officer discovers that income, profits or gains chargeable to income have escaped assessment in any year.....the Income-tax Officer may.....serve a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22 and may proceed to assess or re-assess....."

Section 34 as it is at present, as the House has conceded, is very restrictive in its scope and does not put any obligation on the officer to disclose his hand when he asks an assessee to file a new return. What my honourable friend wants is that in spite of the restrictions in clause 34 we should extend a concession not contemplated by section 34 at present. It is no doubt true that at some time or other in the course of the investigation in regard to an assessment the Income-tax Officer will have to disclose all the facts. He might say to the assessee "You have done this: these are the facts that have come to light since I or my predecessor, as the case may be, made the assessment and these are the facts on which I want your explanation." That is the position which would obtain even under section 34 as it is now. Now my honourable friend wants to prepare the assessee's case by handing over the charge sheet to him even before he files a return. If he is an honest assessee and he feels that he has probably left out some facts or not scrutinised his accounts carefully.....

Pandit Thakur Das Bhargava: In case the assessee does not know?

Shri T. T. Krishnamachari: His *bona fides* are always secured; he will get the benefit contemplated. At any rate the assessee will ultimately know what is wrong with his return and he might explain that it was a *bona fide* mistake, that it has escaped his notice or that he had not seen the particular item in the book and so on. Naturally the provisions of the law as we now propose to enact it will apply as it has to apply in the case of honest assessees. This is a concession that goes beyond the section as it is today. If you ask the Income-tax Officer to disclose all his cards, this is not what was contemplated even in 1939 with all the array of forces gathered against the Government in those days. We would be neutralising the effect of section 34 if we accept my honourable friend's suggestion and we cannot blame the department if it does not rope in many of the assessees. This is going beyond section 34 of the Act as it is today and the present provision does not make any departure in the manner of serving the notice or in the context of that notice. Sir, the amendment proposed by my honourable friend must be rejected.

The Honourable Shri K. C. Neogy: Sir, I need only add a word in continuation of the argument made by my honourable friend Mr. T. T. Krishnamachari. It is well known that the reason for this amending measure has arisen because of the defective terminology of the present Act, particularly section 34. Section 34 required definite information to come into the possession of the Income-tax Officer in order to enable him to act under that section. Now that terminology is being deliberately omitted. When in the absence of definite information in his possession the Income-tax Officer could not proceed, the section did not require the definite information to be put into the notice to be served on the assessee. Although definite information was the *sine qua non* of action under section 34, the notice was not expected to contain any enumeration of that definite information. When we are doing away with the necessity of there being definite information at the disposal of the Income-tax Officer as a condition precedent to his taking action under the new Act, my honourable friend wants not merely that there should be definite information but that that definite information must be put into the notice to be served on the assessee. I think I need not say anything more on the subject. Sir, I oppose the amendment.

Srijut Rohini Kumar Chaudhuri: Sir, on a point of information.

Mr. Chairman: The Honourable Minister has replied to the debate and there is no occasion for further discussion.

Shri M. Ananthasayanam Ayyangar: Sir, it is not as if all people have been exhausted when the Honourable Minister gets up and speaks. The Minister did not make the motion, it is a motion by my honourable friend Pandit Thakur Das Bhargava and the mover has always the right of reply. The Honourable Minister must wait until all the speakers are exhausted.

Mr. Chairman: Nobody rose up and that is why the Honourable Minister got up to reply. If the honourable member's suggestion is adopted it will mean that the Honourable Minister will have to speak after every member has spoken and the debate will go on indefinitely.

Shri M. Ananthasayanam Ayyangar: Sir, on a point of order, it is open to the House to ask that the question be put but it ought not to be open to the Minister himself to cut short the debate at any time he likes. Otherwise the freedom of debate will disappear, if the Minister were to regulate the debate by getting up and cutting short the discussion. . . .

Mr. Chairman: It is not for anyone except the Chair to regulate the debate. It is expected that the Chair will first see that the other members are given full chance before calling upon the Honourable Minister to reply. That was what I did. But no member rose up and the Honourable Minister has replied and if the debate were to be reopened again there will be no end.

Srijut Rohini Kumar Chaudhuri: I want to know, Sir, if the notice does not contain any detail, how is the assessee going to answer the queries after four years if the matter is raked up then and what he will do if the substance of the information is not given to him and what grounds will he put forward before the Income-tax Officer?

The Honourable Shri K. C. Neogy: The fact is presumed to be within the knowledge of the assessee; it is a question of suppression of facts.

Shri M. Ananthasayanam Ayyangar: There are two kinds of assessee. Certainly the thief knows what he is doing. Regarding the other where on account of the inadvertence of the officer himself, the matter is different.

The Honourable Shri K. C. Neogy: He will, I take it, re-examine all his papers and as an honest man come to the Income-tax Officer to be further enlightened on the subject.

Shri M. Ananthasayanam Ayyangar: A very good standard of morality.

Pandit Thakur Das Bhargava: With the permission of the House, I would like to withdraw my amendment.

Mr. Chairman: Has the honourable member leave of the House to withdraw his amendment?

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

Prof. K. T. Shah (Bihar: General): Sir, I beg to move:

"That in clause 8 of the Bill, to the proposed section 34, the following new sub-section be added:

(4) No action taken under sub-section (1) of the section shall be called into question merely on the ground that certain conditions were not fulfilled before the issue of the notice under that sub-section."

Sir, I will not take very long to commend this motion to the House. This is intended to carry out the spirit of the report of the Investigation Commission and I believe it will help to smoothen as well as make more efficient the administration of the Act. It has been the common experience that the courts have interpreted the language of the section in a very restricted manner and therefore, purely on technical grounds and actually assessee have escaped taxation or have been charged at lower rates or otherwise benefited, if it was not the intention of the Act to benefit. The honest assessee has no ground to be afraid of this provision because not only at the time when the recorded reasons are to be reviewed has a chance of appeal or enquiry, but also because he has got all the information in his power and if any information that the Income-tax Officer has on which he bases a notice for re-assessment or pending the case, then it would be for him to show that the information in the possession of the Income-tax Officer is either wrong or misleading. In any case he is not precluded from having recourse ultimately to an appeal, if necessary, but in so far as it is intended to represent any people who evade taxation. I think that the amendment here proposed would help to smoothen the administration of the Act. I do not desire indeed that honest assessee should be needlessly harassed but there is, as I see, nothing in this provision which would cause unnecessary harassment to the assessee who have properly kept their books and produced other information that is relative to the subject. I therefore commend this motion to the House.

Mr. Chairman: Amendment moved:

"That in clause 8 of the Bill, to the proposed section 34, the following new sub-section be added:

(4) No action taken under sub-section (1) of the section shall be called into question merely on the ground that certain conditions were not fulfilled before the issue of the notice under that sub-section."

Srijut Rohini Kumar Chaudhuri: Mr. Chairman, Sir, I rise to oppose the amendment which has been put before the House. Of all the legislative provisions in this world, I do not think there can be any more indulgence shown to the officers of any Government than this clause 8 and to stretch it further and make it all the more arbitrary, is, I think, not desirable. Sir, I can quite understand an Income-tax Officer not assessing or making a low assessment with regard to a person who has not submitted his return, although I do not see why it should be so, but I cannot understand why we should pay so much premium to incompetency of our officers because they, not only the Income-tax Officer, but also the Income-tax Commissioner have failed to make a proper assessment. Why should you allow people to wait for four years to enable them to rectify their mistakes. What is the explanation for this indulgence to our officers? Is it because they should have a continuous and perpetual control over their assessee? We have always found that in a particular year if a man is liable to be assessed to income-tax, he takes all sorts of trouble to get himself out of the assessment altogether or to have his assessment reduced. He incurs expenditure and a lot of it both inside the office and outside the office and in courts of appeal—he has got to do it. After all this, certain conclusions are arrived at and a certain amount is fixed as assessment and this amount can be revised on a future date, that is to say the sword of Democles will have to be kept hanging over the assessee for all these 4 or 8 years. Is it right or reasonable? What is the explanation for it? There is only one explanation, which my honourable friend the Minister has given expression to in this House. It is because these Income-tax Officers, Commissioners and all the rest of them have suddenly become one of our flesh and blood now. They are all there. The water they had in their veins before this new regime came in had suddenly been converted into blood. All the bones and skinny Physiques which they had have suddenly become converted into flesh. That is the possible reason why all this indulgence has been given to the Income-tax Officers. To have the Democles's sword hanging for 8 years is something which cannot be contemplated in any legislature. It can be done by dictators sometimes, but not by a legislature, not by an author of a legislation. That is quite out of place at least for the Honourable Minister to bring such a piece of legislation to this House and to go still further at the suggestion of my honourable friend, the mover of the amendment is something if I give my opinion, it will be going too far and for that reason I oppose it.

Pandit Thakur Das Bhargava: Sir, I oppose this amendment with all the vehemence and emphasis at my command. This motion, if carried, would mean that those safeguards which the law provided or the Select Committee provided or even the report of the Investigation Commission provided will be taken away. I am afraid, Sir, that the present section 34 is not properly appreciated and with your permission, Sir, I will just explain how I view this amendment. The effect of this amendment in regard to clause (a) is, it is absolutely clear to my mind, that the question of old law about 'definite information etc. etc.' which was complained of by the report of the Investigation Commission has all been taken away. Now there is no question of 'definite information etc. etc.' If the Income-tax Officer has 'reason to believe' according to the present revised section—the mere fact that a person did not give a return is enough to attract the provisions of clause 34. There is no question of 'definite information.' In regard to this aspect of the debate, Sir, I have heard from the Honourable Minister also words to the effect and he is also under the same misapprehension. In my humble opinion, the clause is divided into two parts. (a) relates

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to dishonest assesses or tax evaders and clause (b) does not relate to them, so far as the first 3 or 4 lines are concerned. In regard to (a) the question of definite information does not arise, but in regard to (b) the question of definite information arises. This is only for safeguarding clause (b) in regard to honest assessee. If, according to the amendment of my friend, this safeguard is also taken away, it will mean that a *carte-blanc* is given to the Income-tax Officer. He can proceed in any manner he likes because after all he is of the same flesh and blood, as we have heard, of which the Honourable Minister is made.

In regard to the Report of the Investigation Commission much has been said that it is a statutory body and therefore nothing can be said about it; and it was said that it is a sacred thing. My humble submission is that nothing is sacred. Only justice is sacred. It is absolutely wrong to suggest to us that since an expert Commission have given a report therefore all that they have said is final.

The Honourable Shri K. C. Neogy: Is my honourable friend speaking on the amendment?

Mr. Chairman: It would be better perhaps if the honourable member finds out whether the Honourable Minister is going to accept the amendment.

The Honourable Shri K. C. Neogy: I am opposing this amendment also and I wanted to leave that task to my honourable friend. But I did not know that he would be making a third reading speech.

Pandit Thakur Das Bhargava: If my honourable friend had heard me fully he might perhaps have altered his opinion. After all it is premature to come to conclusions before hearing everything. I was just submitting that as a matter of fact even the Report of this Investigation Commission did not go so far as this amendment goes, and that even that safeguard would be taken away. Then I was submitting about the sanctity of the Report. Have we not just heard that the commission said that in matters regarding law the Income-tax Officer is not to be armed with any powers? Other members were pleased to refer para. 7 on page 3 of the Report. I beg to refer you to page 6, to the Note, where they clearly say that so far as the Income-tax Officer is concerned he is not to be armed with any powers where the question of error of law is concerned, and in regard to facts alone he has got jurisdiction. In regard to law also they clearly state in the Note that cases of erroneous inference of fact will no longer fall under section 34 and therefore the Commissioner is given powers under section 33-B. If the statement of my honourable friend is correct, that the Commissioners have changed their opinion, I will only say that such are your experts who change their opinions so easily. You know how the High Court speaks about experts and I have to submit that so far as experts are concerned, their opinions usually lean in favour of the opinions they have already expressed. Therefore it is not a question of experts etc. We know how the Income-tax Act is administered and how the Income-tax Officers work. I therefore think that all the safeguards which can be put into this section you will be perfectly justified in putting. My regret is that we are not putting all the safeguards because the Government does not want them to be put in. If you take away even this one safeguard I think it will be nothing short of a tragedy.

The Honourable Dr. B. R. Ambedkar: I am afraid that the amendment moved by Prof. K. T. Shah cannot be accepted. I think it has to be appreciated that the Select Committee had to deal with two difficult situations. One situation was that which arose due to the provision in the existing section 34 which said that no action under section 34 would be taken unless there was a positive discovery of facts which would give ground of action for the Income-tax Officer to levy tax on income which had as a matter of fact, and undoubtedly,

ly, escaped. That section 34, as it stands now, completely crippled the action of the Government and income which had been deliberately concealed or which had escaped assessment due to the negligence either of the Income-tax Officer or of the assessee was not permitted to be tapped again. The Select Committee did not want that contingency to continue. At the same time the Select Committee did not want that the Income-tax Officers should have a *carte-blanche* for taking wanton action which may either be directed against a political opponent or may be purely personal, arising out of prejudice or conflict, between an assessee and an Income-tax Officer. The Committee therefore found out a *via media* and that *via media* has been embodied in the section 34 recommended by the Select Committee. That *via media* consists of two limitations upon the action of the Income-tax Officer. One is that he must have reasons to believe that income has escaped assessment. The second is that his opinion that income has escaped assessment must be endorsed and sanctioned by the Commissioner who is the highest officer in charge of the administration of Income-tax. It is only when both these conditions are satisfied that action under section 34, as now drafted, can be taken. Prof. K. T. Shah's amendment would nullify the two provisions which have been introduced by the new section 34. If those provisions were nullified I think the fears that have been expressed on the other side by representatives who have pleaded the cause of the assessee—that there has already been enough harassment of assessee—would be considerably strengthened. Government does not propose to give any ground for any such suspicion. I therefore submit that the provisions as they stand are a sound and reasonable compromise between the two parties to re-assessment, and I therefore suggest that Prof. K. T. Shah's amendment be not accepted.

Prof. K. T. Shah: I would like, with the permission of the House, to withdraw my amendment.

Mr. Chairman: Has the honourable member the leave of the House for withdrawing his amendment?

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

Pandit Thakur Das Bhargava: I want to speak on the clause 8 itself. I am afraid that if this clause is passed as it is, it will mean a very great harassment to the honest assessee.

The Honourable Dr. B. R. Ambedkar: Why should honest assessee be harassed, I do not understand.

Pandit Thakur Das Bhargava: I shall just state the position. Suppose there is an honest assessee and he has filed the return and given all the particulars. He belongs to Delhi, and lives under the very nose of the Central department and the seat of the Central Government. For the first four or five years his case is not decided. May I humbly submit for the consideration of this House that there are many cases in Delhi which are pending for the last four or five years. Then there are eight years again—in the case of honest assessee there are at least four years. Then you have the provision that if a notice is issued, another year he has to wait, so that a man has to lie in suspense for nine or ten years. Is it not harassment? What else is it? In regard to the original assessee at least, that man can say 'I filed the return, I may have made a mistake, let me not be penalised'. But what will you say to his children if he dies after two or three years? Then his children will be in suspense for seven years. Is it not harassment, I ask? This is not all.

I am not speaking of such hypothetical cases. I can challenge the Honourable the Finance Minister if he disputes my statement that even now in Delhi there are many cases pending for the last four or five years without being disposed of. I don't know about the rest of India.

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Everybody is afraid of speaking about the tax-evaders and the tax-dodgers; but do we not defend the murder cases every day? They should be fairly dealt with; even a top tax-dodger and evader should be dealt with suitably according to law. As a matter of fact, the real height and criterion of justice is that you meet out justice even in very bad cases. Now, what are the words used for such cases? According to sub-clause (a), the words are—

“ . . . if there is omission or failure . . . to disclose fully or truly all material facts.”

May I humbly inquire whether it cannot be said even about an honest man that he has failed to disclose fully and truly all material facts? Who will decide what is a material fact and who will decide whether the fact is totally disclosed or not? The honest man may not consider a fact material and the totality of disclosure is a question of opinion. Therefore, the substitution of these words “disclose fully and truly all material facts necessary for assessment” by the words “dishonestly or fraudulently” is essential. As a matter of fact, cases of recusancy can be brought to book under the ordinary law and they are liable to penalty under Section 28. It is not fair to use these words “truly and fully” when their implications are susceptible of various interpretations.

I therefore sent a very innocent amendment that the words “dishonestly and fraudulently” must be substituted, but the Finance Minister has not seen his way to even consider an amendment of that sort.

Similarly in regard to part (b). It is the Government's case—not my case—that this refers to cases in which the question of an honest assessee comes. I can say that the Government have accepted the provision unless there is information in the possession of the Income-tax Officer, he is not to be proceeded against. What is the information? It may be the same information which he possessed before and it may be a case of review only. When I made my speech on the first amendment of mine, I made a reference to the principle of *res judicate* and the Honourable Minister only ridiculed me when he said that the systems of all countries have provisions for reopening of assessments. I quite agree. I never said that reopening should not be allowed. But I only submitted that the principle of *res judicate* shows that there is a certain finality. Now all finality has been taken away. Even the Investigation Commission reported that in questions regarding law, the Income-tax Officer should not be allowed to have his way; but here we do not find any reference to that aspect of the case; he is perfectly entitled even to proceed on the basis of information which he already had when he made the first assessment! My humble submission is that justice demands that unless and until it can be proved in regard to the information that it is new, that it is information which was not in his possession before the re-assessment, the Income-tax Officer should not be armed with such powers.

As regards tax-evaders, you may do whatever you like, but in regard to these honest people you must have the power given to Income-tax Officers in such a manner that they may not be able to harass the income-tax assessee. The Honourable the Law Minister is rather surprised to hear from me that there is harassment. If only he had known half of what we know of what is really happening . . .

The Honourable Dr. B. R. Ambedkar: I did not say I was surprised—I rather accepted the fact.

Pandit Thakur Das Bhargava: I am sorry I said he was surprised; it appears he is of the same view as myself, that there is a great amount of harassment of assessee. I hope he will tell his friend to his right that it is so. I humbly

submit to the Honourable the Finance Minister and the Honourable Law Minister that they should include in this clause such safeguards as would at least protect the honest assessee. Such safeguards have been indicated in so many amendments.

The Honourable Shri K. C. Neogy: There is Proviso (i).

The Honourable Dr. B. R. Ambedkar: And the opening words.

Pandit Thakur Das Bhargava: I did not touch upon this Proviso (i). Since it has been just mentioned I will make a reply to it when I come to it later on.

I was submitting that after all, in regard to this kind of assessee, the income-tax authorities have got absolutely no reason to withhold justice from him. Supposing you find on re-assessment that he was assessed rightly and that something more was taken away from him. Logically if it is found in respect of the honest assessee that the original assessment was much larger than what it ought to have been, he should be allowed a refund. This provision has not been introduced in this clause. I submitted an amendment to this effect. May I beg of the Honourable the Law Minister and the Finance Minister to tell me on what principle they want to keep that money out of his pocket and as to how they are entitled to it? They ought to refund this money—not only that money but interest also and express regret that their officer mulcted him in a certain amount which was not due. This is bare justice but the Honourable Ministers are disregarding this fair demand.

They say that the safeguard is there in so far as the Commissioner has been given power to satisfy himself that the reasons recorded are a right. This is the only safeguard. It means, out of the frying pan into the fire! Who are these gentlemen? There is the Income-tax Officer and above him is the Inspecting Assistant Commissioner and then there is the Commissioner. What is this Inspecting Assistant Commissioner? You fully know it—I need not describe, but I once described him in this House as an invisible ghost—he never appears before the assessee, the assessee never appears before him. He directs the Income-Tax Officer to assess the man in the absence of the assessee and he pulls the wire from behind and manages the whole thing. The papers will go above with his recommendation. He is already more than satisfied for in fact he may have initiated the move or been its efficient cause. Suppose the reasons are not given, will anybody care to go into the question? Will the Honourable the Finance Minister be able to go into the question whether the reasons are good or bad. And suppose he gives the certificate as a matter of routine as such certificates are always given? First of all, the matters are discussed at high level with the Commissioner and then the report goes saying, “For reasons recorded I am satisfied . . .”. He does not give any reasons. Where is the safeguard? Will anybody care to look into it? Will any judicial officer look into it? After all, we know that children, nations and departments have very little conscience. Therefore, as routine work this certificate of satisfaction will be given as a matter of course and it will not be a proper safeguard.

The whole scheme of the Act seems to be that the honest assessee should be protected but in practice he will not be protected. In fact I am not satisfied with the report of the Investigation Commission when they state that though they have sympathy with the honest assessee, yet the fact that escape of income is there whether honest or dishonest and therefore they must proceed against the honest assessee also in the same way. It is there that we differ. I differ from the Commission that in case it is ultimately found that the assessee has been charged more than what he should have in fairness been charged the refund should not be allowed. I have not been able to understand why the refund cannot be made. When there is no tax-evasion, and a person has been over assessed they look at the question from the fiscal

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point of view, and not the human point of view, of the assessee. I therefore beg to submit that in my humble opinion the safeguards provided are not enough. I would have liked if the real position is taken into consideration and safeguards introduced.

Shri M. Ananthasayanam Ayyangar: Sir, I would like to say a few words. I am not agreeing with my friend Mr. Bhargava. When the Honourable the Law Minister has not pressed his amendment for substituting the Commissioner who has to approve of the recommendation of the Income-tax Officer sent to him in writing for reopening of cases, I think the Section as it is is sufficient safeguard against improper or unreasonable reopenings. The power is now given to a Commissioner to find out the proper cases after he is addressed on that subject with proper and cogent reasons by the Income-tax Officer in writing. That is a sufficient safeguard which must satisfy my honourable friend Mr. Bhargava.

As regards set-off, my feeling is this. Whenever an assessee feels aggrieved by improper assessment, it is open to him to prefer an appeal, a second appeal, and he can take it to the Tribunal. Now, he wants to take advantage of the position when on account of certain fraud he committed the case is reopened. He wants to take advantage of that position and try to recover. There is an impersonal person. There is a regular person who can take care of his interests. That is the individual. He can prefer an appeal, a second appeal and so he can go on. But in a round about way he wants to take advantage of it. What will really happen is this that if the provision is made, no Income-tax Officer will ever attempt to re-open a case, because if he is not able to detect any fraud and recover some more money for the Government he will have to shell out something to the other side. Thus the object of this very section will be frustrated. So I think the balance of convenience is in favour of retaining this clause as it is.

The third point, as I understand my Honourable friend to have raised by an amendment which he has not moved, is with respect to sub-clause (iii) of clause (b) where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of a non-resident person, the period of 8 years and 4 years is reduced to 1 year. My friend wants that the provision for re-opening, the period of limitation for re-opening in cases where the assessee is dead, his legal representatives have to pay that, in that case also it should be reduced to 1 or 2 years. I personally feel that this is a concession which can be made as a concession is made in favour of an agent, but there is no amendment moved and so let us see if this works and there will be time enough for us to see whether that other provision will be necessary later on. After all, we are by way of amendments amending Acts not once a year but twice or thrice also in a year. So you will also see another amending Bill likewise whenever there is a case of hardship. We will certainly be able to persuade the Finance Minister to bring forward another Bill. As it is, let us be satisfied with what has been done and there is ample provision by way of safeguard in allowing the Commissioner alone to give permission in proper cases. I would like that this clause should be accepted as it is.

Mr. Chairman: The question is :

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

The Honourable Shri K. C. Neogy: Sir, I move:

"That in clause 9 of the Bill, in the last paragraph of the proposed sub-section (5A) of section 46, between the words 'for' and 'on' in line three, the word 'or' be inserted."

Mr. Chairman: The question is :

"That in clause 9 of the Bill, in the last paragraph of the proposed sub-section (5A) of section 46, between the words 'for' and 'on' in line three, the word 'or' be inserted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I have some comments with regard to this clause. Sir, this clause inserts a sub-section (5A) after sub-section (5) of clause 46. I find there are no less than six paragraphs and the first one is numbered (5A). I should submit that the rest of the paragraphs should also be numbered as sub-sections (5B), (5C) and so on. There is of course sub-section (6). It is unusual in an ordinary sub-section to have several paragraphs without bearing any number. I have carefully examined them. They relate to different subjects. It would therefore be convenient to number them for the purpose of reference. I have tabled an amendment to that effect, but if this is regarded as technical amendment the draftsman may look into it and carry out the consequential amendments which also I have indicated.

Pandit Thakur Das Bhargava: In regard to this clause, I only beg to draw the attention of the House to clause 5A, last para.—clause 9. It says:

"Where a person to whom a notice under this sub-section is sent objects to it—there are two grounds, the first is:

on the ground that the sum demanded or any part thereof is not due to the assessee then the second ground is:

or that he does not hold any money for or on account of the assessee, then in both these cases:

nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Income-tax Officer."

My submission is that these two grounds are not the only possible defences for him to say that the money due cannot be paid. So I suggested the following amendment:

"or that he claims a legal or equitable set off from the assessee in respect of the sum demanded."

It may happen that a debtor has to pay money to the assessee and he has also to recover from the assessee any sum out of the same transaction or another transaction or he may have some other claim against him. In that case, he has an equitable right to get his money back or get something from the assessee. In that case also, he should be allowed to resist the claim of the Department to pay and he should be allowed that he does not pay any amount.

The Honourable Shri K. C. Neogy: All that I want to point out is that this particular paragraph was not in the original Bill, the paragraph to which my honourable friend wants to tag on the amendment that he has mentioned. This particular paragraph was inserted by the Select Committee after due consideration of the equities of the matter. I am not in a position to extend the scope of that paragraph any further.

Mr. Chairman: The question is :

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clauses 10 to 15 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. C. Neogy: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Chairman: Motion moved :

"That the Bill, as amended, be passed."

Shri B. Das (Orissa: General): Sir, I had no idea to speak on this Bill. But I saw certain views being expressed about the Income-tax Department and I would not have expressed. My view is that we have enjoyed one year of freedom in India and we have not settled down in our policies of taxation and in our treatment of the officials. Expressions were let out in this House that we have been accustomed to saying for the last ten years that we have treated the Income-tax Department as the Collector of Taxes for maintenance of foreign rule and any extortion we had to pay out. But on a previous occasion I have said—and I again repeat it—the tax dodging of assesseees during the war through propensities of donations bribes that were introduced during those days of high finances when money passed from pocket to pocket—that tax-dodging the Government have not been able to check.

[At this stage, Mr. Chairman (Shri K. Santhanam) vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava (one of the Panel of Chairmen)].

Even this Bill will not help my honourable friend, the Acting Finance Minister to control the tax dodgers. Some of them are in Pakistan and others are making arrangements to shift to Pakistan. If some honest assesseees, as my honourable friend who spoke a few minutes ago, are harassed a little, we have to bear with it so that the real tax dodgers can be caught in the net. I do hope that we will not have cause for complaint against the Finance Ministry. We have got our strong condemnation of the Supply Department Officers, and the Disposal Officers. It is high time that in this new State that we are building, we maintain our Taxation Department, the Tax Collection Department in a high degree of integrity and propriety.

Any harassment that may happen has been much magnified by the lawyer profession that always appears before the Income-tax Officers, the Income-tax Commissioners and even before the Income-tax Tribunal which we have set up, where we have introduced an element of lawyers and High Court Judges and naturally the legal arguments outweigh the real essence of things that we are discussing. I appeal to my honourable friends the gentlemen of the legal profession whether they will not co-operate with the Government at this stage to maintain the Taxation Department to function as a pure body. Under the British regime, everybody became corrupt; everybody barring a very few, I would say excluding Mahatma Gandhi, became corrupt. Let us forget the past. I do hope that the Ministry of Finance will develop a high sense of duty and purity which all of us wish. I also hope that the harassment which you, Sir, referred to, against poor assesseees, will never be exhibited and will never be talked of on the floor of this House. I also hope that the tax dodgers who have deprived the Government of crores of Rupees will be somehow caught unless they are in Pakistan and dead.

Babu Ramnarayan Singh: Sir, a little amount of heat was imported into the discussion just before we adjourned for lunch. When you, Sir, were speaking, I was rather provoked to say something. You were good enough and right enough to say that in the old days, people thought that it was with their money that they were controlled and suppressed and they did not like to pay anything to the Government and they evaded payment of taxes. At the same time, you said that the time has changed, this is our own Government and that people should think it to be a sin if they evade any payment. With all due respect to you, Sir, and all other people of your ways of thinking, the time has not changed, especially for those who are in the Government. It is said that corruption in every department of Government is rampant. This is a cry throughout the country that corruption is on the increase by leaps and bounds. My honourable friend Mr. Neogy, the Finance Minister was rather

a bit indignant that people indulge in gibes about the officers who are our own kith and kin. Well, Sir, we shall be proud of their achievements when they will be doing the right thing; but this is not the case now. Although they are our own kith and kin, they are the persons who behaved shabbily in the past and I do not think there is any certificate granted to them that they are doing the right thing now. I say that the time has not come when the people should think that it is a sin to evade payment of any tax to the Government. Everywhere we find the same old day, the same old game. Money is taken in the same arbitrary manner as before; money is not spent properly as before. In the morning there was a discussion about an interpolation over a question by my honourable friend Mr. Kamath about the salaries of the Governor General. The high salaries and everything were supported by our Prime Minister. (An Honourable Member: 'These are days of high prices'.) Even in these days of high prices, if you consider the condition of the people, even a salary of Rs. 500 fixed by the Congress, I think, is perfectly proper even now. The time is the same and I think such measures ought not to have been brought before the House. The Government and the Honourable the Finance Minister and everybody there should first try their utmost to see that the whole department of the Government, especially, the Income-tax Department, is purified. Then, they should come forward with such measures giving them more power. Sir, power is a very bad thing. Power should be given only to those people who are certainly in all conscience honest. When I hear the Treasury Benches supporting the corruptions in their departments and speaking highly of the people of their departments, I feel only sorry and surprised. Rather I pity that my friends, my colleagues have become drowned in the bureaucratic ocean. I understand they should sometimes pat their own people, the Government servants in their own department; but at the same time, they should not publicly announce that the people under them have become honest. We know what the people are and how they are behaving; no improvement has taken place. This is a matter of shame for all of us; this is not a matter to gloat over. With these words, Sir, I say that the attempt of the Honourable the Finance Minister ought to be to wholly purify his department so that not a finger can be raised against them, not a word can be said against them, no suspicion can be entertained against the conduct and character of the Income-tax Officers.

Shri Pabhu Dayal Himatsingka: Sir, the Bill has given wide powers to Income-tax Officers and I would now suggest to the Honourable the Finance Minister to instruct departments that circumstances have changed and that it should be applied not on old police methods but by explaining the duties and rights of the assesseees.

Sir, as you know there are a large number of assesseees who do not know the law. It should be the duty of the Income-tax Officer to point out to such assesseees what they are entitled to by way of allowances, by way of deductions and depreciations and so on. If the method of explaining their rights and duties be followed, I have no doubt that with the changed circumstances there will be a change in the mentality of those who were trying to evade taxes. Up till now the Congress used to say, Don't pay taxes; and people who used to try to avoid taxes on income, would say that they were doing the same thing in their own way. But my feeling is that if the Income-tax authorities try to apply the provisions of the law with consideration and by explaining the position to the assesseees, there is no doubt that a change is bound to come and a larger and larger number of assesseees will be prepared to co-operate with the department, so that cases also can be disposed of quickly. At the present moment—not that there are many cases of over-assessment—the harassment and trouble to the assesseees is due to the undue delay in disposing of the cases. You, Sir, having had practice in income-tax

[Shri Prabhu Dayal Himatsingka]

cases, and those who have had something to do with income-tax cases, know how the cases of assesseees have been held up for years. When the law allows an Income-tax Officer to keep cases pending for four years and to reopen them on certain grounds for four years more and then keep them pending for another year or two years, you can imagine the difficulties to which the assesseees are put to. That is the hardship that I have been referring to: that is the kind of harassment that I have been referring to and not to the question of the evasion of taxes.

Therefore, it is up to the Department to give instructions to the officers that they should try to explain the obligations and rights of assesseees so that they can be prepared to co-operate more and more with the department. Sometimes the trouble begins, when an over-zealous officer, either an Assistant Income-tax Commissioner or some other officer, gives some instruction which the Income-tax Officers interpret in their own way as binding on them. I know of a recent case which I brought to the attention of the Honourable the Finance Minister, rather to his predecessor. In Bengal, in the cases of assesseees decided since January 48, the whole amount of the high denominational notes, which had been demonetized by Ordinance and which were exchanged by assesseees, is being debited against them as profit irrespective of the commencing explanations offered by these assesseees. It is a terrible state of affairs and I speak from my own personal knowledge of certain cases. (Shri Bikramlal Sondhi: "Not a personal case!") Not a personal case though I had the money! There were some big amounts in the shape of Rs. 1,000 notes as a public fund and they were exchanged and that has been added as profits in spite of the fact that there have been good explanations. But it has all come about because one Income-tax Commissioner who happened to be there gave instructions that all those sums of money exchanged for high denominational notes should be charged as profits. This is being done in cases where there is no room for excess profits having been made. Even in the books of those assesseees which have been accepted throughout as correct for a number of years, the full amount of such notes have been taken as profit. Therefore I suggest to the department that the law which gives them such wide and ample powers be applied sympathetically. By inducing the assessee to feel that the law is being applied properly and justly there may be a response on the side of the assessee.

With these words I congratulate the Minister who has been able to get such wide powers for his Department.

Dr. B. Pattabhi Sitaramayya (Madras: General): 'As the debate concludes, I am tempted to supplement what the speaker who has just now concluded has left unsaid. I want to supply a small an omission.

I am no apologist for the officers. At the same time it is necessary for us to send out an appeal to our countrymen that conditions have changed and that they... (Babu Ramnarayan Singh: "No!") have to attune themselves to the changed condition of freedom in this country: that they have become free citizens and rule themselves and that the mechanism of Government can only run like a clock if every citizen feels that he is a cog wheel, a cotter pin, or a pendulum, or a main spring, or a hair spring in this mechanism. The moment anyone tries to avoid taxes that very moment there is sabotage in the machinery of Government.

We have heard a good deal said about the method of combating inflation, and about almost every remedy—some of them textbook remedies, others—by interested parties and still others—by neutrals: but all confirm the theory that taxes must be paid and more taxes must be collected. If we accumulate money we must feel that we are doing something unsocial and uncivic. Just as

we develop a group sense in corporate society, just as we develop a road sense in traffic, so also we must develop a tax sense in this country as citizens. (Mr. Naziruddin Ahmad: "The country is really developing non-sense!") If the officers must realize that they are the servants of the people, let us also realize as citizens that we have to render our taxes to the Government as we are bound to. If we only do this and cease to look upon taxes as an instrument of harassment, then possibly our Government will fare much better. It is true that since 1877 or thereabouts when income-tax was introduced for the first time as an emergent and temporary measure, this tax has come to be looked upon as a means of persecution and a source of harassment. It was piously hoped that it would have a short life, but it has lengthened itself from period to period and has raised the measure of its collection. We do not blame any one for this because after all income-tax is the only tax that people in towns and cities pay to Governments. Whereas the rural cultivator pays Rs. 10 to Government for every acre he cultivates, a lawyer or doctor, who manages to earn Rs. 2,000 but shows one rupee less in his returns, escapes scot-free. This distinction has been sedulously cultivated during the previous regime in favour of the people of the city as against the people of the villages. The rural population has been further afflicted by a system according to which the earnings of a lawyer, who sits in a town are not divisible among his brothers in the village but the earnings of the agricultural worker and trader who are working hard day and night, and who are exposing themselves to the vicissitudes of weather, and temperature, to pests and even to officials, and who also are subject to the risks of commerce, have to be divided with this lawyer brother or the doctor brother. Thus it looks as though the Government has deliberately cultivated the art of favouring the people of towns as against the people of the villages. The people of the villages are proportionately and individually paying a much heavier tax to Government than the people in towns, and it is only when we realise that we too must contribute to the revenues of the State that our state can become more efficient and more capable of doing good to the country. I want to supplement Mr. Himatsingka's argument to the effect that while the officers must cultivate a new outlook, the citizens too should cultivate a new vision.

The Honourable Shri K. C. Neogy: Sir, I would not like to say very many words, particularly because I want to end the debate on the note which has been struck by my honourable friend Dr. Pattabhi Sitaramayya. Income-tax is the most unpopular form of taxation all the world over. I remember to have read in a book by that well known income-tax expert Prof. Seligman that in his experience people who would never be considered capable of felling a lie would unhesitatingly put down their signature to a false income-tax return. Therefore tax-evasion is not peculiar to this country: it is an evil that prevails all over the world in larger or lesser degree. As my honourable friend has said we had better look forward to a regime of greater co-operation between the department and the assesseees and in that connection I should like to endorse the suggestions made by my honourable friend Mr. Himatsingka that the departmental officers should be instructed to render as much assistance as possible to the assesseees in the matter of understanding the intricacies of the income-tax law and in filling their returns properly. I dare say that such instructions have already gone out but if they have not I will make my special concern to see that such instructions are forthwith sent out to the departmental officers.

I should not like to take much time of the House, because I have a hope of getting my next Bill passed today but I would like very humbly to suggest that it is not good policy to indulge in constant nagging of your own officers. After all you have to depend upon the permanent officials for the administration of the country. There may be blacksheep among them, I do admit that

[Shri K. C. Neogy.]

there are blacksheep not only among the officers of the Income-tax Department but in other Departments as well. The real problem is how to improve matters. Everybody should not be tarred with the same brush: it simply will not do.

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

TAXATION ON INCOME (INVESTIGATION COMMISSION) (SECOND AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce).
Sir, I beg to move:

"That the Bill further to amend the Taxation on Income (Investigation Commission) Act, 1947, (second amendment) be taken into consideration."

Sir, I am sufficiently optimistic to hope that the next six minutes available to me would be sufficient for the purpose of getting this Bill through the House. The House will remember that in the original Act the time limit for making reference of cases to this Commission was 31st December, 1947. By an amending Act the date was extended to the 30th June, 1948. Later, that time was extended by a further period of two months under circumstances which are well known to this House and I do not desire to recall them. Now, this Bill is intended to replace that particular amendment. That is the short object of the Bill but there is a slight change and that is that instead of fixing the last date of August as the final date for this purpose, the first of September next has been fixed in the Bill.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Taxation on Income (Investigation Commission)

Shri H. V. Kamath (C.P. and Berar: General): Sir, this Bill has had a very chequered history. Owing to a rather tragic concatenation of circumstances this Bill has resulted in a casualty in the cabinet ranks. We all know, the whole country knows today the exit of Mr. Shanmukham Chetty from the cabinet in the course of the progress of this Bill through Parliament. I do not wish to enter into those circumstances or those facts that led to his exit from the ranks of the Cabinet Ministers. The Statement of Objects and Reasons says that certain possible cases for reference were under consideration. I should like some more light to be thrown on this point which has acquired considerable importance owing to the events of the last fortnight. I want to know—and I think it is an issue which is perfectly relevant to the Bill under consideration—from the Honourable the Finance Minister whether the groups of cases that were withdrawn from the Investigation Commission have gone back to the Commission for consideration (*Several Honourable Members*: "They have already gone"). I would ask the Honourable the Finance Minister to make a statement on the floor of this House that those cases have been restored to the place whence they were withdrawn and that in future also cases will not be withdrawn from investigation by the Commission without their consent. This is very necessary in view of the events that took place a fortnight ago and I would request the Finance Minister to make a statement to this effect on the floor of the House.

The Honourable Shri K. C. Neogy: The answer to my honourable friend's query is in the affirmative.

Mr. Chairman: The question is:

"That the Bill further to amend the Taxation on Income (Investigation Commission) Act, 1947; (second amendment) be taken into consideration."
Act, 1947, (second amendment) be taken consideration."

The motion was adopted.

BILL

Mr. Naziruddin Ahmad: (West Bengal: Muslim): Sir, I beg to move:

"That for clause 2 of the Bill, the following be substituted:

"2. Amendment of section 5, Act XXX of 1947.—In section 5 of the Taxation on Income (Investigation Commission) Act, 1947,—

(1) in sub-section (1)

(a) the words and figures 'before the 30th day of June, 1948', where they occur for the first time shall be omitted; and

(b) the words and figures 'at any time before the 30th day of June, 1948', where they occur for the second time, shall be omitted;

(2) in sub-section (3), the words and figures 'at any time before the 30th day of June, 1948' shall be omitted."

Sir, we have already seen that in the Tax Investigation Commission Act we set the time limit within which the Government was to act and it was anticipated that within that time it would be possible to send certain big cases to the Commission. Time was again extended by the previous amendment. It is now rather public knowledge that a large number of cases were sent to the Commission in a hurry on account of want of time without sufficient investigation. Now you want another time limit. The amendment seeks to take away that time limit. Take your own time, have eternal time if you like, to consider the matter and send the cases to the Commission and the House will have no objection I hope. If the cases are finished time will automatically lapse but there should be no time limit and there should be no hurry, because things were done in a hurry and they had to be reversed.

The Honourable Shri K. C. Neogy: Sir, I am afraid I did not have the time for considering my honourable friend's amendment but so far as the effect of this amendment is concerned it will make the work of the Commission almost impossible. Say, for instance, if we keep on adding to the number of cases which the Commission have to consider. The whole idea was to make a selection of the most important cases. As a matter of fact the number of cases already referred to the Commission is so large that it will take them years to dispose of them. Apart from the reference back of some of the cases that had been withdrawn, several fresh cases have also been referred to the Commission taking advantage of this extension of time. I am assured by the Department that there is no likelihood of any further cases being ready for such reference. (But as regards the point that my honourable friend made that the department had no time adequately to examine these cases, I can assure him categorically that all the cases that are now before the Commission 5 P.M. had scrutinised carefully by the Department, viz., the Central Board of Revenue.

The Honourable Shri K. C. Neogy: And in the course of the examination—this fact may not be known—a number of cases were not considered fit for reference. So it is not merely a kind of informal scrutiny but a regular scrutiny has taken place and it is as a result of the scrutiny that all these cases that are now before the Commission have been referred to them. Sir, I very much hope my honourable friend would not press his amendment.

Mr. Naziruddin Ahmad: I submit that my pressing amendments is needless as the Honourable Minister is not willing to accept them. I do not press them, but express the hope that the cases should be really considered once and for all and time should not be extended now and then. By long extensions nothing would be lost, but by short extensions, the Minister may have to come again.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. C. Neogy: I move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday the 31st August 1948.

(CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II — PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS.)

Tuesday, 31st August, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11—45 A.M.

REQUEST FOR ALLOTMENT OF TIME FOR DEBATE ON HYDERABAD AND KASHMIR

Shri H. V. Kamath (C.P. and Berar: General): Sir, will you kindly permit me to remind the Honourable the Leader of the House about the promise which he had made on the opening day of this session that he would be pleased to allot a day for a debate on Hyderabad and Kashmir. Considering the supreme importance of this problem I would urge upon him the imperative need for such a discussion, even if it involved a short extension of the session: otherwise it is likely that people outside will get the impression that we here are like unto Nero of old who fiddled while Rome burnt.

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): Sir, I am not aware of having given any such assurance or promise and I am not myself clear as to how far it will be in the interest of the country if this House were to debate military matters. It is seldom done in regard to military or allied matters. But certainly I hope that before this House adjourns whatever Government may have to say in regard to these questions will be laid before the House.

Pandit Hirday Nath Kunzru (U. P.: General): I do not know how by discussing a statement made on the floor of the House public interest is jeopardised.....

The Honourable Pandit Jawaharlal Nehru: It is for the House to decide. I myself could not see how such statements can be discussed at any length on the floor of the House.

Pandit Hirday Nath Kunzru: What is the difficulty in the way of the discussion of such a statement? Are there only military matters involved and are there no political matters involved? Why should it be undesirable to discuss even military matters, may I ask?

The Honourable Pandit Jawaharlal Nehru: This is a matter of constitutional propriety. If my honourable friend wishes to discuss it on the floor of the House and the Honourable the Speaker allows such a discussion, it may be that in regard to some matters Government would be unable to disclose many things. May I add, Sir, that some honourable members, in particular the honourable member, who put me the last question, have criticised Government, as they have every right to do. But in a recent statement he has made regarding Kashmir his criticism is based on the most complete ignorance of the situation.

Shri H. V. Kamath: May I suggest a meeting in camera?

Mr. Speaker: My own feeling in the matter is that I entirely agree with the Honourable the Leader of the House that it would be inopportune and not very

[Mr. Speaker]

wise to have a discussion over these matters on the floor of the House, when the situations are so delicate and therefore the best course would be to help Government by silence.

Pandit Hirday Nath Kunzru: Cannot the matter be discussed, if necessary by a secret session? Why should all discussion be ruled out by the Prime Minister?

Mr. Speaker: I do not think he rules out discussion. He wants suspension of the discussion which may take place later on. I think there is no need for any further argument.

Shri K. Hanumanthaiya (Mysore State): Every time it is being said that military operations are involved and that we are not entitled to discuss these matters. I am afraid the House has a right to discuss these matters and the Government must inform itself of the opinion of the members of this House. But every time, whether it is Hyderabad or Kashmir, it is said that military operations are involved and that we should not discuss them, with the result that what exactly most of us think the Honourable Ministers do not know. Of course they know their business and we may trust them. But it is up to them as our leaders and as leaders of this House that they should give us an opportunity to say what we have got to say in the matter.

Mr. Speaker: I have already expressed myself.

The Honourable Pandit Jawaharlal Nehru: I have made it perfectly clear that I do not wish to rule out any discussion in this House—it is the last thing I would desire. I have pointed out the undesirability of discussing certain aspects of the question which are bound to arise in a debate. But it is open to you, Sir, or to the House if it wishes to discuss the question. It can discuss it. But Government inevitably would have to say in regard to certain aspects that they are not in a position to disclose certain facts. I am not ruling out discussion. If the House wants to sit for an extra day Government will certainly arrange it.

Secondly, I am a little surprised at the complaint of the honourable member who spoke last, accusing us that we are continually preventing any discussion. I am not aware, I cannot remember a single occasion, when this question was put in this manner and Government came in the way; I would like to be reminded when this happened previously.

PAPERS LAID ON THE TABLE

NOTIFICATION UNDER SECTION 38 OF CENTRAL EXCISES AND SALT ACT 1944

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I lay on the table a copy each of the following notifications in accordance with Section 38 of the Central Excises and Salt Act, 1944, namely:

- (1) Central Excises Notification No. 4, dated the 13th March, 1948,
- (2) " " " " 5, " the 13th March, 1949,
- (3) " " " " 6, " the 23rd March, 1948,
- (4) " " " " 8, " the 10th April, 1948,
- (5) " " " " 10, " the 8th May, 1948,
- (6) " " " " 11, " the 8th May, 1948,
- (7) " " " " 12, " the 15th May, 1948,
- (8) " " " " 13, " the 5th June 1948, and
- (9) " " " " 14, " the 10th July, 1948.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION CENTRAL EXCISES

New Delhi, the 13th March 1948

No. 4.—In exercise of the powers conferred by section 37 of the Central Excises and Salt

Act, 1944 (I of 1944), the Central Government is pleased to direct that the following further amendment shall be made in the Central Excise Rules, 1944, namely:—

In the proviso to sub-rule (3) of rule 175 of the said Rules, after the words "same town or village" the following shall be inserted, namely:—

"and the business at such place is conducted under the same name as that of the principal place of business".

W. A. ROSE,

Under Secretary to the Government of India.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION

CENTRAL EXCISES

New Delhi, the 13th March 1948

No. 5.—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government is pleased to direct that the following further amendments shall be made in the Central Excise Rules, 1944, namely:—

A. In the said Rules—

1. In rules 13 and 14, for the words "within such time as the Collector directs" the words and figures "within the period prescribed for goods exported under rule 12" shall be substituted.

2. In sub-rule (2) of rule 153, for the word "taken" the word "accepted" shall be substituted.

3. In the rules 206 and 211, for the words "His Majesty", the words "Central Government" shall be substituted.

B. In Appendix I to the said Rules—

1. In forms Central Excise Series Nos. 17, 18, 19, 20, 21, 22, 23, 24, 25, 25-A, 26, 27, 28, 29, 30, 31, 32, and 32-A—

(i) for the words "Governor General in Council" wherever they occur, the words "Governor General" shall be substituted;

(ii) for the words "Collector of Central Excise" at the end of the forms the following shall be substituted, namely:—
".....of Central Excise".

2. In form Central Excise Series No. 28, for words "within such time as the Collector of Central Excise at.....directs", the following shall be substituted, namely:—

"within such time as the proper officer directs".

3. In form Central Excise Series No. 29, for the words "within such time as the Collector directs", the following shall be substituted, namely:—
"within such time as the proper officer directs".

W. A. ROSE,

Under Secretary to the Government of India.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION

CENTRAL EXCISES

New Delhi, the 23rd March 1948

No. 6.—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government is pleased to direct that the following further amendments shall be made in the Central Excise Rules, 1944, namely:—

In the said Rules, in clause (ii) of Rule 2—

(1) in sub-clause (d), the words "East Punjab, Delhi and Ajmer-Merwara" shall be omitted;

(2) after sub-clause (e), the following shall be inserted, namely:—

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“(f) in the provinces of East Punjab, Delhi and Ajmer-Merwara, the Collector of Central Excise, Delhi”.

W. A. ROSE,

Under Secretary to the Government of India.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION

CENTRAL EXCISES

New Delhi, the 10th April 1948

No. 8.—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government is pleased to direct that the following further amendment shall be made in the Central Excise Rules, 1944, namely :—

2. In proviso to rule 12 of the said Rules, after clause (c) the following clause shall be inserted, namely :—

“(d) the value of the goods at the time of exportation is in the opinion of the Collector less than the amount of rebate claimed”.

W. A. ROSE,

Under Secretary to the Government of India.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION

CENTRAL EXCISES

New Delhi, the 8th May 1948

No. 10.—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government is pleased to direct that the following further amendment shall be made in the Central Excise Rules, 1944, namely :—

In Rule 172 of the said Rules between the words “admit to” and the words “the warehouse” the words “or retain in” shall be inserted.

D. P. ANAND,

Under Secretary to the Government of India.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION

CENTRAL EXCISES

New Delhi, the 8th May 1948

No. 11.—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government is pleased to direct that the following further amendment shall be made in the Central Excise Rules, 1944, namely :—

In Rule 56 of the said Rules, after the words “or of any materials for”, the following shall be inserted, namely :—

“or of any intermediate or residual product resulting from”.

D. P. ANAND,

Under Secretary to the Government of India.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION

CENTRAL EXCISES

New Delhi, the 15th May 1948

No. 12.—In exercise of the powers conferred by clause (xv) of sub-section (2) of section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government is pleased to direct that the following further amendment shall be made in the Central Excise Rules, 1944, namely :—

INDIAN TARIFF (AMENDMENT) BILL

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In the said Rules, after rule 210 the following rule shall be inserted, namely :—

“210-A. *Composition of Offences.*—The Collector may accept from any person whose property is liable to confiscation under the Act or who is reasonably suspected of having committed an offence under the Act or under the Rules a sum of money not exceeding two thousand rupees lieu of confiscation of goods or of punishment for breach of any provision of the Act or of the Rules.”

D. P. ANAND,

Under Secretary to the Government of India.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION

CENTRAL EXCISES

New Delhi, the 5th June 1948

No. 13.—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government is pleased to direct that the following further amendment shall be made in the Central Excise Rules, 1944, namely :—

In the said Rules, in clause (iv) of sub-rule (1) of rule 24 and in sub-rule (3) of rule 27, for the word “sold”, the word “transferred” shall be substituted.

D. P. ANAND,

Under Secretary to the Government of India.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION

CENTRAL EXCISES

New Delhi, the 10th July 1948

No. 14.—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government is pleased to direct that the following further amendment shall be made in the Central Excise Rules, 1944, namely :—

In the said Rules, to rule 184, the following proviso shall be added, namely—

“Provided that in cases where the licence is not actually availed of, for reasons beyond the control of the licensee and when application for such refund is made within three months of the date of expiry of the licence, a refund of the whole or a portion of the licence fee may be granted by the Collector”.

K. R. P. AIYANGAR,

Joint Secretary to the Government of India.

CINEMATOGRAPH (AMENDMENT) BILL

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I beg to move for leave to introduce a Bill further to amend the Cinematograph Act, 1918.

Mr. Speaker: The question is:

“That leave be granted to introduce a Bill further to amend the Cinematograph Act, 1918.”

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: Sir, I introduce the Bill.

INDIAN TARIFF (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir I beg to move for leave to introduce a Bill further to amend the Indian Tariff Act, 1934.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Tariff Act, 1934."

The motion was adopted.

The Honourable Shri K. C. Neogy: Sir, I introduce the Bill.

INDIAN TARIFF (SECOND AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Tariff Act, 1934 (*Second Amendment*).

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Tariff Act, 1934 (*Second Amendment*)."

The motion was adopted.

The Honourable Shri K. C. Neogy: Sir, I introduce the Bill.

ESSENTIAL SUPPLIES (TEMPORARY POWERS) (AMENDMENT) BILL

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Sir, I beg to move for leave to introduce a Bill to amend the Essential Supplies (Temporary Powers) Act, 1946.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Essential Supplies (Temporary Powers) Act, 1946."

The motion was adopted.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I introduce the Bill.

MOTION RE PROCEDURE IN MAKING RULES TO REGULATE THE PROCEDURE AND CONDUCT OF BUSINESS IN THE ASSEMBLY

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): Sir, I beg to move:

"This Assembly resolves:

- (i) that the procedure to be followed by this Assembly in making rules under sub-section (1) of section 38 of the Government of India Act, 1935, to regulate its procedure and conduct of its business shall be by a motion made and carried in the Assembly; and
- (ii) that in supersession of the Constituent Assembly (Legislative) Rules and the Constituent Assembly (Legislative) Standing Orders at present in force, and with effect from the 15th September, 1948, the annexed *Rules be adopted for regulating the procedure of the Assembly and the conduct of its business."

May I say first of all that although I have moved this resolution I would like to have a change made about the date? It is a wrong date given, namely 15th September. It should be today, so that, if the House so desires, we can act in accordance with the amended Rules from tomorrow onwards.

Section 38 (1) of the Government of India Act empowers the Dominion Legislature to make rules for regulating the procedure of the Assembly and the conduct of its business. Sub-section (3) provides that until Rules are made under this sub-section the Rules of Procedure and the Standing Orders in force immediately before the establishment of the Dominion with respect to the Legislative Assembly shall have effect in relation to the Dominion Legislature, subject to such modifications and adaptations as may be made therein by the President of that Legislature. In pursuance of the provisions of sub-section (3) of Section 38, the Rules and Standing Orders applicable to the Legislative Assembly of India were modified and adapted and are at present in force with respect to the Constituent Assembly on its

*Not printed in the day's Debate.—Ed. of A.

legislative side. In these adaptations and modifications the old nomenclature of Rules and Standing Orders was maintained. Under Schedule IX of the Government of India Act, 1935, which has now been repealed, the Rules were framed by the Government of India with the approval of the Secretary of State, while the Standing Orders were made by the Government of India but were altered by the Assembly from time to time with the consent of the Governor-General. This distinction between Rules and Standing Orders has now vanished and therefore it is desirable to put forward a new arrangement of these Rules and Standing Orders, just as Rules of Procedure and Conduct of Business.

What I am moving now involves no essential change although it may be that certain changes are necessary in these Rules. For the present what I am moving is a re-arrangement of the old Rules and Standing Orders, all put together. I think one or two changes are necessary immediately, one of them being the power to appoint a Deputy Speaker; and there are one or two other matters about the resignation of a Minister. Apart from these, there is hardly any change to the existing practice.

I find that a very large number of notices of amendments have been sent. Most of them are verbal amendments; some involve important changes. I would beg of the House at the present stage not to go too closely into an amendment of these Rules and Conduct of Business. That would take us a considerable time; and perhaps if we did it in this sporadic manner it may not be done as well as it should be done. My own suggestion to the House would be that if we adopt at present the existing Rules in the freshly arranged form and if you, Sir, appoint a Committee to consider all these amendments and changes that may be necessary, then we would get something which has been carefully thought out—as the Rules should be thought out—and during the next session we can adopt those changes after going into them. If we consider each separately now, perhaps the whole picture would not be seen, and it may be that some changes are not made which should be made while some are made which do not fit in with some other part of the Rules. Therefore I would beg the House to accept my motion subject to one or two changes which I shall gladly accept. As it is, I do not think in terms of improving the whole set-up of Rules at this moment. We want to carry on with a better arrangement so as to make our work more easy.' Sir, I move:

Mr. Speaker: I shall put the motion to the House with the change so far as the date goes. Instead of saying '15th September' shall I say from today, that is from the '31st August'?

The Honourable Pandit Jawaharlal Nehru: From the 1st of September.

Mr. Speaker: Motion moved:

"This Assembly resolves:

- (i) that the procedure to be followed by this Assembly in making rules under sub-section (1) of section 38 of the Government of India Act, 1935, to regulate its procedure and conduct of its business shall be by a motion made and carried in the Assembly; and
- (ii) that in supersession of the Constituent Assembly (Legislative) Rules and the Constituent Assembly (Legislative) Standing Orders at present in force, and with effect from the 1st September, 1948, the annexed *Rules be adopted for regulating the procedure of the Assembly and the conduct of its business."

Mr. Speaker: I might state in support of what the Honourable the Leader of the House has stated, that it will be desirable to have a small Committee, and as he has suggested, I will take steps to appoint such a Committee for the purposes of going into and examining the rules.

*Not printed in the day's Debate.—Ed. of D.

[Mr. Speaker]

Therefore, after appointing the Committee to go into those rules, it will be better, if any amendments which the Committee may suggest and any such amendments which the honourable members may have to suggest, are taken into consideration by this House. The amendments that are tabled are likely to take a long time. We are at the fag end of a Session and perhaps we are all anxious to see that the Session does not extend beyond the 4th of September. So, in the circumstances, in view of what the Honourable the Leader of the House has said, and with my undertaking to appoint a Committee, I think the members will be satisfied. We may accept the rules as they are and proceed with further business, instead of taking any time over the rules.

Shri H. V. Kamath (C.P. and Berar : General): Sir, I am not moving any amendment to the rules, but as regards the motion itself I have got a very minor verbal amendment which is wholly non-controversial, far less controversial than the change of date which has been incorporated. And that is:

"That in part (ii) of the motion, after the word 'Rules', occurring in line two, the words 'of Procedure' be inserted."

I wanted to move this amendment because I want to bring the wording into line with this Circular which we have all got; it is called the "Rules of Procedure and Standing Orders"—not merely "Rules". That is the only amendment I am moving.

Mr. Speaker: That may be accepted?

The Honourable Pandit Jawaharlal Nehru: Yes, Sir.

Prof. Shibban Lal Saksena (U.P.: General): I am thankful to the honourable mover for the promise that these Rules shall be considered by a Committee which shall go into the whole question. Though I do not feel the urgency of the matter, yet because we have a lot of business on hand, I would not oppose the Prime Minister's suggestion. After all the House rises after four days and so I had thought it would not make much difference if the Rules are not adopted today.

But, Sir, I do want with your permission to point out some facts which that Committee should take into consideration. I do feel, after about a year's experience of this House, that this House passes legislation in rather a hurried manner and we are not able to consider all the Bills as thoroughly as we should be able to do. I thought that this Assembly should now act on the model of the British House of Commons. Formerly our British masters did not wish to take members into much confidence and did not like that members should scrutinise the various Bills and the Budgets so thoroughly. But now when we are a sovereign body, it is very important that our legislation as well as our Budget should be fully scrutinized by the House.

Sir, I have compared these Rules with the Rules of Procedure in the House of Commons and I have found there are some very important differences between our procedure and their procedure. For example, in Bills which are passed by the House.....

Mr. Speaker: I think we need not go into this now; as we are appointing a Committee which will examine it. No discussion of the type will really be helpful because that discussion will take place again when the amendments to the Rules come before the House.

Prof. Shibban Lal Saksena: I only wanted to give my suggestions.

Mr. Speaker: I think the Committee will look into all that. And the honourable member is there to help it.

Prof. Shibban Lal Saksena: If you desire that I should not proceed then I will close, Sir.

Dr. P. S. Deshmukh (C.P. and Berar: General): Sir, whenever any suggestion is made by the Honourable the Leader of the House, we all are anxious to accept it, and we never take any time unless it is very strictly necessary. All the same, Sir, I would beg of you and the House to take into account as to why this curious procedure should be adopted. After all, the original motion contained 15th of September as the date. This showed that we were in no particular hurry. That has now been altered to the 1st, and the whole lot of amendments are going to be considered by a Committee and if any of them are found reasonable and proper they will all be incorporated, after such consideration.

Sir, the normal procedure, as is proposed to be laid down and as has been laid down by other Parliaments, is that before anything final is done the whole matter is threshed out and if there are amendments they are incorporated after being moved and adopted. In this particular instance we are following a somewhat new procedure. Probably the circumstances justify it, but I do not think I am incorrect in saying that all that we are anxious to get by this particular motion being expedited at such speed is to let the Deputy Speaker be born at an early date. I do not know if any other advantages are going to be secured by this process of passing the Rules and the leaving of the amendments aside to be considered by a Committee, and then a new set of Rules or changed Rules being brought before the House. I do not raise any objection to this, but I think I am correct in inferring that the only anxiety is to see that the Deputy Speaker is born at an early date.

Mr. Speaker: There seems to be some misunderstanding about it. The hurry is not for the purpose of having a Deputy Speaker. Even under the present Rules as adapted, the appointment of a Deputy Speaker is provided for; it is not a new thing that is coming under the present Rules.

But the position under Section 38 has been that the present Rules under which we are working—the Rules and Standing Orders—will continue to exist and govern the proceedings and conduct of business of this House, till the Assembly makes its own new Rules; it is not competent for this Assembly, unless Rules are made, to make any changes in the Rules of procedure which at present govern it. Therefore, it was thought that, as we are already working under these Rules, the easier course will be to assume jurisdiction over the Rules by having them passed as the Rules of the Assembly, and then sit at leisure with some quiet and consider the amendments that will be necessary. If that is not done, then these very Rules should be the governing Rules from the beginning of the next Session also till all the amendments are considered in the next Session and the Rules are adopted by this Assembly. Therefore, if a new set of Rules, after considering these amendments, is to be adopted, the better course would be to adopt these Rules as they are, assume jurisdiction over the amendment of these Rules, then sit in the meanwhile as a Committee or otherwise, howsoever we may think it proper, then consider those amendments and suggest them so that they can be put through in the House much earlier. That is why the present procedure was suggested, and not that there is anything unusual or that there is anything behind the scene.

Dr. P. S. Deshmukh: With your permission, Sir, I would like to withdraw my observations.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, may I inquire whether any inconvenience is felt in conducting the business under the present Rules? If there is any inconvenience I do not wish to say anything, but if not then there

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are a large number of substantial amendments suggested. Would it not be better to wait till the Rules are finally considered and framed as such and carry on in the meanwhile? As soon as the rules are ready we may pass them at the earliest stage of the next Session.

I am merely asking—I am not making any suggestion. But if there is inconvenience, of course then the draft new rules may be accepted.

Mr. Speaker: It seems I have not been able to clarify the point properly. Still, the point is not that there are any very serious difficulties just today in our work. We are carrying on our work under these very rules at present, but the difficulty is that if we desire to have some change in any part of the Rules, for example, relating to the discussion of the Budget, the rule requires a small amendment—not the whole body of the Rules—it will not be possible for this Assembly to have a rule altered, but it must get it altered by a different procedure. So it is preferable that the power to alter should be immediately assumed by the Assembly itself rather than leave it to some other authority, who is to be approached for a little this or that change that we may need, just to give us the convenience that we want. That is the idea. Anyway, this has to be done some time or other. I do not think any further explanation is now needed over this.

Shri H. V. Kamath: I am desirous of making only one little submission and that is, we all know that the election of the Deputy Speaker is imminent and therefore any amendments to the rule as regards the election of Deputy Speaker must be considered today, because no election can be held without that rule being passed as amended, if necessary. I have got an amendment to that rule as regards the withdrawal of any candidate. It is a very formal and technical amendment but, I think it is very necessary and should be incorporated in the provision relating to election of Deputy Speaker. You cannot hold the election of Deputy Speaker without that particular rule being passed.

Mr. Speaker: We are passing all rules finally and the difficulty pointed out by the honourable member will arise only if there are more than one candidates and if any one of them wishes to withdraw, we shall have to proceed with the election. That is what will happen. It is not such a great calamity.

Shri H. V. Kamath: It is not a calamity. That is why I said it is a technical and formal amendment. There is no provision for the withdrawal of candidates, and I have tabled an amendment to that particular rule.

Mr. Speaker: Let us consider all these aspects quietly and then put them through, rather than take an amendment to a particular clause or a particular Rule. That is better I think.

Shri H. V. Kamath: Election is going to take place on Friday.

Mr. Speaker: One does not know. We may have to have election of all offices. The incumbents are never permanent. The particular procedure for election under the present rules has already been circulated and I may say that one of the objects why 15th September was put in the motion was that during the present session, there should not be any changes from one set of rules to another and if the date is to be put from today, then it is better that we take the old set of rules from today instead of any changed set of rules during the middle of the session. Let us not disturb the arrangement as it stands. That is the idea.

Seth Govind Das (C.P. and Berar: General): Is it not a fact that even if there is no amendment as Mr. Kamath proposes, a candidate can withdraw under the present rules of the Assembly themselves?

Mr. Speaker: I may not decide that point at present, but the position is very clear. If a candidate expresses his desire to withdraw, members will not put in their vote for him. So the matter is clear and we need not be obsessed by that idea.

Mr. Tajamul Husain (Bihar: Muslim): May I know why we are having the election of the Deputy Speaker at the end of the session and not at the beginning of the session?

Shri K. Santhanam (Madras: General): This question must have been raised at the beginning of the session.

Mr. Speaker: I do not think any formal explanation on that point is necessary. The rules were amended, I believe, by the end of the last session so as to enable us to have a Deputy Speaker and now the sooner we have a Deputy Speaker, the better. All that I can say is that, rather than wait till the next session and keep an office vacant till the next session, it is better that there is some authority who will be able to supplement the Speaker in his absence.

Now, as regards the other amendment of Mr. Kamath, I said that there was no objection to those words "Rules of Procedure", but I would prefer, on a further consideration of the matter, to keep the first wording, because Rule I provides that "These Rules may be called the Constituent Assembly (Legislative) Rules" and the wording of the Government of India Act, Section 38, sub-clause (1) is: "The Dominion Legislature may make rules for regulating, subject to the provisions of this Act, their procedure and conduct of their business". So, if we add the word "procedure" we must add the long title also—thus saying "regulating their procedure and the conduct of their business". It is better to keep the small expression "rules".

Shri H. V. Kamath: All right. I don't press. It is merely verbal.

Mr. Speaker: Then I put the motion to the House. The only change will be that they are being adopted from the 1st September.

The question is:

"This Assembly resolves:

- (i) that the procedure to be followed by this Assembly in making rules under sub-section (1) of section 38 of the Government of India Act, 1935, to regulate its procedure and conduct of its business shall be by a motion made and carried in the Assembly: and
- (ii) that in supersession of the Constituent Assembly (Legislative) Rules and the Constituent Assembly (Legislative) Standing Orders at present in force, and with effect from the 1st September, 1948, the annexed Rules be adopted for regulating the procedure of the Assembly and the conduct of its business."

The motion was adopted.

HINDU CODE

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I move:

"That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration."

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, on a point of order.

Mr. Speaker: I shall hear the Honourable Minister first and then take the point of order.

The Honourable Dr. B. R. Ambedkar: Sir, in view of the urgency of other Government business which is on the agenda and to which Government feels it must give precedence, I do not propose to make a speech in support of my

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motion, because it is quite obvious that if I were to make a speech in support of my motion, that is bound to give rise to a debate which will result in the consumption of a great deal of the time of the Government. We have already few days left before the House is due to rise and I therefore request you to allow this motion to stand over for further consideration in the next session of the Assembly.

Mr. Speaker: So it comes practically to this that I put the motion to the House; the matter becomes.....

Mr. Naziruddin Ahmad: Sir, my point of order.....

Pandit Hriday Nath Kunzru: rose—

Mr. Speaker: Yes, Pandit Kunzru.

Pandit Hriday Nath Kunzru (U.P.: General): May I put a question to my honourable friend before you put the motion to the vote of the House?

We have known for some time the policy of the Government in regard to this matter. It is disappointing for some of us to know that the decision of the Government has been to postpone the consideration of this Bill during this session.

Pandit Lakshmi Kanta Maitra (West Bengal: General): Sir, he is making a speech.

Pandit Hriday Nath Kunzru: Let my honourable friend not be impatient. After all, the Speaker is in the Chair and it is for him to say whether I am in order or not. There is only one Speaker in this House.

To continue my point now, Government have in consideration of the business which they want to go through decided that the consideration of this matter should be postponed to the next session.

May I know, in this connection, when this Bill will be considered? Can my honourable friend give the House any assurance that it will be considered and passed before the regular Budget Session commences? I think these are the minimum points on which he should please give information to the House. We are quite prepared to wait just as we have waited for so many years and I do hope that this Bill will be taken up as early as possible, certainly not later than before the commencement of the Budget Session.

Mr. Speaker: What is the point of order.

Mr. Naziruddin Ahmad: Sir, the point of order I am going to submit is that the motion is incompetent. The House will be pleased to remember that on the 9th April last, a motion was accepted in the House that the Hindu Code Bill, which purported to have been signed by the previous Minister for Law, be sent to the Select Committee for consideration and report. The point of order which I am going to submit is that the Select Committee, as would appear from their notes, has never considered that Bill, but a substitute. I do not say that the substitute is a bad substitute, but it is a substitute. But, the question which was referred to the Select Committee was to report on the Bill that was presented to the House at the time. It appears from the note of the majority that the Bill which was taken into consideration in this House had not been considered by the Law Department. After reference to the Select Committee, the Law Department fully considered the Bill and prepared a new draft. There have been a number of changes. Let us assume they were improvements. The Sections were thoroughly recast and rearranged and it was an entirely new product. It does not matter whether they were good or bad. It was that draft, and not the Bill which was sent by the House for consideration, which

was considered by the Select Committee and their report is based on a consideration of the new draft and not the Bill that was presented before the House. I should like, in support of this statement to refer to some notes of the Select Committee. In the report of the Select Committee, at page 1, it is said that "the Ministry of Law.....have now produced a revised draft." and "this revised draft does not make any substantial changes"—but there were changes—and "we decided to confine our deliberations to the revised draft." The point has been further clarified in a note of dissent by two distinguished members of the Select Committee Dr. Bakshi Tek Chand and Pandit Balkrishna Sharma. They say in paragraph (5) of their note at page 8: "Thirdly, after the introduction of the Bill, the Honourable the Law Minister set up a Departmental Committee, which has entirely re-drafted the Bill and it is this Draft (and not the original Bill) which has been considered by the Select Committee. The changes made by the Drafting Committee in the original Bill and in some cases by the Select Committee in the re-drafted Bill are not merely changes of form, but in several particulars they relate to matters of substance."

My point would be, whether the changes made were of substance or whether they were merely of a formal character, that it was this draft alone that was considered and that was not what was referred to the Select Committee. Supposing, Sir, that a Bill is reported by a Select Committee, can the Honourable Minister make even the slightest changes, trivial changes—they may not be changes of substance? Suppose some changes made by a Minister and presented to the House, the question would be whether you will be prepared to accept the new document with the changes, or insist upon having the document that was passed by the Select Committee. I submit this is a matter which raises constitutional questions. The Select Committee, with due respect to them, consisted of the most brilliant men in this House. With regard to the product of their labours, I have nothing to say. I fully admit that that document is a masterpiece of composition and from the drafting point of view it is a great improvement. But it has made substantial changes here and there, the clauses have been thoroughly recast, brought from the end towards the beginning, from the beginning to the middle, and from the middle to the end of the Bill, and so on. I beg to submit that the Select Committee acted without jurisdiction. The mandate of this House was to take the Bill into consideration and report thereon. What the Select Committee did was not to take into consideration the Bill that was referred to them, but a totally different document altogether. The report being on a new document altogether, I submit the motion is thoroughly incompetent. The whole thing depends upon the legality of the report itself. The report was on the Draft prepared by the Law Ministry and not on the one which was sent to them for consideration. This is the simple point of order.

Shri B. Das (Orissa: General): Sir, may I submit one thing? This is the longest point of order that I have heard on the floor of this House. The motion of the Honourable Minister of Law was a simple one that the detailed consideration may be had at a later date. Why should the House now discuss the question, what was placed before the Select Committee? That means we are going into the merits of the Bill. I think this matter can safely be adjourned to the next session.

Mr. Naziruddin Ahmad: My point is that the motion is not competent.

Pandit Balkrishna Sharma (U.P.: General): I beg to submit, Sir, that the long yarn spun by my honourable friend seems to have very little substance in it. Of course, this House was asked to consider a certain Bill, and let me tell you as a member of the Select Committee, that the Bill which this House asked us to consider was always before us. In the light of that Bill, the Honourable the Minister for Law drafted or re-drafted the very clauses of the

[Pandit Balkrishna Sharma]

Bill, and there were absolutely no changes of substance. The original Bill which was sent to the Select Committee was also before us. Therefore, the point of order does not arise.

There is no doubt that the Select Committee has reported on the draft which was submitted to us by the Ministry of Law. But the Select Committee has every right to change the Bill which is submitted to it by this House. If that right is inherent in the Select Committee, I do not see any reason how any point of order can be raised by my honourable friend Shri Naziruddin.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, I am rather surprised at the speech of my honourable friend Pandit Balkrishna Sharma. He is a signatory to this note of dissent from which portions have been read out by the gentleman who raised this objection. It is stated in the note that only the revised draft was considered and not the original Bill. Furthermore, he was of the opinion in this dissenting note that there have been very substantial changes. Not only there were changes mentioned but instances of the changes are given in this note covering about one page. If you kindly go through the changes mentioned, you will come to the conclusion that very substantial changes were made.

Shri Mahavir Tyagi (U.P.: General): That is Mr. Tek Chand's note and not his.

Pandit Thakur Das Bhargava: Unfortunately, under the signature of Mr. Tek Chand, the signature of Pandit Balkrishna Sharma appears. I do not know what warrant is there for Shri Mahavir Tyagi to say that Pandit Balkrishna Sharma's signature is not there.

Leaving aside this matter, I submit that this is a very vital point. Supposing, for instance, a Finance Bill was introduced and referred to Select Committee and then the Finance Member made important changes in the Bill in regard to the taxation proposals, and then that was considered by the Select Committee, what would happen? It is not a matter of this clause or that clause alone; it is a matter of the privileges of the House; and if it is a document which was not referred to the Select Committee, it cannot be considered at all.

Pandit Balkrishna Sharma: Taxation proposals are different.

Pandit Thakur Das Bhargava: Is taxation more important than the rights of the people? On page 9 you will find that substantial differences are referred to in the dissenting note and you will come to the conclusion that the alterations made are much more substantial than even the taxation proposals. Existing rights have been taken away and even the very structure of Hindu society has been changed. I could give illustrations and show how vital these changes are.

Shrimati Renuka Ray (West Bengal: General): Sir, are we going into the merits of the Bill?

Mr. Speaker: I think I may shorten this matter. I am not going to decide the point of order just now. The point of order is undoubtedly important and of such a nature that I cannot express any opinion this way or that way immediately after hearing honourable members. It will involve for me a minute study of the Bill and a comparison of the various provisions and so on. So, in any case, what I proposed to do was just to put the motion and postpone the matter including my decision on the point of order; and if the House so desires, further discussion on the point of order may take place when the motion is taken up again. But I was looking at it from another point of view and I will state what is passing in my mind so that the House may be helpful to me in coming to a conclusion. To my mind, the pertinent question would be whether

the Select Committee has done something which is taking us beyond the scope of the measure, which was intended by the House to be referred to them. It may make important changes or no changes; it may redraft or rearrange particular clauses; but it has no authority to go beyond the scope of the legislation, which it was intended to refer to it for consideration and report. So the question will be, not whether this provision or that provision was changed or altered or changed substantially or whether it goes to the root of the structure of the Hindu society. The question is, as to what it is, that was intended by the House to refer to Select Committee and whether the Select Committee has gone beyond the scope of the reference. That is how I was looking at the question.

Shri Biswanath Das (Orissa: General): There is something more.

Mr. Speaker: There may be something more; I am giving my reaction and I am keeping the question open. Even when the motion is taken up next time, this point of order will be open.

The Honourable Dr. B. R. Ambedkar: If my views are required by the honourable members who have spoken I am quite prepared to give my views on what we have suggested. But Sir, the procedure suggested by the Speaker is the best.

Shri H. V. Kamath (C. P. and Berar: General): There is another important matter, Sir. Considering the supremely vital social significance of this measure and the fact that Government will perhaps require three or four weeks to pilot it in this House, may I request you to be so good as to summon an extraordinary session of this Assembly before the budget session and also to see that some members who are at present debarred from attending this House are allowed, may required to attend that special session?

Mr. Speaker: That is not in my hands at all. The honourable member does not know probably that the power to summon the Assembly is not that of the Speaker. The power is exercised by the President under the Government of India Act as it stands today. So it is not for me to decide whether or not a session of the House should be called just for the purposes of this Bill or for any other purpose.

As regards the other point, it is for members themselves and does not concern me as to who should or should not be present. So I need not go into that matter at all. But in view of the procedure which we are adopting in order to save time I am merely putting the motion and will proceed to the next business.

Mr. Naziruddin Ahmad: I submit that putting the motion to the House would be to recognise the legality of the motion.

Mr. Speaker: Not at all.

Mr. Naziruddin Ahmad: I submit that the whole thing should be kept open because the point of order, which I have submitted with a considerable amount of care and not without previous thought, is a question of importance, and I find that it is obviously a difficult matter. So, as the matter is going to be postponed the whole consideration including any action upon it on the basis that it is a proper point should also be postponed. It is a mere suggestion; it is a matter of procedure which is entirely in your hands, and any decision you give will be acceptable to us.

Pandit Thakur Das Bhargava: The point is that there is no Select Committee report before the House as the Bill was not considered. As there was a circula-

[Pandit Thakur Das Bhargava]

tion motion before no motion can be made except that the Select Committee report be considered. It would therefore be better not to put the motion at all at this stage.

Shri Biswanath Das: My submission is this. Arising out of the observations that you have just now been pleased to make, I have to state that it limits the scope of the objections that have been raised by my honourable friend. The most important objection in this case is that the Select Committee has not considered the Bill that was referred to it, and also the Bill that was published and introduced in this House. That is a very important objection which has to be borne in mind.

Mr. Speaker: As I said, I am not deciding this matter at all. I am keeping open the whole thing including the point of order because it will be seen that it involves large questions of fact, and I must study all these things myself, which I have not yet done. Shall I leave the matter as it is?

Some Honourable Members: Yes.

Mr. Speaker: If that is the desire of the House I will leave the matter as it is.

Pandit Hirday Nath Kunzru: Sir, may I ask the Honourable the Law Minister to reply to my questions?

The Honourable Dr. B. R. Ambedkar: Sir, in view of the fact that I had actually moved the motion I thought it was unnecessary for my honourable friend to raise the queries which he has raised. But in order to allay his doubts and the doubts of those who are passionately in favour of this Bill I think it will not be difficult for me to state what the intentions of Government are with respect to this Bill. I think I can say that Government do not accept the view that this Assembly is not competent to deal with this measure. Secondly, Government propose to carry the measure through before this Assembly is dissolved.

Thirdly, this Bill will be taken into consideration at the next session of the Assembly and Government will allot to it such time as the Government can, having regard to the urgency of other Government measures. If the time allotted to this measure during the next session is not found to be sufficient to carry the measure through, the Government will consider whether it should not call a special session of the Legislature to dispose of this Bill.

Pandit Lakshmi Kanta Maitra: Is it the intention of Government that at any cost this measure will be brought before the next budget session of the Assembly? If in the time allotted by Government, having regard to the course of business, the Bill cannot be finished, then a special session will be convoked for going through the rest of the Bill. Is that the position?

Will the Honourable Minister try and find a single precedent in the constitutional history of this country where a legislation is taken up and for the completion of which another special session is convoked?

Mr. Speaker: The honourable member is arguing unnecessarily. I do not think any further argument is necessary. I am leaving the matter as it is.

Shri Ajit Prasad Jain (U.P.: General): Will all the honourable members be supplied with a copy of the draft prepared by the Department?

The Honourable Dr. B. R. Ambedkar: It is attached to the Select Committee Report.

Pandit Thakur Das Bhargava: It is necessary for us to find out whether the draft Bill represents something more than what is contained in the Select Committee report or not.

The Honourable Dr. B. R. Ambedkar: It is attached to the Select Committee Report.

Shri M. Ananthasayanam Ayyangar (Madras: General): It is the revised draft as circulated as part of the Select Committee's report. Over and above what has been revised, there have been additions made by the Select Committee.

Mr. Speaker: I find that opinions being sharply divided on substance, a good deal is being made of the technicalities. Let us deal with the substance of the matter rather than divide ourselves on technicalities.

Shri T. A. Ramalingam Chettiar (Madras: General): There might be a motion for adjournment of this business till the next session.

Mr. Speaker: Yes. I will put that to the House.

Shri Ajit Prasad Jain: My point was that there might be certain additions and omissions. And omissions are as important as additions. Now we know what the additions are but we do not know what the omissions are. It will be necessary that a copy of the new draft made by the Law Department be supplied to honourable members so that they may know what the omissions are.

Shri K. Santhanam (Madras: General): We cannot take any cognizance of any document taken to the Select Committee. We can take cognizance of the Report of the Select Committee. That is the matter before us for consideration. They might have any number of documents. Are all those documents to be circulated? It is a matter for the members of the Select Committee who should be approached before they (interruptions).

Mr. Speaker: Order, order. Let the honourable member proceed.

Shri K. Santhanam: We are concerned with the report of the Select Committee. If we are dissatisfied with it we can appoint another Select Committee or censure it. But we are not to go into the detailed proceedings as to how they dealt with the evidence and how they proceeded with the business. We know that they have submitted a report and that report is to be taken into consideration. All the other things are irrelevant.

Mr. Speaker: I do not propose to allow any further discussion on this. That matter may be decided and discussed later on. I am putting the motion to the House.

The question is:

"That the consideration of this question be postponed."

The motion was adopted.

CANTONMENTS (AMENDMENT) BILL

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I move:

"That the Bill further to amend the Cantonments Act, 1924, be taken into consideration."

This is a simple amendment. It has been initiated as a decision has been taken to amalgamate the Land Branch of the Cantonment Department with the cadre of the service of executive officers. It is nothing new. About 12 years ago this was a common service and it was in 1937 that a separate service of Executive Officers was created. Although a separate service was created, still the duties overlapped considerably. The matter was fully examined by the

[Sardar Baldev Singh]

Armed Forces Nationalization Committee and in their report the Committee made a recommendation to the following effect:

"That the Cantonment Executive Officers Service and Military Estates Officer Branch should be amalgamated and the unified service should be the Civil Central Service, Class I, as it was prior to 1937."

Now there is one point to be remembered in this connection. The object of this present amendment is that one service will result in economy. The Association of the Cantonment Officers has also been representing to the Government that there should be one service. They say that different scales of pay that exist now for the two services should be one, as the duties are also more or less the same. So the Government has now decided to amalgamate both the services and the new service will be known as "The Military Lands & Cantonments Service". This is the object of the Bill and as there is nothing controversial, I hope the House will accept this motion.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Cantonments Act, 1924, be taken into consideration."

Shri H. V. Kamath (C. P. and Berar: General): On a point of information. When did this Association of the Executive Officers Cantonment Board make its representation for the amalgamation of the two?

The Honourable Sardar Baldev Singh: Representations have been made several times. I cannot give their exact dates. But it is a fact that representations have been made to the Government of India.

Shri H. V. Kamath: Is that an All-India Association?

The Honourable Sardar Baldev Singh: I think so.

Prof. Shibban Lal Saksena (U. P.: General): The Honourable Minister has come up with a small amendment to the Bill, but the law about Cantonments needs to be changed and revised thoroughly and we hope that the Honourable Minister will be able to tell us when he will be in a position to bring up a comprehensive Bill in this connection.

I see that Mr. Sidhva is absent. He has submitted an amendment that powers of the management of land be exercised by the Cantonment Board and not by the Military Estate Officer. I do not want to go into details because this small amendment may be necessary. But I do want to know when the Honourable Minister will bring forward a new comprehensive amending Bill.

The Honourable Sardar Baldev Singh: I have, I think, in reply to a question in this House or in connection with some statement that was made, said that the question is being examined and as soon as the Government is ready they will bring forward a new comprehensive amending Bill.

Mr. Speaker: The question is:

"That the Bill further to amend the Cantonments Act, 1924, be taken into consideration."

The motion was adopted.

Mr. Speaker: I find there are no amendments tabled except one from Mr. Sidhva. He is not present in the House. So I shall put all the clauses together.

The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sardar Baldev Singh: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

IMPERIAL LIBRARY (CHANGE OF NAME) BILL.

آنریبل مولانا ابوالکلام آزاد: جناب! میں تحریک کرتا ہوں کہ امپریل لائبریری (change of name) بل پر غور کیا جائے۔ اس موقع پر بہتر ہوگا کہ میں معاملہ کے ایک خاص پہلو پر گورنمنٹ کا خیال ظاہر کر دوں کیونکہ مجھے معلوم ہوا ہے کہ بعض دوستوں نے اُس میں دلچسپی لی ہے۔

اس وقت ہمارے جتنے institutions ہیں، جتنے دفاتر ہیں، جتنے کارخانے ہیں، سب کے نام انگریزی میں ہیں، اور وہی زبانوں پر چلے آتے ہیں۔ گورنمنٹ پوری طرح اس کی ضرورت محسوس کرتی ہے کہ اب ہمیں یہ نام بدل دیئے چاہیئے اور اُن کے ایسے نام رکھئے جو ہماری زبان کے ہوں۔ لیکن ساتھ ہی گورنمنٹ یہ بھی محسوس کرتی ہے کہ یہ معاملہ ایسا نہیں ہے جسے ہم جلدی میں نہٹا دیں پوری طرح سوچ بچار کر کے اسے انجام دینا چاہیئے۔ سینکڑوں institutions اس وقت ہندوستان میں موجود ہیں جنکے انگریزی نام چلے آتے ہیں۔ ہمیں سوچنا ہوگا کہ انگریزی کی جگہ ہندی کا جو لفظ اب ہم اختیار کریں وہ ہر طرح ٹھیک اور جتنا ہوا ہو۔ آپ تسلیم کریں گے کہ یہ کام اس طرح نہیں کیا جا سکتا ہے کہ جلدی میں کچھ تجویزیں پیش کر دیں اور فیصلہ ہو گیا۔ جس طرح چاندی اور سونے کے سکے نکال میں ڈھالے جاتے ہیں۔ اُسی طرح ناموں کے لئے بھی ایک نکال چاہیئے۔ اگر آپ چاندی کو ہتھوڑے سے پیٹنا شروع کر دیں گے تو ایک پتھر تو بن جائیگا، لیکن سکے نہیں بنیں گے۔ سکے بنانے کے لئے سانچا ہونا چاہیئے۔ جب سکے سانچے میں ڈھالے جاتے ہیں، تب ہی اُن کی نوک پلک ٹھیک نکلتی ہے۔ آپ کو ناموں کے لئے بھی ایک نکال بنانی چاہیئے۔ اگر آپ پوچھیں کہ اس بارے میں گورنمنٹ کا کیا خیال ہے؟ تو میں یہ کہہ سکتا ہوں کہ ہم چاہتے ہیں، جونہی نئے کانستٹی ٹیوشن (Constitution) کے بنانے کے کام سے ہم فارغ ہوں، ہمیں ایک بورڈ بنانا چاہیئے جس میں ایسے expert رکھے جائیں جو اس کام کو ٹھیک طور پر سمجھتے ہوں اور نئے ناموں کو ٹھیک سانچے میں ڈھال سکیں۔ ابھی جو بل آپ کے سامنے آیا ہے، اُس میں Imperial library کی جگہ National library کا نام تجویز کیا گیا ہے۔ اب اگر نیشنل کی جگہ ہم کوئی ہندی لفظ رکھنا چاہتے ہیں، تو ہمیں فوراً کونا پوینا کہ کونسا لفظ رکھیں؟ بعض دوستوں کا خیال ہے کہ بھارتیا رکھنا چاہیئے بعضوں کا خیال ہے کہ راشتریا زیادہ اچھا ہوگا۔ لیکن میں سمجھتا ہوں، "د نیشنل" کا

[انریبل مولانا ابوالکلام آزاد]

تھیک تھیک مطالب ادا کرنے کے لئے شاید یہ دونوں لفظ موزوں نہیں ہیں۔ اگر آپ لائبریری کا نام انڈیا (India) یا انڈین (Indian) لائبریری رکھتے تو اس کی جگہ یہ لفظ آسکتا تھا۔ لیکن لفظ National کا ایک خاص مفہوم ہے اور ہمیں غور کرنا ہوگا کہ اس کے لئے تھیک تھیک لفظ کیا ہو سکتا ہے۔ ہو سکتا ہے۔ کہ سوچ بچار کرنے کے بعد یہی الفاظ تھیک ثابت ہوں لیکن بہر حال غور و فکر کی ضرورت ہے اور وہ ایک کمیٹی ہی کر سکتی ہے جو اس کام کے لئے ہتھائی جائیگی۔ جو بل آپ کے سامنے ابھی آیا ہے، وہ صرف اس لئے ہے کہ دسمپریل کا لفظ نکال دیا جائے۔ اس لئے نہیں ہے کہ آئندہ اسکا نام ہم کیا تجویز کریں گے نام ہمیں کسی ایک ہی انسٹی ٹیوشن کا نہیں بدلنا ہے۔ بے شمار انسٹی ٹیوشنوں کا بدلنا ہے۔ کوئی وجہ نہیں کہ صرف ایک نام کے لئے اس وقت جلدی کی جائے۔ ایجوکیشن منسٹری اس بارے میں غور کر چکی ہے، اور وہ مناسب موقع پر ایک بورڈ بنانے کی تجویز کو پیش کرنے والی ہے۔ تجویز آپ ہی کے سامنے آئیگی، اور آپ ہی سوچ سنبھکر قابل آدمیوں کا ایک بورڈ بنائیں گے اس وقت یہ کام تھیک طریقہ پر کیا جا سکتا۔

جناب! میں امید کرتا ہوں کہ میرے دوست اس سے اتفاق کریں گے۔

(English translation of the above speech).

The Honourable Maulana Abul Kalam Azad (Minister for Education): Sir, I beg to move:

"That the Bill to change the name of the Imperial Library, be taken into consideration."

It would be quite opportune if I explain the views of the Government on this particular aspect of the matter, as some of my honourable friends have taken interest in it.

At present the names of all our institutions, offices and factories are in English and we have become familiar with them. The Government fully realize that we should now change these names and substitute for them names in our language. But the Government also realize that this is not a matter on which we should be hurried through. We should accomplish this after careful consideration. There are hundreds of institutions in India which have English names. We have to consider that the Hindustani equivalent of English name which we adopt is quite apt and appropriate. You will agree that this object cannot be achieved by way of making proposals in a hurry and then taking a decision thereon. We should have a mint for coining names similar to the one used for moulding the gold and silver coins. If you hammer a piece of silver, it will no doubt turn into a thin sheet, but not into a coin. A mould is required for the manufacture of coins. When the coins are cast into the mould, it is only then that their points and edges are smoothened. You should set up a mint for coining names also. If you enquire about the views of the Government in this connection, I can say that as soon as the new Constitution of the country is adopted, a Board may be formed consisting of experts who understand this business thoroughly and can coin new and appropriate names. In this Bill which has just been moved for consideration, it has been proposed to substitute the word "National" for the word "Imperial" in the name of the Library. Now if we want to substitute any Hindi word for "National" then we shall have to find out as to what word we may substitute. Some friends have

suggested "Bhartiya" and others think that "Rashtriya" would be much better. I feel that both these words are not quite appropriate to express the correct meaning of the word "National". If you change the name of the Library to "India" or "Indian" Library, then of course such a word could be used, but the word "National" connotes a certain idea, and we shall have to carefully think over and find out a suitable and appropriate word. It is possible that after consideration these words may be found quite suitable, but in any case, earnest consideration of the matter is necessary and this can only be entrusted to a Committee which will be constituted for this purpose. The Bill which has now been placed before you is only intended to drop the word "Imperial". It is not intended to suggest a substitute word? We have not only to change the name of one institution, but the names of innumerable institutions have to be changed. There is no reason to take hasty steps for changing one name only. The Ministry of Education have already thought over this matter and it is likely to put forward a proposal on some suitable occasion for the setting up of a Board. This proposal will come up before you and it would rest with you to constitute a Board of experts after careful consideration, and only then, this work could be properly done.

Sir, I hope my honourable friends will agree to this.

Mr. Speaker: Motion moved:

"That the Bill to change the name of the Imperial Library, be taken into consideration."
The Assembly then adjourned for Lunch Till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Mr. Speaker: Before we proceed with the discussion of the consideration motion, I may point out one thing to honourable members. In view of what the Honourable Minister stated by way of explanation and also the nature of the amendments before me, it appears the discussion will centre round one point, namely, the Indian name to be given to the Library—"whether any Indian name should be given at all, and if so what?" So, if the honourable members wish to discuss that point at this stage, they will have no further discussion on that point during the clause by clause stage. If they so like, they might not discuss it now, and when I put clause 2, the whole question will be open for discussion in a similar manner. I will just leave it to their option. I do not like to have a double discussion on the same subject. I believe my point is quite clear. There are amendments by Pandit Balkrishna Sharma, Shri Gokulbhai Bhatt, and Shri Kamath.

Shri M. Ananthasayanam Ayyangar (Madras: General): I think the discussion may be left to the amendment stage.

Mr. Speaker: It depends on those who wish to speak. Practically there is no other point in this.

सेठ गोविन्द दास : सभापति जी, मैं मौलाना साहब के इस बिल का एक तरह से स्वागत करता हूँ।

अनुरिबल मौलाना अबुलकलाम आज़ाद एक तरह से

सेठ गोविन्द दास : जी हाँ, और मेरे स्वागत करने का सबब यह है कि कम से कम इम्पीरियल शब्द साम्राज्यवाद की हर चीज़ से हम अपने आपको छुड़ा रहे हैं। जहाँ तक साम्राज्यवाद सम्बन्धी शब्दों का ताल्लुक है मैं यह उम्मीद करता हूँ कि इस बिल के बाद मौलाना साहब और हमारी गवर्नमेंट के दूसरे माननीय मंत्रीगण भी इस तरह के बिलों को पेश करेंगे कि जहाँ जहाँ इन शब्दों का उपयोग हुआ है वहाँ वहाँ से यह शब्द निकाल दिये जायें। 'साम्राज्यवाद का नाश हो' यह नारा हमारे स्वराज्य

[सेठ गोविन्द दास]

के नारे के साथ ही लगा हुआ था और यह हमने बड़ी बड़ी सभाओं में, बड़े बड़े जलूसों में और सभी स्थानों पर लोगों को कहा है। स्वराज्य मिलने के बाद इस शब्द का उपयोग हमारी किसी भी संस्था के साथ होना मुनासिब नहीं है। मैं यह उम्मीद करता हूँ कि इस शब्द को केवल कलकत्ते की लाइब्रेरी के नाम से ही नहीं बल्कि जहाँ जहाँ इस शब्द का उपयोग हुआ होगा वहाँ वहाँ से निकालने का यह बिल आरम्भ है।

अब जो नाम इस पुस्तकालय को दिये जाने का प्रस्ताव मौलाना साहब कर रहे हैं उससे मेरा मतभेद है। यह कहा जाता है कि 'नैशनल' का अर्थ ही राष्ट्रीय होता है। मैं मानता हूँ कि होता है। पर जहाँ तक कि नामों का सम्बन्ध है वहाँ तक यह बात नहीं कही जा सकती। मसलन् मेरा नाम गोविन्द दास है, मौलाना साहब का अबुल कलाम आज़ाद साहब है, आपका मावलंकर साहब है। तो चाहे हम नामों को अंग्रेजी भाषा में लें, हिन्दी में लें, उर्दू में लें, हिन्दुस्तानी में लें, या संसार की किसी भी भाषा में लें वह नाम तो वैसे का वैसा ही रहेगा। यह तो नहीं हो सकता कि मेरा नाम हिन्दी में लिखा जायगा तो गोविन्द दास लिखा जायगा और दूसरी भाषा में लिखा जायगा तो दूसरी तरह। यह बात न मौलाना साहब के नाम के सम्बन्ध में हो सकती न आपके नाम के सम्बन्ध में हो सकती और न किसी और के नाम के सम्बन्ध में ही हो सकती है। संस्थाओं का नामकरण करने के सम्बन्ध में हमें ठीक शब्द का प्रयोग करना चाहिये यह नहीं कि उस शब्द के तर्जुमे को काम में लाया जाय। वह शब्द चाहे किसी भी भाषा में लिखा जाय, हिन्दी में लिखा जाय, उर्दू में लिखा जाय, हिन्दुस्तानी में लिखा जाय, या अंग्रेजी में लिखा जाय, हमेशा वैसे का वैसा ही रहना चाहिये। मैं ने सुना कि यह कहा गया है कि हमको तो कई चीज़ के नाम बदलने हैं। ठीक है, हमको अभी सड़कों के नाम बदलने हैं, हमको बड़े बड़े मकानों के नाम बदलने हैं। हमको इस काउन्सिल हाउस का नाम बदलना है, न मालूम कितने नाम बदलने हैं। लेकिन अगर उन नामों को हम अंग्रेजी में रखेंगे और उसके आगे ब्रेकिट में हिन्दी या उर्दू तर्जुमा रख देंगे तो इससे काम नहीं चल सकता। इसलिये मैं बड़े अदब के साथ मौलाना साहब से अर्ज करना चाहता हूँ कि वह इस पुस्तकालय का कोई भारतीय नाम रखें चाहे वह कोई भी हो मैं यह नहीं कहता कि फ़लों नाम ही हो पर वह हमारी भाषा का हो और उसके अनुवाद की ज़रूरत न पड़े।

तो, जैसा शुरू में कहा कि मैं एक तरह से इस बिल का स्वागत करता हूँ। मैं ने जिस कारण से उसका स्वागत किया वह मैं ने बतला दिया और जो अधुरापन मैं इस बिल में देख रहा हूँ वह भी मैं ने अर्ज कर दिया। मेरा ख्याल है कि नामों के मामले में हमको कोई न कोई सिद्धान्त बना लेना चाहिये और उस सिद्धान्त के अनुसार हमको सब संस्थाओं का नामकरण करना चाहिये। अब यह समय आ गया है और इस दृष्टि से मुझे इस बिल में जो अधुरापन दिखाई दे रहा है वह मैं ने बता दिया। मैं उम्मीद करता हूँ कि इस विषय पर फिर से विचार किया जायगा और केवल इसी पुस्तकालय के नाम में परिवर्तन करते समय इस बात का ख्याल नहीं किया जायगा बल्कि, जैसा मैं ने अभी निवेदन किया जब किसी भी संस्था का नाम बदला जायगा तब इस विषय पर विचार किया जायगा। यह

विषय हमारी संस्कृति से, हमारी तहजीब से सम्बन्ध रखता है। मैं यह कहना चाहता हूँ कि हमारी संस्कृति के अनुसार, हमारी तहजीब के अनुसार, हमारे कलचर (culture) के अनुसार हमारी संस्थाओं का नामकरण भी होना चाहिये। जिस दृष्टि से हम इस देश को आगे बढ़ाना चाहते हैं उसमें नामकरण का बहुत बड़ा महत्व है। नामकरण का महत्व हमारी संस्कृति में शुरू से रहा है और सदा रहेगा। और हमारी ही तहजीब में ही नहीं सारे संसार में जितनी सभ्यतायें हैं उन सबमें नामकरण का बहुत बड़ा महत्व है। इसलिये मैं उम्मीद करता हूँ कि मौलाना साहब इस पर उचित विचार करेंगे और हमारी संस्कृति से सम्बन्धित कोई नाम रखेंगे, अंग्रेजी नाम नहीं रखेंगे। मैं एक तरह से जैसा मैं ने अर्ज किया, इस बिल का स्वागत करता हूँ और दूसरे अपना यह सुझाव उनके सामने रखता हूँ।

(English translation of the above speech).

Seth Govind Das (C.P. and Berar: General): Mr. Speaker, I welcome the Bill moved by the Honourable Maulana Abul Kalam Azad in one respect.

The Honourable Maulana Abul Kalam Azad: In one respect!

Seth Govind Das: Yes, Sir, and the reason for welcoming this is that at least we are dissociating ourselves from the word "Imperial" and all other things which are associated with "Imperialism". So far as the words connected with "Imperialism" are concerned, I hope that in the near future the Honourable Maulana and other Honourable Ministers will bring forth similar measures seeking to omit such words wherever they occur. The slogans "Down with Imperialism" and "Independence is our right" were correlated, and we raised these in mass meetings and processions and all other places. After the dawn of independence, it would not be appropriate to associate this word with any of our institutions. I hope that this Bill is a beginning of the removal of this word not only from the name of the Imperial Library Calcutta but from all other names where it has been used. I differ from the object of this Bill moved by the Honourable Maulana which seeks to change the name of this Library. It has been stated that the word "National" means "Rashtriya". I agree that this is so. But so far as these names are concerned, this is not so. For example my name is 'Govind Das'; that of the Honourable Maulana 'Abul Kalam Azad' and your, Sir, 'Mr. G. V. Mavalankar.' So in whatever language we call these names—may be English, Hindi, Urdu, Hindustani or any other language of the world, that name will remain unaltered. It cannot be that if my name is written in Hindi, it will be Govind Das, and when written in any other language, it would be something else. The position will be the same either with the name of the Honourable Maulana or of any other person. We should use the appropriate word for performing the 'Namkaran' ceremony (giving of name) of our institutions; and not merely literally translate the word. In whatever language that word be written, may be Hindi, Urdu, Hindustani or English, it should remain as it is. I heard this being pointed out that we have to change the names of so many things. It is true, we have still to change the names of roads, big buildings, and even of this Council House and many others. But if we retain these English names and put thereafter in the brackets the translation thereof in Hindi or Urdu—it will not serve the purpose. Therefore, with all due respects, I would request the Honourable Maulana that he may give an Indian name to this Library—whatever it may be—I do not specify any particular name—but that should invariably be in our own language and there should hardly be any necessity for its translation.

Therefore just as I stated at the outset, that I welcome this Bill in one respect. I have explained the reason for extending this welcome and I have also pointed out the shortcomings which I have noticed in this Bill. I am of the

[Seth Govind Das]
 opinion that we should lay down some principle which should govern this matter, and on that basis change the names of our institutions. Now the time has come and I have pointed out the shortcomings in this Bill which I have observed. I hope that this matter will be reconsidered and what I have stated above will be borne in mind not only while changing the name of the Library, but would also be considered as and when the name of any institution is changed. This subject is associated with our culture and civilization. I would like to say that our institutions should be named in accordance with our culture and civilization. In whatever way we wish our country to progress, giving of names has an important place in it. This has occupied the foremost place in our culture and not only in our civilization but in the civilization of the entire world, the 'Namkaran' ceremony (giving of names) occupies an important place.

Therefore, I hope that the Honourable Minister will give the matter due consideration and find a name which may be associated with our culture, and not give an English name. Just as I have stated, I welcome this Bill in one respect, and place these suggestions before the Honourable Minister.

Mr. Speaker: I think it will be better if I put the motion for consideration to the House and then put the clauses. Honourable members may then have their say.

Some Honourable Members: Yes, Sir.

Mr. Speaker: The question is:

"That the Bill to change the name of the Imperial Library, be taken into consideration." The motion was adopted.

Mr. Speaker: Now I will take the Bill clause by clause. We shall take up clause 2. Mr. Gokulbhai Bhatt has given notice of two amendments on this clause. Mr. Gokulbhai Bhatt.

श्री गोकुलभाई दौलतराम भट्ट : श्रीमान् सभापति जी, मैं अपनी तरफ़ीम इस ढंग से नहीं रखना चाहता हूँ कि जिससे हमारे माननीय मंत्री महोदय को कोई दिक्कत पैदा हो। आजकल हम इतने उलझन में पड़े हुए हैं कि हमारी संस्थाओं के नाम रखने में हमें बहुत सोच विचार करना पड़ता है। इतने हमारे यहां पंडित, मौलवी और मौलाना होते हुए भी यह हमारी कमनसीबी है कि हमारे पुस्तकालय का नाम रखने के लिये हमें कई महीनों तक रुक जाना पड़ेगा और जब कोई एक नाम सुझाया जाता है तो वह नाम पसन्द नहीं आता है। उसे राष्ट्रीय कहें, या भारतीय कहें अगर ऐसा कोई नाम रखते हैं तो वह नाम जचता नहीं है। यह बात मैं जरूर मानता हूँ कि नाम रखने के पहले बहुत कुछ सोच विचार किया जाना चाहिये। लेकिन हम यह दलील करीबन १२ महीनों से सुनते आये हैं कि अब हमें नाम रखने के बारे में गहराई से सोचना पड़ेगा और अभी तक हम कोई भी विचार नहीं कर पाये हैं।

एक तरह से तो यह ठीक है कि "इम्पीरियल" शब्द निकल जाय, लेकिन उसकी जगह और कौन सा शब्द रखना चाहिए? मैं मानता था कि मौलाना साहब बड़े फ़ाज़िल हैं कि वह हमारे सामने जरूर ऐसा नाम रखेंगे जो अंग्रेज़ी नाम न हो और भारतीय भाषा का नाम हो। मैं समझता था कि वह वैसा ही नाम सुझावेंगे और वह हमको पसन्द आवेगा क्योंकि वे नाम सुझाने में काबिल हैं। लेकिन अफ़सोस की बात है कि आपने बतलाया कि नामों की बात हम विधान बनने के बाद सोचेंगे। विधान सभा के भी जो हिन्दी और उर्दू तर्जुमें हमारे सामने आते हैं उन तर्जुमों में जो चीज़ है मालूम नहीं कि वह तर्जुमा भी आप पसन्द करोगे और उसमें जो नाम सुझाये गये हैं उनको भी आप रखोगे या नहीं। तो मैं थोड़ी देर के लिए यह भी

सोचता था और सुझाना चाहता था कि यह इम्पीरियल शब्द कई सालों से चला आता है और अगर दो ही महीने और नाम रखने में लगेंगे तो क्यों इसमें अदल बदल करते हो क्योंकि यह नाम रखने से हमें उनके पीछे दूसरा खर्चा भी करना पड़ेगा, छपाई का खर्चा पड़ेगा और रिकार्ड्स (Records) में दुरुस्ती करनी पड़ेगी, और फिर दो महीनों के बाद हम जो नया नाम निकालेंगे वह नाम हमें बदलना पड़ेगा। तो हमने जो दुःख इतने सालों सहा है उसे दो महीने और सह लेंगे। हम धाव सहते सहते इतने मजबूत हो गये हैं और हमारी खाल इतनी मोटी हो गयी है कि हमें कोई दिक्कत नहीं होगी। जैसा कि सुबह मित्रों ने कहा था कि पासपोर्ट में अब भी एम्पायर (Empire) शब्द लिखा जाता है। तो ऐसी कई जगहें हैं जहाँ वे शब्द आ गये हैं और यह हमारी कमजोरी है और हमारी विद्वत्ता की कमी है कि हम जल्द ऐसे नाम नहीं सुझा सकते हैं कि जो हम उन नामों की जगह रख सकें और हमें पसन्द हों। लेकिन जैसा कि मैंने पहले कहा मैं मौलाना साहब के कथन के खिलाफ तो नहीं जाना चाहता हूँ, लेकिन मैं बड़े अदब के साथ कहना चाहता हूँ कि अगर उनको जंचा जाय तो वह अभी नाम बदलने के बजाय चार दिन के लिए इस बिल को स्थगित कर दें और एक नया नाम हमारे सामने रखें तो अच्छा होगा। और अगर चार दिन में वह ऐसा न कर सकें तो इसको दो महीने या चार महीने के बाद रखें। इसमें भी कोई बड़ी दिक्कत नहीं होगी। मैं यह चीज़ उन्हीं पर छोड़ता हूँ और यदि उनको यह सुझाव पसन्द हो तो वह उसको स्वीकार करें और इस बिल को स्थगित कर दें। यह कहते हुए मैं अपनी तरफ़ीमों को पेश नहीं करना चाहता हूँ।

(English translation of the above speech).

Shri Gokulbhai Daulatram Bhatt (Eastern Rajputana States Group): Mr. Speaker, Sir, I do not want to put my amendment in a form which would create difficulty for the Honourable Minister. We are in such a fix these days that we have to consider a good deal in giving names to our institutions. It is our misfortune that in the presence of so many Pandits, Maulvis and Maulanas here, we will have to wait for several months before we can change the name of our Library, when a name is suggested it is not approved of. If we suggest "Rashtriya" or "Bhartiya" or anything like it, it does not seem appropriate. I do admit that before giving a name the matter should be very carefully considered—but we have been hearing these reasons for the last 12 months and even now we want to consider over the matter carefully before we can arrive at any decision. In one way, it is right that the word "Imperial" will be dropped, but what other word has to be substituted? I admit that the Honourable Minister is an erudite scholar and would surely suggest a name which is an Indian name. I understood that he would propose a name which would be liked by us because he is well qualified to suggest such a name. It is a matter of deep regret that he has now informed us that the question of giving names would be considered after the Constitution is adopted. It is uncertain whether you will at all like the Hindi and Urdu translations done by the Constituent Assembly and will retain the names suggested by them. I hesitated for a moment and wanted to suggest that since the word "Imperial" has been in use for long why then should we attempt to change it now and not wait for a couple of months more and avoid incurring extra expenditure in carrying out necessary corrections in the records. We can put up with this trouble for another two months as we have become hardened to sufferings. As some of my honourable friends remarked in the morning that the word "Empire" is still used in the Passports, and there are many other such places where such words have been used. This is our weakness and lack of knowledge inasmuch as we are not able to adopt suitable words according to our liking to replace the existing ones. As I have stated before, I do not want to oppose the statement made by the Honourable Maulana but

[Shri Gokulbhai Daulatram Bhatt] would respectfully submit that if he thinks fit he may postpone this Bill for a few days instead of changing the name now and then subsequently suggesting a new name. In case he cannot do this within a few days time, he may do so after a few months. This would not give rise to any appreciable difficulty. I leave this thing to him, and if he likes the suggestion, he may accept it, and postpone this Bill.

With these words, I do not want to move my amendments.

Mr. Speaker: He has got two amendments.

श्री गोकुलभाई दौलतराम भट्ट : मैं उन में से किसी को पेश नहीं करना चाहता ।

Shri Gokulbhai Daulatram Bhatt: I do not want to move either of the two.

Mr. Speaker: That is what I wanted to know. Then the other amendments are by Mr. Kamath.

Shri H. V. Kamath (C. P. and Berar: General): I will say a few words on the clause itself, Sir, I am not moving the amendments.

The Honourable the Minister for Education while moving the Bill this morning made a few remarks which, though very sound in themselves, I feel could have been amended with a view to the changes that have taken place in our country since the 15th August 1947. He said that we must have a new *s.n.ha* for the new names to be incorporated, he wanted a new mould for these new names. I feel that after the 15th of August 1947 a new mould has been prepared. It is only for us Indians to cast our minds into that mould and if we are not able to fit our minds into that mould then we have ourselves to thank for it; and we cannot say that just because the mould is not ready or just because the conditions are not favourable, we cannot introduce or make certain changes.

Personally, let me make myself clear by saying that I am not opposed to English as such. Opposition to any language is, I believe, irrational. It is a prejudice as unwholesome as it is irrational. (*Prof. N. G. Ranga*. "Hear, hear".) We are not opposed to the English language, to the German language, or the French language or the Russian language.

Prof. N. G. Ranga: Provided they remain in their own house.

Shri H. V. Kamath: Yes.

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power): Any language.

Shri H. V. Kamath: Language is something which we must cherish. After all, man has spoken many languages since his birth, since his appearance on this globe and men in different communities, different groups, have evolved various languages all over the world. What we are concerned with is the thought behind the language and the ideas—good or bad—behind the language. We hated the British system. We hated British Imperialism. We fought British rule. But we never fought, we never disliked, we never hated the English language and that must be stressed today, because in certain quarters there is a campaign of late for banishment or for abolition of the English language. This is a wholly undesirable development. The language of the British, the language of England, has as many treasures as any of our languages. I won't make bold to say that it is richer than our Sanskrit or some of our other Indian languages, but certainly today, considering the world situation as we see it, English must have a place in our education, in our training, if we are to make ourselves felt in the councils of the world. Certainly when that happy day comes when Hindi or Hindustani will occupy as prominent a place, as eminent a place, as English or French or Russian, then we can say good-bye to English, but till then it will

be very undesirable, very pernicious, very unwholesome, very unwelcome, on our part to dismiss English. It is a language to be cultivated, to be studied, by us. So on that ground I am not opposing this remark made by the Honourable Minister this morning.

But, Sir, there is one aspect of it and that is, English must, as I said, be studied because of its importance, of its value, of its contribution to Mathematics, to Science, to other subjects like even I would say Economics—the technical aspect of it. We have not got many terms in Hindi or Hindustani for Science or for Mathematics or such cognate subjects, but these little things—the changing of the name of a Library—and such trifling matters, I do not see why even at the very inception of it, from the very outset when we do the thing, we cannot have our own language. If you go to Europe or Germany or France, certainly in the Universities you might see English is being taught or another foreign language is being taught, but you will never come across a Library being called just a Library. It is called Bibliothek in France or *Büchhaus* in Germany. They won't call it a Library. So, here this little thing "National Library"—we certainly have got very apt terms in our language—Hindi or Hindustani—to explain or to put it clearly. In my own Province after the 15th August 1947 the names of certain institutions—Government institutions—have been changed. The Honourable Minister said, if I remember him aright, that there are many names of Government institutions which cannot be changed all of a sudden. But in my own Province of C. P. and Berar, the names of certain Government institutions have been changed on the very day, on the 15th of August, when Ministers were invited to inaugurate certain functions, when they were invited to perform the ceremony at a particular institution. For instance, in Jubbulpore the old Robertson College has been re-named as *Mahakosala Mahavidyalaya* and in Nagpur the Morris College has been re-named as *Nagpur Mahavidyalaya* and in Berar—my honourable friend is not here—it has been changed into *Vidharba Mahavidyalaya*; and the latest is the Veterinary College in Jubbulpore which has been called *Pashu Mahavidyalaya*, I am sorry, Sir, *Pashuchikitsa Mahavidyalaya*. My point, Sir, is that when these little matters come up, like changing the name into "National Library", I want to know on what basis the Honourable Minister said that the word "Rashtriya" does not bring out the meaning or the implication of the word "National". So far as this word is concerned, I may point out that since the inception of the Indian National Congress it has been called the "National Congress" in English and in Hindi or Hindustani it has always been called "Rashtriya Congress or Mahasabha" and the Honourable Minister when he graced the Presidential Chair of the Congress, he was called "Rashtrapathi". So, if "Rashtriya" does not imply the "nation", then I do not know what word the Honourable Minister has for it. I really do not know what word he may have in his armoury or how he will translate this word "national". Anybody in India will understand that "Rashtriya" means "national". Of course, he suggested that we might name it "Indian" Library or something like that, and that is why my amendment was there to call it "Hind Pushtakalaya". Library is a collection of books—a Pushtakalaya. For those who do not know the etymology of the word "Library", for Indians who are not educated or illiterate, Library may not mean that there are books there, but the word "Pushtakalaya"—Home of Books—anybody will understand. Now, Sir, it has been said by a big man of letters that a "University" is a collection of books. He said it about University and not about Library, but at least in our country when we are not promoting the cause of Universities to the same extent as we desire to, we should certainly start libraries all over the country. I would like Travelling Libraries or Circulating Libraries, and the very apt name would be "Pustakalaya". We have got "Himalaya"—the abode of snow, so also "Pustakalaya"—the abode of books. Therefore I would suggest that at a very early date the Honourable

[Shri H. V. Kamath]

Minister should, in consultation with his colleagues in the Cabinet, change this name "Indian" or "National" Library to "Rashtriya" or "Hind" Pustakalaya. It is a very minor thing. I do not know why he is so much agitated about it and why he should not have incorporated it in this Bill itself today.

Finally, I make an appeal to him. Our Library should be national not only in name but in spirit. The name is going to be changed to "National Library", but formerly our Imperial Library, whose name we are going to change now, banned or refused to entertain certain books, which we, in our newly won national independence like to cherish. I cannot give you an exhaustive list of such books which were proscribed by the late Government and were not admitted into the Imperial Library, but certain books I have in my mind. I do not know whether the ban on them has been lifted by our own national Government, after it came into power. One book which was at times banned, again the ban on which was lifted and again re-imposed was the book called "The Indian Struggle" by Netaji Subash Chandra Bose. I do not know what the present position is about that book. Again, there is the book by Pandit Sunderlal called "Bharat me Angrezi Raj" in three volumes that was banned from time to time and when the Congress Ministries came into power the ban was lifted. All such books which were banned by the old Government must be made available to the Indian people and they must be housed in this new Library, so that it would be a truly National Library, not merely in name, and form, but national in spirit and content as well.

3. P.M. able to the Indian people and they must be housed in this new Library, so that it would be a truly National Library, not merely in name, and form, but national in spirit and content as well.

बाबू राम नारायण सिंह : सभापति जी, इस बिल का मैं भी कुछ स्वागत करता हूँ, क्योंकि मुझे भी कुछ खुशी है। एक वर्ष गुजरा जब राष्ट्रीय सरकार स्थापित हुई, लेकिन देखने सुनने में, बोल चाल में, रहन सहन में, कार्यवाही में सब कुछ अंग्रेजी देखने में आती है। लेकिन यह सब देख कर जरा अच्छा नहीं मालूम होता। अंग्रेज यहां से चल गये, राष्ट्रीय सरकार की स्थापना हुई लेकिन हर बात में स्थिति ज्यों की त्यों है। लेकिन मौलाना साहब ने कहा कि नाम तो सब बदलने होंगे, इसके बारे में सरकार ने विचार किया है और एक बोर्ड बनेगा और उसमें ऐसी ऐसी कार्यवाही होगी, जिसमें सब नाम बदल दिये जायें यह तो मुझे सुन कर खुशी मालूम हुई। लेकिन जब यह सब होना ही है कि एक बोर्ड बनेगा बहुत से नाम बदलेंगे, तो इस नाम को बदलने के लिये इतना कष्ट क्यों उठाये इसकी जरूरत मुझे नहीं मालूम होती है। लेकिन जो कुछ हो एक बात का सवत मेरे सामने है, प्रमाण है और मुझे कुछ खुशी है कि हमारी सरकार एक वर्ष के अन्दर खूब गहराई से सोचने और विचारने के बाद नाम बदलने का विचार कर सकी। नाम बदलने की प्रवृत्ति तो हमारी सरकार में आने लगी, इसकी मुझे खुशी है और इसके लिये मैं मौलाना साहब को और अपनी राष्ट्रीय सरकार को बधाई देता हूँ। अगरचे खूब तहेदिल से तो नहीं लेकिन थोड़ा थोड़ा। साहब कैसी बात है मान लीजिये कि आपको नाम बदलना है तो इसके लिये इस परिषद् में बिल की क्या जरूरत थी? उस पर भी किसी हिन्दुस्तानी भाषा में एक नाम नहीं मिलता। इस भारतवर्ष में कितनी भाषाएँ हैं, हमारी कितनी प्राचीन सभ्यता है, संस्कृत जो हमारी भाषा है और उसकी जैसी रचनात्मक शक्ति है दुनिया की किसी भाषा में नहीं है। इतनी बड़ी सरकार को कोई शब्द नहीं मिल सका कि इस पुस्तकालय का नाम किसी भारतीय भाषा में रखा जाय। खैर 'इम्पीरियल' से हटकर 'नेशनल' हुआ। तो इससे तो मुझे बहुत सन्तोष इस बात का है। पहले तो मुझे मालूम होता था कि सरकार के सभी कार्य अभी भी वाइट हाल (White Hall) ही में होते हैं। लेकिन अब मालूम होता है कि उसकी प्रवृत्ति फिर रही है। कम से कम 'इम्पीरियल' से 'नेशनल' तो हुआ यानी

इंग्लैंड से चल कर डोवर तो पार हुआ। यह खुशी की बात है। मैं समझता हूँ कि कुछ लोग तरमीम भी लाये और संशोधन भी पेश किये, वह भी नहीं पेश करते हैं। मैं भी विरोध तो नहीं करना चाहता लेकिन मौलाना साहब से मैं बड़े सम्मान के साथ अर्ज करता हूँ कि इस बिल को क्यों पेश करते हैं? बदलकर ऐसा नाम क्यों रखते हैं? नाम तो बदलना ही होगा। आप न बदलेंगे, तो दूसरे ही बदलेंगे। इसलिये इधर दो, चार पहीने के लिये नाम बदलने के लिये आपने यह हुल्ला क्यों किया है। इस वास्ते मैं कहता हूँ अच्छा हो यदि यह बिल वापिस ले लिया जाय। मैं विरोध नहीं करता और कोई संशोधन भी नहीं लाता जिसका मैं समर्थन करूँ लेकिन मैं अदब के साथ सलाह देता हूँ कि यह तो साबित हुआ कि खूब सोचने के बाद कुछ अदल बदल हो तो क्या ही अच्छा होता। इसको अभी मुलतवी किया जाय। यह कह कर मैं समाप्त करता हूँ।

(English translation of the above speech).

Babu Ramnarayan Singh: (Bihar: General): Mr. Speaker, Sir, I also welcome this Bill to a certain extent as I do feel some pleasure. One year has passed since the National Government was set up, but in every walk of life, thought, speech and action, English is still pervading. When we see all this, it does not look nice. The Britishers have left and the National Government has been installed, but the things remain as they were. I am glad to hear from the Honourable Maulana that as all the names have got to be changed, the Government have considered this over and a Board will be set up which will take necessary action in the matter. But when all this is to be done viz., setting up of a Board for changing of many names; then I cannot quite understand what is the necessity for taking all this trouble to change this particular name? Whatever it may be, I have one thing before me to prove, and it gives me some pleasure to say that our Government could decide to change one name after a year's careful consideration. I am pleased to find that our Government has after all made a start in changing the names and for this I congratulate the Honourable Maulana and the National Government though not whole-heartedly. Sir, even taking it for granted that you are to change the name, what is the necessity for a Bill in this House for the purpose? Even then no Hindustani name could be found. How many languages are there in this country? How old is our civilization? No other language in the world has so much creative capacity as our Sanskrit language. I really wonder that this mighty Government could not find any Indian word as substitute for this Library. Very well; from "Imperial" it has been changed to "National". This even is a matter of great gratification to me. Previously I felt that all the business of the Government was still being transacted in the Whitehall, but now it appears that this tendency has been changed. At least this name has been changed from "Imperial" to "National". In other words we have crossed the Dover Canal on our way back from England. This is a matter of great satisfaction. I appreciate this; and just as some other honourable members who have tabled amendments but are not moving them, I also do not want to oppose this measure, but with due respect, I would like to enquire from the Honourable Maulana as to why he has brought up this Bill? Why does he want to change the name in this way? The name has got to be changed. If you do not change, somebody else will change. Therefore, why have you raised so much hue and cry for changing this name for a few months only? Therefore, I would submit that it would be better if this Bill is withdrawn. Neither I oppose it nor do I move any amendment but I would respectfully submit that it is quite obvious that it would have been much better had this change been made after most careful consideration.

With these words, I resume my seat.

श्री महावीर त्यागी : श्रीमानजी, मैं वजीर साहब को बहुत मुबारकबाद देता हूँ कि इन्होंने लफज इम्पीरियल को हटा दिया। मैं नेशनल और इम्पीरियल वगैरह में अपने हिसाब से कोई बहुत ज्यादा फर्क नहीं समझता मेरे लिये तो इम्पीरियल लाईब्रेरी भी काबिल हज्म करने की चीज थी। इस वास्ते किसी संस्था का नाम 'इम्पीरियल' हो या 'रायल' मुझे कोई दिक्कत नहीं मालूम होती, न मुझे कोई परेशानी होती है। यह तो महज् सेंटिमेंट (sentiments) पर मबनी है और इसका कोई खास असर हमारे देश की पालिटिक्स (politics) में पड़ता नहीं है। मुझे तो अफसोस इस बात का है कि हम कानून की कीचड़ में इतना ज्यादा फंस गये हैं कि हमको गोया एक बिल लाना पड़ा केवल नाम बदलने के लिये। कानूनी दिक्कत पड़ती है। मेरे हिसाब से जितने मुल्कों में क्रांती होती है, उनमें सारी चीज एक दम बदल जाती है, कोई कानून की ज़रूरत नहीं पड़ती है और सब अदलबदल हो जाता है। यह केवल हमारी बदकिस्मती है कि हमारी आजादी भी आई तो वह एक अजीब तरह का कपड़ा पहने आई। पन्द्रह तारीख को हमने देखा कि वह एक फ्रॉक (frok) पहने आई। उसने अंगरेजों में कुछ कहा। न हम उसको समझसके और न वह हमारी बात समझ सकी। आजादी आई तो हिन्दुस्तान में, पर मौलाना साहब आप भी इसको महसूस करेंगे कि आजादी कुछ मखलूत सी आई अपनी विरादरी की नहीं आई।

مولانا ابوالکلام آزاد : ضروری نہیں کہ معشوق کسی خاص ملک کا ہو۔

श्री महावीर त्यागी : आपके जायके से मैं वाकिफ हूँ।

Mr. Speaker: The honourable member should address the chair.

श्री महावीर त्यागी : I am sorry. हज़ूर वालों मैं वजीर साहब के जायके से भी वाकिफ़ हूँ।

मैं समझता हूँ कि इस किस्म की कानूनी कीचड़ में फसे रहने से हम कोई काम नहीं कर सकेंगे गो, हिन्दुस्तान में दस किस्म के कानूनों की दिक्कत अदालत वगैरह की होगी यह किस चक्कर में है मेरी समझ में नहीं आसका। एक बात मैं ज़रूर समझता हूँ कि नाम बदलने में कोई न कोई कानूनी दिक्कत बहरहाल हुई होगी लेकिन क्या बात है क्या वजीर साहब की कलम को कोई रोक लेता है कोई सेक्रेटरियट की दिक्कत है, अगर फर्ज कीजिये आप खुद कोई नाम भी लिखलेते मेरे खयाल से हकूमत को चलाने में परेशानी नहीं होती। हमारी जहिनयत यह होनी चाहिये कि छोटे छोटे कानूनी नुक्तों को पूरा करने की तरफ हमारा बड़ा वकत न लगे एक बात ज़रूर तस्सली वरख है कि आपने इम्पीरियल लफज को हटाया है। मैं इसके साथ साथ इसकी भी तारीफ़ करता हूँ कि आप सेक्रेटरियट वगैरह का नाम बदलें इम्पीरियल का नाम बदला वह सब अच्छा है, लेकिन मैं साथ ही चाहता हूँ कि गर्वनमेंट की जहिनयत भी जो इम्पीरियल है बदल जाय तो बेहतर है। मुझे ऐसा लग रहा है कि चारों तरफ की हवा जो हमें कहती है, वह यही कहती है कि शब्द 'इम्पीरियल' तो चला गया और एम्पायर (Empire) से तुम अलग भी होगये लेकिन तुम्हारे मैनर्स (manners) संस्कृति और तुम्हारी डिगनिटी (dignity) का तखैय्युल और तसब्बुर उसी तरीके से चला आता है। एंग्लोइण्डियन (Anglo-Indian) स्नोबिशनेस (Snobbishness) हमारे देश में अभी तक रह रही है। मेरे अर्ज करने की मन्शा यह है कि जो यह लफज की कदम उठाया गया है, उसको अमली जामा पहनाने की कोशिश की जाय और हम

अपने तरीकों में अपने बरताव में और गर्वनमेंट के चलाने का जो ढंग है उसमें वाकई एक नेशनल तरीके पर आजायें यानी उनके रवायात को उनका ढंग डिनर (Dinner) का उनका ढंग हकूमत का रोब दाब बिठाने का छोड़ दे हम यह समझें कि हमें उनकी तरह हकूमत नहीं करना है। हमें रईसों पर हकूमत करना नहीं है। हम तो गरीबों के नुमाइन्दे हैं। इसलिये हमारे मैनर्स (manners) हमारे तरीके हमारे रीती रिवाज ऐसे आजाय जो कि हमारे गांव में रहने वाले और शहरों में रहने वाले गरीब आदमियों के मुनासिब हों और उनके समझने के काबिल हों और जो उनको राहत पहुंचाने का काम करसकते हैं वाकई मानों में नेशनल हो सकते हैं। मैं उम्मीद करता हूँ कि हमारे दो बहुत बुर्जग लीडर हिन्दुस्तान भर के और आज जो इस महकमे के मालिक हैं वजीर हैं उन्होंने यह जो कदम उठाया है, ज़रूर इसके पीछे यह उम्मीद और स्वाहिश भी वाबस्ता होगी जिसके बारे में मैंने अभी अर्ज किया और वह एक अमली कदम होगा। असल में हिन्दुस्तान की ज्यादातर निगाहें अपने उन दो, चार बुर्जगों की तरफ हैं जो कि आज इन ज़िम्मेदार पोर्ट-फोलियों को लिये बैठे हैं और अपने जमाने में कोई अमली कदम उठा सकते हैं। मैं यह अर्ज करना चाहता हूँ कि अगर यह नेता, दो तो सामने बैठे हैं मैं इनको आपकी मारफ़त अर्ज करना चाहता हूँ कि अगर यह नेता अपने जमाने में कोई अमली काम ऐसा कर दें जिससे कि हिन्दुस्तान की तहजीब और हिन्दुस्तानी तरीकों पर हम आजायें, तो मैं उम्मीद करता हूँ कि हमारा कुछ कल्याण हो। यह एक पेश खेमा है कि लफज का जो बदलाव हुआ है और मैं उम्मीद करता हूँ कि इसके साथ साथ अमली बदल लाने की भी कोशिश की जायगी

(English translation of the above speech)

Shri Mahavir Tyagi (U.P.: General): Sir, I heartily congratulate the Honourable Minister that he has dropped the word "Imperial". According to my reading, I do not find any appreciable difference between the words "Imperial" and "National". To me, even the name 'Imperial Library' was tolerable. Nor do I feel in any way troubled or perplexed by the name of any institution—may it be "Imperial" or "Royal". This is merely sentimental and does not effect the politics of our country. What pains me is that we are too much involved in the technicalities of law simply to change the name. There are legal difficulties. According to my views, when the revolution takes place in any country, it atonce produces an overall change in all directions. It obviates the necessity for any law. Everything undergoes a radical change. It is our utter misfortune that when we attained independence it was clothed in strange garments. On the 15th of August we saw that she was putting on a frock. She uttered something in English; and neither could we understand her nor could she understand us. Freedom came to India, but the Honourable Maulana will surely realize that it came in a mixed form—it did not originate as a native of the country.

The Honourable Maulana Abul Kalam Azad: It is not necessary that the beloved should belong to any particular country.

Shri Mahavir Tyagi: I know your taste.

Mr. Speaker: The honourable member should address the Chair.

Shri Mahavir Tyagi: I am sorry. Sir, I know the taste of the Honourable Minister

[Shri Mahavir Tyagi]

I feel that by involving ourselves in this sort of legal intricacies we will not be able to achieve anything, but many such legal difficulties would be felt by the courts in India. I can not understand what this is about? One thing which I follow is that some legal difficulty must have been experienced in changing the name. But what does that matter? Does anybody stand in the way? Are there any secretarial difficulties? Supposing you had yourself substituted the name, would that have created any difficulty for the Government to give effect to it? Our tendency should not be towards wasting much of our time in dealing with minor legal points. It is a matter of gratification that you have dropped the word "Imperial". I would also suggest that the name of the Secretariat and other names should be changed. I welcome the change of the word "Imperial". I would further emphasize that it would be better that the outlook of the Government which is Imperial should also be changed. We feel on all sides that now when the word "Imperial" has been dropped and we have separated ourselves from the "Empire", our manners, culture and dignity are still imbued in the old spirit. Anglo-Indian snobbishness is still present in our country. What I mean to say is that now when this wordy campaign has been started, we should endeavour to give practical shape to it and to bring ourselves on to the national path so far as our manner, behaviour, and the methods of running the Government are concerned. In other words, we should bid good-bye to their customs and traditions and discard their practice of giving of dinners and of enhancing the prestige of their Government if we realize that we are not to follow in their footsteps. We do not want to rule over the rich; we are the representatives of the poor and should therefore, adopt such manners, customs and usages, which should be to the liking of our masses living both in the cities and villages and susceptible of being understood by them. It is then only that we can be 'national' in the real sense. I hope, just as I have stated above, this would be the idea underlying the steps which have been taken by this veteran leader of India who is in charge of the Education portfolio, and that practical effect would be given to it. In fact the majority of the Indians are looking to these few veterans who are in charge of the important portfolios and who can take any practical steps during their time. I would, therefore, like to request these two leaders who are sitting in the House through you, Sir, that in case they take any such practical steps to bring home the Indian culture and re-orientate our mode of living, this would surely benefit us. The change in the word is only a beginning and I hope that along with this, efforts will also be made to bring about a practical change.

An Honourable Member: The question may now be put.

Mr. Speaker: The question is:

"That the question may now be put."

The motion was adopted.

آنریبل مولانا ابوالکلام آزاد: جناب! میں پھر اپنے دوستوں کو ان باتوں کی طرف توجہ دلاؤں گا جو میں نے تحریک کرتے ہوئے کہی تھیں۔ جو بل اس وقت پیش کیا گیا ہے، اسکا مطالب صرف یہ ہے کہ دہ امپیریل کے لفظ نکال دیا جائے۔ میرے ایک دوست نے یہ کہا ہے کہ اگر اس کے ہندی نام کا معاملہ اسوقت طے نہیں کیا جاتا ہے تو کیوں نے پورا معاملہ ملتوی کر دیا جائے۔ وہ کہتے ہیں اس تبدیلی کی اسوقت ضرورت کیا ہے؟ میں کہوں گا کہ بڑی ضرورت ہے میں سمجھتا ہوں کہ ہندو اگست کے بعد ہندوستان کے آسمان کے نیچے دہ امپیریل کے لفظ کی جگہ نہیں ہونی چاہئے۔ اور جن جن انسٹی ٹیوشنوں کے نام کے ساتھ یہ لفظ موجود

ہے، ان سب کا نام بدل دینا چاہئے ایجوکیشن منسٹری ایک اور تبدیلی بھی کر چکی ہے جس کے لئے بل کے لانے کی ضرورت نہ تھی یعنی دہ امپیریل ریکارڈ، و آفس کے نام سے بھی دہ امپیریل کے لفظ نکالا جا سکتا ہے۔

باقی رہی یہ بات کہ دہ امپیریل کی جگہ انگریزی لفظ دینیشنل ہے کیوں رکھا گیا۔ کہوں نہ اپنی زبان کا لفظ رکھا گیا؟ تو اسکی وجہ آپ کو معلوم ہے۔ ہمارے تمام انسٹی ٹیوشنوں کے نام انگریزی میں رکھے گئے تھے۔ ابھی تک وہی نام چلے آتے ہیں اور ہم انگریزی کو ان کی جگہ سے ابھی تک نہیں ہٹا سکے ہیں۔ اس لئے دہ امپیریل کی جگہ صاف بات یہ معلوم ہوئی کہ دینیشنل کے لفظ رکھ دیا جائے۔ لیکن اس کا یہ مطلب نہیں ہے کہ گورنمنٹ انگریزی ناموں کو بدلنے کا ارادہ نہیں رکھتی اور اسے اس ضروری بات کے ماننے میں کوئی ججھک ہے۔ میں بل پر غور کرنے کی تحریک کرتے ہوئے آپکو بتلا چکا ہوں کہ ایجوکیشن منسٹری کا اس بارے میں کیا خیال ہے۔ منسٹری خیال کرتی ہے کہ جونہی نئے کانسٹی ٹیوشن کے بنانے کا کام ختم ہوگا، طرح طرح کے نئے سوال اس ہاؤس کے سامنے آکھڑے ہوں گے۔ ان میں ایک بڑا سوال یہ بھی ہو گا کہ آئیندہ تمام سرکاری انسٹی ٹیوشنوں اور دفاتروں کا نام کیا ہونا چاہئے؟ ظاہر ہے کہ آئیندہ انگریزی نام باقی نہیں رکھے جا سکتے۔ پس ضروری ہوگا کہ نئے ناموں کے تجویز کرنے کے لئے ایک کمیٹی بنائی جائے۔ کمیٹی میں ایسے آدمی رکھے جائیں جو اس کام کے لئے اکسپرت سمجھے جا سکتے ہیں۔ یہ کمیٹی معاملہ کے تمام پہلوؤں پر غور کریگی اور پھر وہ انگریزی نام کی جگہ نیا نام ڈھالنے کی کوشش کرے گی۔ ناموں کا معاملہ اتنا سہل نہیں ہے جتنا سہل میرے بعض دوست خیال کر رہے ہیں۔ میں نے آپ سے کہا تھا کہ اس کے لئے ہمیں ایک تھکسال چاہئے۔ جس طرح چاندی سونے کے سکے ڈھالنے کے لئے تھکسال بنائی جاتی ہے۔ تھیک اسی طرح ناموں کے ڈھالنے کے لئے بھی ایک تھکسال کی ضرورت ہے۔ چاندی سونے کے پترے ہر شخص ہتھوری لیکر بنا سکتا ہے۔ لیکن سکے نہیں بنا سکتا۔ سکے بنانے کے لئے ایک سانچا ہونا چاہئے جس سے سکے کے تمام نقش و نگار پوری طرح ڈھل کر نکل سکیں۔

میرے ایک دوست نے ابھی کہا ہے کہ آپ اتنے بڑے پڑھے لکھے آدمی ہو۔ کیا آپ کوئی ایک نام اسکے لئے تجویز نہیں کر سکتے۔ اس میں پڑھے لکھے ہونے کا کوئی سوال نہیں ہے کام سوچ سمجھ کر کرنے کا ہے اسے بلاوجہ جلدی میں کیوں کیا جائے؟ ہم نے اسٹینڈنگ کمیٹی میں بھی اس پر غور کیا تھا۔ لیکن ہم فیصلہ نہیں کر سکے کہ زیادہ موزوں نام کیا ہوگا۔ اس موقع پر بھی دہ بھارتی اور دہ راشٹریا کے لفظ ہمارے سامنے آئے تھے اور اس میں شک ظاہر کیا گیا تھا کہ دینیشنل کا یہ تھیک مطلب ادا کرتے ہیں یا نہیں؟ آنریبل مسٹر کامتھ نے ہمیں یاد دلایا ہے کہ دہ اندین نیشنل کانگریس کے ترجمہ میں دہ نیشنل کے لئے دہ راشٹریا کے لفظ رکھا گیا تھا۔ مجھے

Prof. Shibban Lal Saksena (U. P.: General): I have very attentively listened to the Honourable Minister. I want to ask him one question. He has said that a large number of names have to be changed. I see the difficulty. But I want that the House from henceforth should not add any new English

[Prof. Shibban Lal Saksena]

names. A Committee may be appointed afterwards to change the old names but I cannot see any sense in continuing to use English names and of adding new English names. I see we have a legacy of slavery and we have to change all those names. Henceforth we should not go on adding new names in English which will have to be changed again.

Mr. Speaker: I do not think the Honourable Minister desires to say anything more.

The question is:

"That the Bill be passed."

The motion was adopted.

BOMBAY PUBLIC SECURITY MEASURES (DELHI AMENDMENT) BILL

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I move:

"That the Bill to amend the Bombay Public Security Measures Act, 1947, as extended to the Province of Delhi, be taken into consideration."

This short measure has originated in the trial for murder of Nathuram Godse and his companions. When we extended to the Delhi Province the provisions of the Bombay Public Security Measures Act and appointed a special tribunal for this trial, doubts were raised whether this tribunal had any authority to grant pardon to any person who offered himself as a Crown witness.

The House is aware of the procedure adopted by the Government in appointing a special tribunal. It was due to the fact that we found from experience that the ordinary procedure of double trial—committal proceedings and the consequential sessions proceedings—involves such a long delay as would cause considerable harm in a case like this. In spite of having adopted this rather swift procedure, we now find from experience that even the adoption of this procedure of a special tribunal has not yielded the results we expected: the trial is carrying on from day to day and has lost much in the objective of a speedy trial. Still something is better than nothing.

When this procedure was adopted we came against this difficulty. Doubts were expressed whether this Tribunal had any authority to grant pardon to any person who offers himself to be a Crown witness. To meet this difficulty we passed an ordinance. Then when the Ordinance was passed giving this authority we thought that within a period of six months the trial would end. Now doubts have been raised whether the trial would end before the Ordinance expires, because the final ending of the trial may include an appeal, and therefore it is better to err on the safe side and to have this procedure legalised. Therefore we have brought in this short measure to provide against these doubts. Even if the appeal takes time—the possibility of conviction and the appeal being there—it would be better to have this as a permanent measure, because not only in this case but on any future occasion when such a tribunal may be necessary, there will then be no need to go in for an ordinance giving such power or having a special legislation of this nature.

Therefore I have come to the House to have this legislation passed, and since it is non-controversial, I hope that the House will adopt it.

Mr. Speaker: The question is:

"That the Bill to amend the Bombay Public Security Measures Act, 1947, as extended to the Province of Delhi, be taken into consideration."

The motion was adopted.

Mr. Speaker: I find that there are two amendments by Mr. Naziruddin Ahmad.

The Honourable Sardar Vallabhbhai Patel: I am advised by the Law Department that Government should not accept those amendments.

Mr. Speaker: The amendments are not accepted.

Mr. Naziruddin Ahmad (West Bengal: Muslim): In that case I do not move them.

Mr. Speaker: In that case there are no amendments.

The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

MINES AND MINERALS (REGULATION AND DEVELOPMENT) BILL

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power): Sir, I move:

"That the Bill to provide for the regulation of mines and oilfields and for the development of minerals, as reported by the Select Committee, be taken into consideration."

The House is aware that when this Bill was referred to the Select Committee, whatever information was necessary for a proper appreciation of the provisions of this Bill was given by me to the House. In Select Committee, certain changes in the light of criticisms offered by honourable members in the House have been effected. I want to bring to the notice of the House the main and important changes effected by the Select Committee in the main Bill.

The House is aware that in the original Bill the extent of this Bill was limited to India minus States. The Select Committee thought it, and quite rightly, that if uniformity of legislation in this matter is a desirable thing, this Bill should be extended to such of the States as have acceded to the Indian Union, and this amendment has been accepted by the Select Committee.

The second important change that has been effected by the Select Committee in the main Bill referred to the prohibition of certain minerals and certain areas from being worked. It was thought that this aspect of it was already covered by the phraseology used in clause 5 of the Bill but to leave no doubt it was thought prudent that an express provision should be made enabling the rule-making authority to make rules to prohibit certain minerals or certain areas being worked. That amendment has been accepted. As a consequential amendment to this it was found necessary to make provision that where any mineral or any area has been prohibited from being exploited by an individual under rules made under clause 5 of this Bill it becomes a sort of obligation on the part of the Government to make a positive provision for its exploitation. Towards that aim a suitable amendment has been effected in clause 6 of the Bill.

Another important amendment that has been effected by the Select Committee is with respect to clause 9 which provides penalty. Originally there was no provision for substantive imprisonment. It was pointed out by one of the members of the Select Committee who comes from a province in which there

[Shri N. V. Gadgil]

are plenty of minerals and who has quite a large experience to his credit, that a mere pecuniary penalty would not secure the object which this Bill has obviously in view. He therefore suggested that in addition or in the alternative substantive punishment should be provided for any breach of any of the rules that may be promulgated under this Act. That suggestion has been accepted and provision has been made that the penalty may extend to 6 months imprisonment or with fine which may extend up to Rs. 1,000 or with both.

And the last important change that has been effected by the Select Committee was with respect to the exception or exemption clause. The House is well aware that in any piece of legislation where attempt is made at the regulation and control of any commodity and its movement, the relevant authority is always clothed with the power to grant exception or exemption in certain well defined cases. With that object in view clause 12 was originally framed. But in the course of the discussion of the Select Committee it was pointed out that as the clause stood it gave a wide power, which was far wider than the circumstances would justify. Although it did not appeal to some of us yet compromise being the essence of politics and all democratic governments the Government accepted it and to the extent to which it was feared that this power would be likely to be abused to that extent the clause has been modified.

These are the four main changes introduced by the Select Committee in the provisions of the Bill as it was referred to the Select Committee. Sir, I have nothing more to say and as I find that there is not a single amendment on the order paper I think it legitimate to presume that this Bill has got the wholehearted support of the House. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill to provide for the regulation of mines and oilfields and for the development of minerals, as reported by the Select Committee, be taken into consideration."

Shri Ajit Prasad Jain (U.P.: General): Sir, I have no intention to take much time but I want to draw the attention of the House to one amendment which the Select Committee has made and that relates to clause 5. This clause relates to the power to make rules regarding mining leases. The Honourable Minister during the course of his short speech said that this power was already inherent in the Bill and that these words have been added in order to further clarify the position. I accept that explanation. But I would suggest that the proper place for making the change is not clause 5 but clause 6, because clause 5 deals with the power to regulate the grant of mining leases, whereas clause 6 deals with the power to conserve and develop the minerals. The prohibition of the grant of mining leases in any area is with the object of conserving minerals. I have given notice of two amendments. It appears that the Honourable Minister has not seen them. I am not very particular about them, but if the Honourable Minister thinks that the right thing should be in the right place, he would accept my amendments. If the amendments of which I have given notice are acceptable to him and if he gives an indication, I shall move them. If on the contrary he thinks that he wants to retain the prohibition in clause 5, I will not move the amendments, though I think that the prohibition was meant for the conservation of minerals and the proper place for it is clause 6.

The Honourable Shri N. V. Gadgil: Sir, I have nothing to say by way of reply as regards the arrangement of the clauses, to which reference has been made by my honourable friend. The Bill has been drafted by the Ministry of Law, which is presumably expert in that line. If it is only putting a handkerchief in the left pocket instead of in the right pocket it makes no difference and in the absence of any notice to me as regards the particular wording of the amendment I am sorry I am unable to accept it.

Mr. Speaker: The Honourable Minister, in the course of his speech referred to the fact that there are no amendments. On the other hand, I find that there are some amendments, though of course I must say that in the agenda issued the amendments were not shown. The agenda was issued a few days ago and the amendments came subsequently.

The Honourable Shri N. V. Gadgil: Sir, I have not got even a copy of them.

Shri Krishna Chandra Sharma (U. P.: General): Sir, the Bill should have been more comprehensive instead of leaving the task to the Government to make rules. It would have been much better had there been more provision to achieve the objective of the Bill, and left the rule-making powers to the Central Government for minor details.

I particularly invite attention to clause 9 relating to penalties. It says:

"Any rule made under any of the provisions of this Act may provide that any contravention thereof shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both."

It would have been much better to say that any breach or contravention of this Act would be punishable with imprisonment for six months and further that all rules made under any of the provisions of this Act shall be laid before the Central Legislature as soon as may be possible after they are made. It would have been better if the Bill had been more comprehensive and Government had been empowered to make Rules. Instead of their making the Rules, then coming before the Legislature and getting then passed, it would have been simpler if the Act had been more comprehensive and left the rule-making power to the Central Government.

With these few words I support the motion.

Syed Muhammad Sa'adulla (Assam: Muslim): Sir, I was one of those who had the privilege of sitting in the Select Committee on this Bill. I am glad to see that the Report of the Select Committee is unanimous. Yet I find that a note of dissent has been printed in my name. When the Report was brought to me for signature I went through the draft and in my opinion there were two points which needed to be improved and at one place the provision clarified. But this has been printed as a note of dissent in my name. I leave it to the Honourable Minister as well as to the honourable members of this House to see for themselves whether the language of the amendment made by the Select Committee in sub-clause (2) of clause 1 may not be improved. I will read the place where the improvements is necessary:

"It extends to all the Provinces of India and also to any Acceding State for which the Central Legislature has for the time being the power to make laws as respects mines and oilfields and the development of minerals."

My quarrel is with the words "as respects". In my attempt to improve, I thought the words "in respect to" should be substituted for the word "as respects". I have not submitted any amendment, but I leave it to the House to consider whether they do not think that these words "as respects" should be substituted by the words I have suggested.

The next point to which I wanted to draw the attention of my colleagues in the Select Committee was as regards penalty, that is clause 9. There, as referred to by the Honourable Minister, it was at my instance that this provision for imprisonment was introduced. But I had suggested that there should be this period of imprisonment of either description. The words "of either description", according to me, do not appear here due to an omission. If it is intentional on the part of the expert draftsmen of the Ministry, then I would like to know whether this unqualified word "imprisonment" will not lead to some difficulty later on when the matter goes to court.

[Syed Muhammad Sa'adulla]

I never intended that these two matters, to which I only wanted to draw attention, would be printed as a Note of Dissent.

Shri B. Das (Orissa: General): Sir, I support this Bill as it has emerged from the Select Committee, except clause 13 against which I registered my protest in the Standing Committee of Works, Mines and Power and also in this forum.

This Bill is very opportune. The Western Powers are now trying to build up a German National Government, and the United States Government is also trying to build up the Japanese Government in Japan. The old game will again be played. Mine-owners will co-operate with the Japanese and the German capitalists and export the best of raw materials abroad, thereby weakening India's national mineral wealth. The time is coming—and we are glad to place this power in the hands of the Minister for Works, Mines and Power that no mineral should be exported outside India if it be needed for the development of India's national mineral wealth—when we should be more alert; we were not so previously.

As regards my opposition to clause 13, Sir, a few minutes ago the House held a very good debate on the question 'Imperial' versus 'National'. It was done in beautiful Hindi and Hindustani. Some of us tried to understand and appreciate it as far as we could. Sir, the word "Crown" stinks. The moment I enter the House I feel irritated that the British Crown should be there on the chair of my Speaker. Since we obtained freedom the House has legislated so much and passed so many Bills, but nowhere the words Crown or Dominions were used. Sir, when I saw such words as "The provisions of this Act shall be binding on the Crown, whether in the right of the Dominion or of a Province"—as contained here—I felt like saying "Down with the Crown". We have nothing to do with the Crown. We are a sovereign Legislature. What have we to do with the Crown? Why my colleagues in the Select Committee did not spot the graye encroachment of the silent foe, the British raj, I cannot understand. I am not a lawyer. I do not want to hear any legal argument from any legal luminary in this House that we are still under the British Crown. That may be the provision in some of the Acts which are still continuing and which the Adaptation of the Government of India Act has not changed. Today I am ashamed to read it. I was ashamed that the Select Committee did not do away with it. I have given notice of four amendments. I would like to have the entire clause 13 omitted. Otherwise I would like that wherever the word 'Crown' occurs the word 'Governments' be substituted. I would ask my honourable friend Mr. Neogy whom I respect and whom I used to consult in the past in regard to constitutional matters, to say with his better knowledge of constitution, whether the word 'Crown' cannot be replaced by the word 'Governments' or some such appropriate word and also whether the word 'Dominion' cannot be changed into 'Union'.

Shri Mahavir Tyagi (U. P.: General): The Crown can be placed on any head.

Shri B. Das: We were always harping over this and we were thinking of a Sovereign Republic. Now my friend Mr. Tyagi wants to wear the Crown. I wish him joy if he will get anywhere a crown to wear!

As for the word 'Dominion' I do not like that word either. I do not want that a year after we took the pledge of freedom in the other House and having passed on the floor of that House the Resolution on Sovereign Republic and sovereignty, to use the word 'Dominion' in any legislation. I would say that the draftsman works in the mentality of the pre-fifteenth August 1947, and he probably dreamt that the Crown was on his head and that India is a Dominion carrying out the fixed instructions of its masters on the other side. I have the gravest objection to the use of the words "Crown" and "Dominion" and I hope

the House will appreciate the humble spirit with which I have tabled my amendments to substitute these two words. I would like the House either to delete the entire clause 13 or to see that the words "Crown" and "Dominion" are banished from the clause.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava (one of the Panel of Chairmen).]

Shri Biswanath Das (Orissa: General): Mr. Chairman, Sir, I am glad that a Bill of this nature has come before the Legislature. I would rather say that this is the most important legislation of this session because it is for the first time in India that the Centre has chosen to exercise the fullest control over the mines and the mineral resources of this country. In a country where the important mines and minerals are held by non-nationals the control that is proposed to be exercised by the Central Government is certainly welcome and necessary. From this aspect of the question the Bill is a welcome measure. Important changes have been effected and my honourable friend has given an idea of the changes that have been proposed and accepted in the Select Committee. But my complaint, none-the-less, remains against the Bill in the sense that it has left too much to the rule-making powers of the Government. Of course, we have tried to minimise the evil so far as possible, by providing some safeguard, viz., to have the rules placed before the Legislature. But it makes me feel that important powers which have been left to the rule-making of the Government should have been brought out in the framework of the legislation.

Sir, the second objection I would like to place before the House is that important powers which were hitherto enjoyed by the Provinces have been practically taken away by the Bill. Of course it goes from the States or Provinces to the Centre, none-the-less it is a loss to the Provinces. Though the Provinces lose their power, let me hope that the Honourable Minister in charge of the Department will not do anything to lessen the resources or affect the resources of the Provinces in this regard. Provinces have not taxed these mines and mineral resources to the extent necessary for their own purposes, but none-the-less special cases are provided for in certain Provinces for local purposes; added to it there are also cesses for Provincial purposes. Let me hope that all these will be kept for the use of the Provinces in the rule-making powers of the Government.

Again, Sir, we have in the Select Committee brought in the Acceding States under the jurisdiction of this Bill. That means to say that the Provinces of Orissa, Bihar, C. P., Bombay and to a certain extent Madras are going to be affected so far as the Acceding States are concerned. These Acceding States were getting very good incomes from these mines and mineral resources which they had within their jurisdiction. Nothing has been decided so far about the financial relationship between the Centre and the Provinces in this regard. All these, let me take, will have either to be laid down in the rules or to be left to the Provinces and the Acceding States. Let me hope that a generous attitude will be taken up by the Centre and the existing incomes as also these sources of income will be left to the Provinces and Provinces alone because important responsibilities have devolved on the Provinces and if these Provinces have to discharge their responsibilities you cannot take away their resources and ask them to discharge their responsibilities.

Sir, it pains me to state in this House that somehow, while we talk of Provinces as autonomous bodies, we make legislation time and anon restricting the powers and activities of the Provinces to an extent which I for myself

[Shri Biswanath Das]

would not accept. That has been my misfortune and I must frankly confess that I stand to record my protest in this regard.

I would appeal to the Government that they should take advantage of the provisions of this Bill and call upon the non-nationals that are today in possession of important mines and minerals of this country and proceed to revise their leases in a way that we secure to ourselves, as we have done practically in fact and in law, the power to do so, in a way that we practically become full owners of these mines, if necessary by giving them compensation. Let me illustrate my position. Now we have the Kolar gold mines of Mysore or the oilfields of Assam, and the like. I think the time has come when State ownership of these important mines and mineral resources should be undertaken with a definite programme. Let me hope that the Government will not lose time to undertake this responsibility quite in accord with the desire of this House and the wishes of the people of this country.

With these words, Sir, I congratulate by honourable friend for the step that he has taken and let me hope that he will fulfil our aspirations by undertaking the course of action that I have suggested in my speech.

Prof. Shibban Lal Saksena (U.P.: General): Sir, it is one of the very important measures that we are passing in this session. Although we are rushing through the business which we have been compelled to do on account of the short space of time left, still I think the importance of this Bill will not be missed. The very title of the Bill says that it is "for the regulation of mines and oilfields and for development of minerals". We have all been anxious to see our country's development in all respects and here is a Bill for development in one very important respect, that in respect of mines.

I was really surprised to hear my friend Mr. Biswanath Das registering his protest against the powers which the Central Government have taken. Sir, I also love my Province, I belong probably to the biggest province in this country. Yet, I think that we should give to the Centre all powers for developing such key industries. I do not think that a small province like Orissa can develop the full mineral wealth of the province. The Central Government alone can find out where the minerals are located and it must see that they are fully developed so that our country can come in line with all the countries of the world. In fact, the greatest handicap from which we suffer is oil and some other important minerals and I think a lot of prospecting will have to be done to find out where oil is concealed underneath the mother earth, where other important minerals are concealed, and then we shall have to work and develop those mines. It is only possible to do all this if the control is fully centralized, and the activities are financed with unlimited resources which only the Central Government can command. I therefore welcome this aspect of the Bill very much and I really congratulate the Honourable Minister for having taken courage in both hands in making the whole thing entirely Central.

I really wonder, when there was at one time a proposal to give residuary powers to the Provinces, there was the hue and cry, "You want to weaken the Central Government". But when we have got a more or less centralised Government, then we grudge giving the Centre even such a small thing as to empower it to regulate and develop our mines. Sir, I fought for the Central control of electricity also. I think that the entire planning development of the country, must be a Central subject and the Centre must have full authority to do what it pleases to carry out its schemes and plans. In this Bill the entire power is given to the Centre. I am very glad that this Bill is on the right lines. I know the Honourable Minister also brought in other Bills of

fundamental importance; the Damodar Valley Corporation Bill is one which will surely see a large part of our country very soon change its entire face. I think that he deserves congratulation for this and I am really sorry that my friend Mr. Das protested against the centralised nature of the Bill. I only say that Section 7 of this Bill.....

Shri Biswanath Das: May I inform you, Sir, that I have not protested against the centralised nature of the Bill, because there is nothing centralised.

I have protested against the tendency of the Government of 4 P.M. India to take away powers from the Provinces—powers vested in them under the Act.

Prof. Shibban Lal Saksena: Sir, I do not know what else is meant by Centralisation. When this Bill gives certain powers to the Government of India, it will certainly take away to that extent the powers of the Provinces and give the Centre powers against which Mr. Das protested.

Anyway, I was saying about clause 7, that it has given the Centre powers to change the existing leases. I know many factories and many mines are controlled by foreigners—coal mines, gold mines and other mines—and I do wish that these key industries had been taken over completely by the State, because when we are out for all round planning and development of our minerals, these foreigners cannot be expected to act according to our wishes and carry out our plans in the manner we want. These foreigners not only exploit the mines in their own countries but they also try to take leases of mines in other countries and exploit them. It is, I think, high time that we said in our Bills that we do not want any foreigners to exploit our mines.

I fully agree with my friend Mr. Das that the mines should not be under private control. Instead of giving leases to individuals, I wish that the Government had themselves taken them. The Central Government has taken power to revise existing leases and I hope that at least in future all leases shall be given to the Government itself and not to other private individuals. Unfortunately, on this point I hold very strong views. My experience has been that the capitalists do not play the game and I think we cannot go on with rapid development of the country unless the State itself takes the thing into its own hands. We may copy their business principles and methods, but it must be the Government which must be the sole authority to determine how things should be managed. All the profits of the industry should belong to the State so that the mines could be worked in the interests of the nation. At present, the profits go to the mine-owners who work in their own personal interests, in the interests of private profit. What we want is that the mines should be worked in the interests of the nation. May be, some mines may be very costly to work, but for national development we must work them. I hope that although power has been taken in this Bill to give leases to anybody, actually the basis will be given only to the National Government and the Government will see that no fresh leases are given to individuals. In fact, when enunciating our Industrial Policy the Prime Minister said that after ten years we shall go for nationalising such industries as are at present in capitalist hands but he promised that new industries shall hence forth be all nationalised. So I hope that future leases would only be given to the Government and the Government would develop the mines from the point of view of the development of the nation and not from the point of profits to individuals.

Sir, I warmly congratulate the Minister for having brought this Bill and the boldness with which he has taken power to develop the mines. I hope very soon we shall be able to see that our country is not behind other big countries which have got large mineral resources like iron, coal oil etc., so that we may not at times of crisis be short of minerals. I also feel that we should not be

[Prof. Shibban Lal Sakseña]

exporting many of these key minerals. Probably, we are at present doing it with recklessness. I hope that the mineral export policy of the country will be determined from the point of view of national development and our future requirements. I again thank the Honourable Minister for this Bill which I heartily support.

Srijut Rohini Kumar Chaudhuri (Assam: General): Mr. Chairman, I do not understand why the Honourable Minister should have chosen to wound our feelings by introducing the word "Crown" and "Dominion" in this piece of legislation.

The Honourable Shri N. V. Gadgil: Have half Crown!

Srijut Rohini Kumar Chaudhuri: Quite a sheaf of Bills have been passed and brought before this House during this year, and nowhere do I remember having seen the use of the word Crown or Dominion. I am perfectly aware that we are still a Dominion. I am painfully conscious of that fact. I am also perfectly aware that we still owe some sort of allegiance to the Crown because we are a Dominion, and if the King of England chooses to visit India at any time, we should probably go into festivities. I know that we have got to do it, but it is better that we are not reminded of this fact by provisions of law passed by this House. I think the object of the honourable author of the Bill would have been as well met if he had used the word "Government" instead of "Crown" and "Union" instead of "Dominion". That would have at least lulled our feelings. We know that it is still a far cry to make ourselves really independent. The way in which our constitution-making body is progressing leaves very little hope for us in the immediate future. After all, we have yet to decide whether we are going to remain within the British Commonwealth or we are going out of it. That is the reason why we must still, for some time, owe some sort of allegiance, some sort of respect and regard to the Crown and also remain a Dominion, but it is cruel that one of our own Ministers should be constantly reminding us about these things.

Sir, my honourable friend to the left has pointed out the anomaly regarding the use of the word "imprisonment". That there is some ambiguity about it admits of no doubt. I am advised that the word "imprisonment" when it stands alone is interpreted as meaning simple imprisonment. That is the decision of the court and I believe that is why the word "imprisonment" has been used without either the prefix of "rigorous" or "simple". The whole attitude of this Bill is leniency. The honourable author of this Bill does not want to be very hard on those who infringe the provisions. Otherwise, there would not have been this sub-clause (2) of clause 9. In sub-clause (1) of clause (9) punishment is provided, both imprisonment as well as fine, or either imprisonment or fine, for the first offence, but sub-clause (2) provides that in case of subsequent offences the offender need not fear going to jail again. It will be quite sufficient if he is rich enough to pay the fine. That is what sub-clause (2) says. The section says:

"Whoever, after having been convicted of any offence referred to in sub-section (1), continues to commit such offence shall be punishable for each day after the date of the first conviction during which he continues so to offend, with fine which may extend to one hundred rupees."

There is no question of imprisonment afterwards. If a man has the hardihood to commit the offence daily, he will have only to pay a fine of Rs. 100, and if it would be more profitable to pay the fine, he would certainly pay the fine, because there is no punishment with imprisonment. This is what I cannot understand. I have always thought that the first offender is treated more lightly. Here, there is a revolution of the whole legal provisions. The

first offender will be sent to the jail and a second time he commits or 100 times he may commit, he merely goes off with a fine. There is something in it which I hope the Honourable Minister will be able to explain, and as it stands, the provision is ununderstandable.

Another point which I would like to raise in this connection is that I cannot understand what is going to be the exact position after this law comes into force. Nowadays, I find that the provincial Governments, at least the Government of Assam, has decided to nationalise coal mining operations. I think they have done so under the belief that they have the fullest authority in the matter. But, clause 5, as it stands seems to have taken away the power of the provincial Governments to do as they like even in the matter of coal mines. It says:

"The Central Government, may, by notification in the Official Gazette, make rules for regulating the grant of mining leases or for prohibiting the grant of such leases in respect of any mineral or in any area."

This means that, if, at any time, the provincial Government should think that they want to nationalise the mines and not to give the lease of coal fields to anybody, the Central Government could over-ride that decision by saying that the mines should be leased out to somebody under such and such rule. I want to be very clear on this point. I want that this point should be made clear. Does this clause take away the right of the provincial Governments to deal with the coal mines as they like? Whether they want to nationalise, or whether they feel that the lease should be given to people of their own provinces, can the Central Government say, you cannot do it? If the provincial Government wants to nationalise it, can the Central Government say under the provisions of this Bill, you are not competent to do so, we are going to issue the mining lease to such and such a person who will be really competent to work the mine, the provincial Government is not competent to work the mine or that the Government of India cannot finance you to do so? Is that the meaning of this clause? I should like to be made clear.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I had no mind to take part in this discussion; but I find that there is an amount of confusion in the minds even of experienced parliamentarians like my honourable friend Mr. Chaudhuri and some others. Mr. Chaudhuri feels that clause 5 can stand in the way of the provincial Governments being able to work the mines. That is not so at all. This Bill, so far as I have been able to understand it, only intends to lay down the general provisions which will be applicable to mines and minerals and the working thereof, and it will be applicable to all the provinces. That is to say, a sort of uniform rules and regulations are intended to be laid down; whether the mines will be worked by the Centre or the provinces or by the lessees is left to be decided from time to time. That would be decided by the capacity of the party who may be available or by the Government who wants to work it. Clause 5 will not stand in the way of any provincial Government or otherwise working any mine if they so want to do. Nor is there any question of the powers of the provinces being taken away by this Bill in the shape of the Centre taking up the management or working of a mine.

Srijut Rohini Kumar Chaudhuri: On a point of information, Sir, is the honourable member referring to the confusion in his mind or in my mind?

Shri Prabhu Dayal Himatsingka: Sir, the scheme of the Act seems to be that general rules will be framed which will be applicable to the different kinds of minerals, and if there be a particular mineral which the Government thinks fit to preserve, they might prohibit the issue licences or leases in respect of such minerals. This is the intention of the power that is ought to be

[Shri Prabhu Dayal Himatsingka]
given for prohibiting the lease of any mineral which the Government may think fit to preserve for being used in an emergency. Power has been reserved to prohibit the exhaustion of such minerals. That seems to be the idea behind clause 5. I think the scheme of the Act is quite all right as it leaves a lot of things to the rule-making powers of the Government. Nor need the rules be placed before this House for being passed. In fact, the rules will be framed and they will be applicable; they will simply be laid before the Central Legislature as soon as they are made and they need not be passed by this House. That is clear from clause 10. I think we should pass this Bill as it is.

The Honourable Shri N. V. Gadgil: Sir, there is not much that I want to say by way of reply. The main object of this Bill is to have uniformity of policy and to utilise the output of the mines to the best possible advantage of the country. The conditions of the new leases will be laid down, and if it is found that the old leases are contrary to and may affect the realisation of this objective, they will be modified or even cancelled. If it is necessary to prohibit leases being given in any mineral or in any area, that also is provided for. As I said, that casts a corresponding positive obligation on the Central Government to see that that particular mineral or area is explored. It is perfectly made clear in clause 6 that rules may be made. It says: "the manner in which and the persons by whom any mineral or any area as respects which the grant of mining leases is prohibited may be developed or worked." It is possible that the Central Government may ask the provincial Government to work up a particular mineral or a particular area. There is nothing to prevent that being done.

The other point was with respect to the use of the word "Crown" in clause 13. Crown is not really worth much. Under the Government of India Act even as adapted, as it stands today, we cannot take out this word in one particular piece of legislation. If it has to go,—it has to go—it will go when the new Constitution is adopted.

Shri Bikramlal Sondhi (East Punjab: General): It is still there.

The Honourable Shri N. V. Gadgil: This matter was discussed in the Select Committee. All other substitutes were considered and were found inappropriate. Taking the word "State", it has not been defined anywhere. The word Government is not defined in the General Clauses Act. And further, the word "Government" exactly connotes the idea of the executive government of the day. What exactly is contemplated here is that abiding political entity which corresponds and coincides with the territorial boundaries of the country. That particular idea for the present is embodied in the word "Crown"; and till we find a suitable substitute and adopt it in the constitution of our country this should remain, and I do not think it is a matter over which we should make any fuss. "The Crown" is really not worth much.

Mr. Chairman: The question is:

"That the Bill to provide for the regulation of mines and oilfields and for the development of minerals, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Chairman: The question is:

"That clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

Srijut Rohini Kumar Chaudhuri: Sir, I must admit that I cannot follow things as quickly as some members can do here. I could not quite understand

the reply given by the Honourable Minister with regard to my observations on Clause 5. I will in this connection draw his attention to clause 12 which says clearly:

"The Central Government may, if satisfied that it is in the public interest so to do, authorise in any case the granting of any mining lease or the working of any mine on terms and conditions different from those laid down in the rules made under sections 5 and 6."

This means that the Central Government keeps the supreme authority of granting mining leases in any case whenever they think it expedient to do so, even though the Provincial Government may have decided to make it a nationalised concern.

The Honourable Shri N. V. Gadgil: Sir, I have nothing to say.

Shri Basanta Kumar Das (West Bengal: General): Sir, I move.

"That after part (d) of sub-clause (2) of clause 5 of the Bill, the following new part be added:

(e) circumstances in which leases may be withdrawn or cancelled."

I think there must be definite rules containing the circumstances in which leases may be withdrawn or cancelled. Sir, I move.

The Honourable Shri N. V. Gadgil: Sir, if my honourable friend carefully reads part (b) of sub-clause (2) of clause 5, he will find that its phraseology includes what he contemplates by his own amendment.

Shri Basanta Kumar Das: Sir, I do not press my amendment.

Mr. Chairman: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clauses 6 to 12 were added to the Bill.

Shri B. Das: Sir, I move:

"That clause 13 of the Bill be omitted."

In deep humility I heard the speech of the Honourable Minister. I have been a co-worker of his in this House from 1935 and I felt that he had somehow changed since he took his seat on the Treasury Benches. He justified the use of the word "Crown" because it is in the Government of India Act of 1935. The amended Government of India Act as adapted by the India (Provisional Constitution) Order, 1947 and the Indian Independence Act are there and it nowhere contains the word "Crown". How is it that my Honourable friend Mr. Gadgil has grown so fond of that word? His colleagues and comrades in the Cabinet have piloted hundreds of Bills in this House since 15th August, 1947, but nowhere has the word "Crown" been used. I do not see any reason for this inferiority complex today on the part of my honourable friend. My honourable friend Shri Gopalaswami Ayyangar is here; in the other place we consider him as one of the fathers of the Indian constitution which is being framed there and will become the Constitution Act in a couple of months. I should like to know from him why the word "Crown" has become necessary. If I may be permitted to state here, I have heard from friends that the Law Minister opined that the word "Crown" was necessary, I am not a lawyer and should like to know from my lawyer friends why this word which was not required in any Act of the legislature in the last 12½ months has been introduced now. The amended Government of India Act and the Independence Act contain the word "Dominion". Why is it that our distinguished Ministers never introduced that word in any of their Bills? The Crown may be going abegging or have no value, and as long as there is no

[Shri B. Das]

Emperor of India it is immaterial who wears the Crown. But for certain legal subtleties and quibbles my honourable friend has been advised that the word "Crown" must desecrate an Act of this House. I feel ashamed of that word; my honourable friend the Minister told me in the Standing Committee that he would consider it. I wish he would give me the views of his legal advisers; I am sure he would still feel that we are humiliated.

Sir, I will not vote for this clause 13. Not being a lawyer I should like to know the necessity of clause 13. The Government of India have got the necessary correlating power and controlling power over mines and development of minerals in the Provinces. My honourable friend was a lawyer; I should like to know why he has inserted this shameful provision in the Bill to the utter humiliation of the Congress Party.

Sir, I hope the House will agree to the deletion of clause 13. I move.

Mr. Chairman: Is the honourable member going to move the other amendments standing in his name?

Shri B. Das: If this fails I will move them.

Mr. Chairman: He may move all of them now because no amendment can be moved and put to the House which negatives an entire clause of the Bill. When the vote is taken on the clause he can vote against it and can oppose the entire clause which he has already done.

Shri B. Das: With your permission, I move the three other amendments in my name:

(i) "That in the heading of clause 13 of the Bill, for the word 'Crown', the word 'Governments' be substituted."

(ii) "That in clause 13 of the Bill, for the word 'Crown', the word 'Governments' be substituted."

(iii) "That in clause 13 of the Bill, for the word 'Dominion', the word 'Union' be substituted."

I may say here that in the draft Constitution Bill nowhere is the word 'Dominion' used, and where the purpose of the 'Dominion' has been required, the word 'Union' has been used. I hope if no one supports me, at least my old friend, Mr. Gopalaswami Ayyangar, will support me.

Mr. Chairman: Amendments moved:

(i) "That in clause 13 of the Bill, for the word 'Crown', the word 'Governments' be substituted."

(ii) "That in clause 13 of the Bill, for the word 'Dominion', the word 'Union' be substituted."

The first amendment which seeks to amend the head note need not be put to the House.

Shri K. Santhanam (Madras: General): I am also one of the guilty persons who allowed this shameful clause.....

Shri B. Das: I do not say that of a colleague and comrade like you!

Shri K. Santhanam:.....to stay here in this Bill. We also dislike this word and we are not happy about the word 'Dominion' either. But what happens is that this clause is an immaterial clause. If this is omitted then what may happen is that all the old leases given by the British Government will not be affected by the Bill and we will be bound by them. This Bill provides not only for the future but for the regulation of leases and rights granted in the past and many of these rights are called Crown rights and leases. The word 'Crown' is attached to the rights actually accrued, and unless we used that word we were afraid that many of them would get out of our clutches. Therefore we thought that our present generation and posterity would allow us the use of these words if we secured them the real rights. It is pursuance of that

desire that the present Government, both Central and Provincial, should have a secure grip over the rights granted in the past that we used it. I am sure when the Constitution is made and when the General Clauses Act is being revised that all these words will be erased from all the Statutes in the Statute Book.

Mr. Naziruddin Ahmad (West Bengal: Muslim): I submit that in the present context the word 'Crown' would be improper and absolutely unnecessary. Clause 13 which contains this expression is to this effect:

"The provisions of this Act shall be binding on the Crown whether in the right of the Dominion or of a Province."

In fact, a provision like this is absolutely unnecessary. To say that a provision of a sovereign Legislature will be binding against all is unnecessary. Is there any doubt that a piece of legislation passed by a sovereign House like this would be binding? I think it is binding against all, be it the King of England, the British Government, or any Indian State or Province. As a matter of fact, the amendment which my friend, Mr. Das has suggested, namely that the word "Crown" should be substituted by the word "Government" is unnecessary. That it is binding on the Government is also clear because the Legislature is superior to the Government. After the Independence of India Act has been passed, I think it is unnecessary to think even that the Crown has any claim in India. In fact in section 7 of the Indian Independence Act it is said:

"As from the appointed day (that is the 15th August 1947) His Majesty's Government in the United Kingdom have no responsibility in respect of the Government of any territory " and so forth.

Shri K. Santhanam: May I point out that the word 'Crown' here means the Crown in India.

An Honourable Member: Wooden crown!

Mr. Naziruddin Ahmad: 'Crown' is an abstract legal conception. It does not mean the headgear on the King's head. It is the sovereign authority. By the Indian Independence Act, the British Government have declared that they are absolved of all responsibility. They have also given up all claims to India and with regard to many others. They say "India is absolutely free; they are competent to pass any law they like and they are competent even to abrogate any British enactment if they like". The question is whether without Clause 13 the Act will be binding on the Crown, even supposing there is a Crown somewhere in India. The fact is that when we pass an Act, it is tantamount to saying that the Act is binding, and in view of the Indian Independence Act, an Act of the Legislature of India as at present constituted is *ipso facto* binding against all. So the necessity to defeat any right of the Crown is absolutely uncalled for. Where is the Crown? There are some pictures of the Crown in some portraits of His Majesty the King and there is the Crown in some coins in currency notes and stamps etc. But apart from this, where is the Crown? I do not think that the Crown as an over-riding authority exists any where in India. Even the Crown as a conception does not exist as a superior body. If the Crown has any right which is superior to this Legislature, I think this Clause 13 will not defeat it, and if this Legislature is superior to any possible Crown rights existing in India, then the mere passing of the law will be binding upon him. So I submit that Clause 13 is unnecessary and objectionable from that point of view.

With regard to the actual use of the word 'Crown' it is not necessary. The whole clause is unnecessary.

With regard to the word 'Dominion', the word 'Union' is unnecessary. It

[Mr. Naziruddin Ahmad]

is true that the draft Constitution uses the word Union and not Dominion, although Dominion is inadvertently used in many places. But that is a constitution which will come into effect when the constitution is passed. After the passage of that constitution the word 'Union' will be the only expression to be used and the word 'Dominion' will cease to exist. Therefore, so long as the constitution is not passed, the word 'Dominion' is a necessity.

So the entire Clause 13 is absolutely unnecessary and there is the needless use of the word 'Crown' in this piece of legislation.

There was a practice in criminal cases to say that the King-Emperor or the Crown was prosecuting somebody—Crown *versus* someone. Now the word 'King' is used, and not 'Emperor' and not 'Crown'. In these circumstances the use of the word Crown is unnecessary and the whole clause is unnecessary and therefore it can be safely deleted without the slightest risk of endangering our rights or saving the rights of the Crown assuming that it exists in India. The very fact that that the Act is passed shows that it is binding. This is a sovereign Legislature and under the provisions of the Indian Independence Act that we have a right to over-ride everything. So in these circumstances Section 13 should be deleted.

Dr. B. Pattabhi Sitaramayya (Madras: General): Sir, I am surprised that at this late hour in the progress of our country we should be still seeking to perpetuate an anachronism or that we should be building castles in the air and finding tenants for them. I am surprised not so much at any interpretation of Section 13 and the wording by which it is characterised as by Mr. Santhanam's defence of the word 'Crown' and bringing in the word 'crown contracts'. There may be crown contracts but even worse is his defence when he speaks of the crown in India. There is only one crown in India and that is on the Nizam's head which is lying in the melting pot and all the other crowns have melted away and even the crown representative has disappeared from the Viceroy's House and in fact the King of England has shed the title of Emperor of India. Whereas the King of England has shed the title my honourable friend Mr. Santhanam wants the Emperor in India. There is now only the wooden crown on the top of the Chairman's head and a crown in masonry with the line 'Die et mon droit' 'God and my right hand'. It has been suggested more than once that these too should be removed from this hall. Instead of that, after having passed so many bills in this House that you should incorporate, deliberately and want only this clause into this Bill is sufficiently bad but that you should justify it in the manner in which it has been justified is making matters worse. If you feel that crown contracts may be impugned by those who have entered into them in respect of mines, let us say that this shall be binding upon all the leases given in the name of the Crown. That is a sensible procedure. We are not fighting the word 'Crown' but the idea 'Crown' is not merely etymological, as has been pointed out by my friend Mr. Naziruddin Ahmad but it is a concept and that concept should not be created. You must create a new psychology in India and make people believe that the British have left but the pity of it is that we do not believe that they have left and therefore it is that these anachronisms hang on to us. With these words, I support Mr. Das's amendment and if you think that some clause like that is necessary please say that this shall be binding on all the leases given in the name of the Crown.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I am very sorry to disagree from my honourable friend Dr. Pattabhi Sitaramayya. Under the Indian Independence Act the Crown in England washed its hands of all the property in India and the governance of India. (An Honourable Member: 'All rights'.) I agree. The Government of India Act 1935 was adapted in pursuance of that Act and we do not want to lose properties belonging to us

and give greater property or rights to ordinary individuals from whom we want to take in favour of the Government. Let us see those chapters which have been adopted relating to vesting of property and the right of suing or being sued. Unfortunately those words are there such as 'Crown', 'His Majesty', 'Dominion of India,' etc. If you omit them as suitors we will be out of court. If you want to drive to that conclusion by all means do so and make this Act absolutely unfructuous and allow those private individuals to carry the day in any court of law. Sir, I request your attention to Section 174. According to that whatever property is there belongs to His Majesty, held in trust for a particular province or held for purposes of the Dominion. Therefore any property held in India is supposed to be held by His Majesty for the purpose of the Dominion or for purposes of the province. You must use the word Majesty or Crown, otherwise you will be losing a very valuable right. Section 176 relates to suits and proceedings. My friend objected to the word 'Dominion' but we cannot get out of it, so long as the word 'Dominion' is used in the Government of India Act. (Mr. Naziruddin Ahmad: 'It is all right'). So the honourable member is 50 per cent. in favour of Mr. Das and 50 per cent. against. The Dominion may sue or be sued and a provincial government may sue or be sued. Therefore the word 'Dominion' is inescapable and the words 'Majesty' or 'Crown' are inescapable. I agree that the sooner we get rid of them the better, but till then we have to use them.

Shri Krishna Chandra Sharma: Sir, this clause 13 is useless. Clause 5 gives power to the Central Government to make rules as respects mining leases, clause 6 gives power to make rules as respects mineral development and clause 7 gives power to make rules for modification of existing leases. All these clauses give the right to the Central Government to make rules. There is no clause which fixes a liability on the Central Government. Therefore to say in clause 13 that the provisions of this Act shall be binding on the Crown means that the Crown would be liable for having done wrong according to these rules. There is no liability fixed on the Central Government. One objective may be that the Government should be bound down to observe these rules. All laws are binding on everybody. If a government does not act in accordance with the rules it is liable for damages just like any other person who does not act according to law is liable. There is the famous maxim of law that the King can do no wrong. If a King does wrong or acts in contravention of the law that should be ignored. If a Government passes an order which is not in accordance with the provisions of the law, that order is to be ignored and not to be obeyed by anybody. In the same way if the Government does not follow the provisions of the law, the Government is liable for damages. That this act would be binding on the 'Crown' is superfluous and has no meaning. The law is to be obeyed by everybody by the Government as much as by any other citizen of the country. This clause serves no purpose and being useless it should be dropped.

The Honourable Shri N. V. Gadgil: Sir, if this clause were to be omitted the Government of the day will have dictatorial power. What is sought to be provided by this clause is that whatever limitations are there binding on the individual lease-holder will be binding if the leases are taken by the Government in their own name. As regards the word 'Crown' my honourable colleague suggested that it means Koh-i-noor, a very precious stone and that we should not lose it. Apart from the joke, so long as we continue to function under the Government of India Act, 1935, we cannot depart from its phraseology. Nowhere has the word 'Government' been defined—not even in the General Clauses Act. The real thing behind the word 'Crown', as I said, is the State. A political conception or a constitutional conception which means something that is permanent and which represents the political existence of the country and the community—that conception—is not yet expressed in the

[Shri N. V. Gadgil]

Government of India Act. By merely substituting for the word 'Crown' the word 'Government' the purpose cannot be served. We are only here substituting a subordinate conception for a bigger and a higher conception. When the New Constitution comes into existence surely 'State' will be defined. The word 'Union' will be defined. Today there is no definition of the word 'Union' and there is no use trying to substitute some new idea in a certain piece of legislation, because these things are common not only to this but common to all legislation. Therefore the opportunity to get this thing done is not with reference to this Bill but when the Constitution comes and in the light of the New Constitution all the changes and adaptations are made.

Sir, I oppose these amendments.

Mr. Chairman: The question is:

"That in Clause 13 of the Bill, for the word 'Crown', the word 'Governments' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That in clause 13 of the Bill, for the word 'Dominion', the word 'Union' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

Clause 14 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri N. V. Gadgil: Sir, I move:

"That the Bill be passed."

Mr. Chairman: Motion moved.

"That the Bill be passed."

Shri Mahavir Tyagi: Sir, since all the clauses have been passed, this reading is practically meaningless. The House stands committed now to all the clauses which have received the assent of the House. Even then an opportunity is given for the honourable members of the House, if they want, to put into the ears of the Honourable Minister anything which they feel has not been said or anything which they think can probably be accommodated in the rules. I therefore take this opportunity of bringing to the notice of the Honourable Minister that in my district—and may be in many other hilly districts—there are small quarries of lime stones, gypsum and small pieces of marble chips. This industry is carried on by the poor labouring class people. They just dig holes into river beds; when the rivers bring water in the rainy season they bring small pebbles of stone and deposit them in those pits; when the river goes off, that is when there is no water and it is dry, these labourers go there, pick up those stones, bring them home, bake them and turn them into limestone. They either sell them or use them for constructing their own houses. This industry is carried on by practically every village in my district. Sometimes these stones are dug out from pits ten or twenty feet deep. They take out these stones and transport them to other districts as limestones which are baked locally. This is a cottage industry.

I did not move an amendment regarding this because I felt that after full consideration had been given an amendment would be thought as out of place or ultimately I might be whipped out of the field and asked not to put any amendment. Therefore I want to crave the benign Crown to be kind enough and

to please see that this cottage industry remains in the hands of those people in spite of this law. I am saying this because it comes under quarry—and quarries are also to be controlled. If a control over these quarries of small pebbles and small limestones is imposed the poor people would be hit hard. There are such other industries as for instance *kunker*. It is also mined out. Lawyers might come forward and say 'It is dug out from the earth and therefore that may also come under quarry and may be controlled'. I request that in respect of the smaller industries which are always practically carried on by smaller people some consideration may be made in the Rules. That is my request.

With this request I must now deposit my congratulations, hearty as they are, on the Honourable Minister for the good Bill he has brought forward. This measure I am sure will lead to more and more mining, to the improvement of this industry and to the progress and prosperity of the country.

Shri Gopikrishna Vijayavargiya (Gwalior State): I beg to congratulate the Honourable Minister for bringing this legislation. The Central Government should really have power over mines and oilfields and other things. I therefore think that this measure will be very beneficial. It will extend to the Indian States also. In my place, in Central India, there are slate quarries also. I hope that only very important quarries or mines will be taken up by the Central Government and I think much scope should be allowed for Provincial Governments to mine these quarries; at least, the stones and such other things cannot be taken up by the Central Government. Sufficient scope should be left for the Provinces and the States. But in the case of important minerals I think the Central Government should have full power so that it may develop the resources of the country. Sir, I congratulate the Minister for having brought this measure.

Mr. Naziruddin Ahmad: An honourable member has said that after the clauses have been accepted it is useless to speak. But there is such a thing as post-mortem examination and I am going to do that.

With regard to the question of Crown I think the Crown has no rights. Whatever rights they had they have declared that all the rights have ceased. And we adhere to the Government of India and the Government of Pakistan and in certain respects the States. I beg to submit, Sir, that there is a lurking fear that like a beneficial ghost the Crown is hovering somewhere with some hidden rights. But the King has himself declared that they have no rights. Though ghost do not exist, still there is fear in some minds. It is this unfounded fear which is behind this clause. The clause should not have been inserted. Otherwise the Bill is a very good one and I support the third reading.

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Wednesday, the 1st September, 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Wednesday, 1st September, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

MOTION FOR ADJOURNMENT

Mr. Speaker: There is an adjournment motion given notice of by the honourable member Pandit Govind Malaviya. Does the honourable member desire to move it?

Pandit Govind Malaviya (U. P.: General): No, Sir. It has been suggested to me that I should seek the information by a short notice question and I do not intend to move this motion.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF COMMERCE

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce):

Sir, I beg to move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of Commerce, *vice* Mr. B. P. Jhunjhunwala resigned."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of Commerce, *vice* Mr. B. P. Jhunjhunwala resigned."

The motion was adopted.

Mr. Speaker: I have to inform honourable members that for the purpose of election by means of the single transferable vote of a member to the Standing Committee for the Ministry of Commerce the programme of dates will be as follows:

Nomination to be filed in the Notice Office upto 12 Noon on Thursday, the 2nd September.

Election, if necessary, will be held on Friday, the 3rd September, in the Assistant Secretary's room (No. 21) in the Council House between the hours of 10-30 A.M. and 1 P.M.

INDIAN INCOME-TAX (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I do not propose to make the motion under item No. 1 on the List of Business and I therefore beg leave to move item No. 3. Sir, I beg to move:

"That the Bill further to amend the Indian Income-tax Act, 1922, be taken into consideration."

[Shri K. C. Neogy]

It is, I claim, a very simple measure. If the House would direct its attention to the two principal clauses of the Bill, *viz.*, clauses 2 and 3, they would find that so far as clause 2 is concerned it is intended to supplant an Ordinance that is sought to be repealed in clause 4. This Ordinance was needed to be passed for the purpose of correcting an error which had crept into the Indian Finance Act. The House will remember that one of the provisions of the Indian Finance Act was to extend the benefit of exemption from income-tax to payments of donations to certain approved charitable objects. It was the intention of the Select Committee to extend the benefit to payments made subsequent to the 1st of April 1948. Although this intention is clearly expressed in the report of the Select Committee, unfortunately it was not incorporated in the body of the Act itself. That led to the passing of this amending Ordinance to which I referred.

Clause 2 seeks merely to substitute a sub-section in the Act, by this measure in place of the Ordinance that is to be repealed.

As regards clause 3, the House will remember that under Section 54 of the Indian Income-tax Act, disclosure of information by a public servant is prohibited in respect of the records of assessment. There are, however, exceptions indicated in sub-section (3) of Section 54. What I seek to do through this clause in the present Bill is to add two more exceptions to the list. The first exception relates to a requirement which we have laid on the Reserve Bank of India for the collection of information regarding foreign exchange transactions. We are expected to furnish certain particulars to the International Monetary Fund on this matter and unless the Reserve Bank of India has access to the assessment papers it cannot effectively discharge that obligation. We therefore propose to authorise the furnishing of these particulars to the Reserve Bank of India, under the proposed sub-clause (n) of sub-section (3) of Section 54.

Occasion has also been taken to add another exception, namely (o) for the purpose of facilitating enquiries into charges of corruption against government officials. The effect of this new sub-clause (o) would be to remove the obligation of secrecy laid down under Section 54 in respect of records of assessment relating to government officers, so that whenever any investigation is undertaken on the basis of any suspicion of corruption against a government officer the assessment papers may be available to the investigating officers.

These are the objects of this Bill and I do hope that the House will readily pass the Bill. Sir, I move.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will now take the Bill clause by clause.

The question is:

"That clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. C. Neogy: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

TERRITORIAL ARMY BILL.

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I move: —

"That the Bill to provide for the constitution of a Territorial Army for India be taken into consideration."

During the last session of this House I announced the Government's decision to constitute a Territorial Army for this country. In that statement I had indicated that the Territorial Force Act of 1920 might not be entirely suitable for the Territorial Army that we now proposed to raise. After careful examination it has been found necessary to have a new Bill altogether. For instance, the old Territorial Force Act of 1920 has got a provision that all the members of that Territorial Force shall be subject to the British Army Act. Now that does not suit us under the changed circumstances. That is the main reason why it has been found necessary to have a new Bill.

As regards the actual provisions of the Bill I may point out that we have based the Bill on general principles. We have not gone into details. The details are to be worked out in the Rules. The Rules will make provision for all the details that are necessary for the working of this Bill. In view of the experience gained in the past, we have found it unnecessary to make statutory provisions for things for which statutory provision is absolutely unnecessary.

As the House will recollect, there was a general desire from every member of this House and also the country in general, that we ought to have a Territorial Army as early as possible. The main purposes for which this Territorial Army will be used have been indicated in the Bill itself. In addition to that, this Territorial Army will go a long way to meet the general desire amongst our population that military training should be given to everyone of those who wish to have some kind of military training. As I indicated previously, although we have limited the size of this Territorial Army to 1,30,000, as soon as this target is reached, and if there is a general desire that this number should be increased, well, that will certainly be considered by Government. There is absolutely no limit. But, to begin with we have to put a certain limit. That was fully explained in the last Budget Session of this House.

I do not think, Sir, there is much to explain about the general principles of the Bill. Everybody is agreed about them. There are certain amendments which have been given notice of. These have been discussed with the members who have given notice of them, but I will deal with them as and when they are moved. But one thing I would like to point out, namely, that some members have got a little bit of doubt and they think that we have omitted any reference in the Bill to the urban unit. There was a special provision in the old Act to raise urban units. By the omission of these urban units we do not mean that the urban units will not be raised. But what I am anxious to avoid is any reference to urban or rural units. It is our intention to raise the maximum number of units in the urban areas as well as in the rural area.

Then I have also promised that the rules which will be made under this Act will be placed before the Standing Committee of this Legislature for Defence, and they will have the opportunity of making any suggestions which are considered necessary.

With these observations I commend my motion for the acceptance of the House.

Mr. Speaker: Motion moved:

"That the Bill to provide for the constitution of a Territorial Army for India be taken into consideration."

I find that two honourable members—Shri Biswanath Das and Shri Mahavir Tyagi—have tabled amendments to this. Do they intend to move their amendments?

Shri Mahavir Tyagi (U. P.: General): I want to make a few general comments at this reading.

Mr. Speaker: I want to know whether he proposes to move his amendment.

Shri Mahavir Tyagi: No. But I thought you would permit a general discussion.

Mr. Speaker: My question was whether the honourable member desires to move his amendment and I understand his answer is in the negative.

Shri Biswanath Das (Orissa: General): I do not propose to move my amendment.

Sir, while welcoming the measure as a very necessary one, I must say that I feel we are not at all satisfied with the way in which it has been proposed to be rushed through the Legislature. Sir, this could have been brought before the Legislature a little earlier in this session so that we could have taken it through the process of the Select Committee. There are important provisions in the Bill which need revision. The old Act does not suit the present conditions; in view of the changed conditions, I am glad that the Bill has been brought and it proposes to give the necessary military training to the people of the country.

Sir, in that view of the question we welcome it; but there are certain provisions like clause 7 of the Bill which leaves the power in the hands of the Central Government to take these trainees to places outside India. Here I believe certain modifications are necessary. Trainees have to be called as provided in the Bill to have military training and to be utilised for the internal security of the State as also to serve as a second line of defence for the Army. That being the position, I do not think that it would be fair to expect that the people who are coming under the discipline and training of the territorial force should be called upon to go to places outside India.

Then again, in clause 9 of the Bill power has been given to the Government of India to make adaptations of the Army Act. Sir, adaptations are odious—adaptations may be necessary but nonetheless they are odious. We do not want adaptations. The Bill has been designed more or less on the lines of the Territorial Army Act of England. Why not incorporate the necessary provisions in the framework of the Bill? Why leave everything to the executive and nothing in the Bill itself? I should think that if this Bill had been introduced in time and gone through the process of the Select Committee, many such improvements could have been effected in this regard and necessary and useful provisions could have been included in the framework of the Bill so as to make it unnecessary for my friend to go in for adaptations.

Thirdly, the details of the Bill are practically left to the rule-making power of my honourable friend. We have no objection; the Government should have power to make rules—we welcome them in a sense, but, Sir, I cannot agree to the rules being framed by the executive Government of the day without coming to the Legislature. That means and implies giving the executive a power which you and I would not agree to do. I trust them, but there is a limit to trust, there is a limit to confidence; I think they should also reciprocate the trust that we give them, namely that they should not hesitate to come to the Legislative Assembly to get the rules approved. In this view of the question

I would not agree with my friend that the rule-making power so vested in the executive should be utilised without at all coming to this House.

Having stated so far, I should say that most of the details that are so very necessary and essential for giving effect to this Act have been left to the rules. I would appeal to my honourable friend to agree to go through the process of approaching the Legislature to get approval for the rules that are framed by him. That is necessary as that gives the Government a sense of responsibility and a sense of relief because they will be sure that the rules that are framed by him have the legislative sanction behind them and as such have also the popular support behind them. In view of that I appeal to my honourable friend to agree to this.

Sir it is no use passing Bills. In the course of this short Session, we have passed a number of Bills. Passing of Bills without the intention of giving immediate effect to such Bills takes us nowhere. You have taken away the responsibility of Rashtriya Swayam Sevak Sangh to give some sort of physical training to the people. You have practically in a way asked the people of this country not to have volunteers so as to get a sort of modified military training or physical training in a certain specified manner. Having done all this, I think it casts a serious responsibility on the Government to take up all these on their hands; whether the Government that has to discharge this responsibility is of the Province or the Centre, it matters very little, but the responsibility has to be discharged. Unless and until you discharge this responsibility you will be answerable to, the honourable members of this House and the honourable members of this House will certainly be responsible to the people of this State. Sir, protests have been made from various quarters to such an extent that certain friends in the Punjab had to feel the necessity of taking to satyagraha. In this view of the question I would appeal to my friend to take an earnest view of the question and try to give effect to the provisions of the Bill and have a Territorial Force which he and we so much desire to have as early as possible.

With these words, Sir, I thank him very much and I wish him good luck.

Shri S. K. Patil (Bombay: General): Mr. Speaker, Sir, I rise to heartily welcome this very important measure. Although superficially it appears to be a very simple measure, because it has not many sections and no complications, in my view it opens a new and important era in the defence resources of our country. My honourable friend the Minister for Defence will not take it as an adverse criticism if I say, Sir, that a measure of this description should have been introduced in this House within the very first month of our achieving freedom. We have passed about a year and if this measure was taken so early as that, I have reason to believe, and I think the honourable members of this House will agree with me, that by this time we should have got this one lakh and thirty thousand soldiers that we want to create under this new scheme.

Shri H. V. Kamath (C. P. and Berar: General): More than that.

Shri S. K. Patil: As I said, Sir, and as has been pointed out by the Honourable Minister in charge, although the Bill appears to be simple it has got very important and far-reaching repercussions. As the statement of objects and reasons has very clearly pointed out, this Territorial Army is intended to be a second line and another source of reinforcement of our regular Army. We have realised rather painfully during these days how important the existence of such an Army is to India in the present context.

Another thing which is also very important is that this Army is intended to assist the internal defence duties. We have been going through very hectic times during the last twelve months and at every step we found that it was

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necessary that our internal defence duties were carried on, not by the regular Army, but by some such Army which we are contemplating to create under this measure. So also this Territorial Army is also going to be responsible mainly for the anti-aircraft and the coastal defence. Now, if we take anti-aircraft and coastal defence, we can quite realise in a vast country like India with thousands of miles of coastline which luckily we possess how many thousands if not lakhs of people we require if our coastal line defences are to be perfect and our anti-aircraft defences are to be efficiently maintained.

Along with that, there is a view which has been very clearly expressed in the Statement of Objects and Reasons that an Army of this description is intended to give the youth of India an opportunity of training themselves to defend their country. Ever since we became free, there has been a wave throughout the length and breadth of this country, and millions of young men are ready today to join even the regular Forces if only they get an opportunity. There have been talks everywhere about national conscription. There are people who may think that why in the days and the times through which we are passing there should not be a national conscription. Many people do not understand and realise the difficulties of national conscription, but if this Bill had been introduced in time, all those who believe that a national conscription was necessary would have got something instead on which as a nucleus they could have built up their dream of a national conscription. Therefore, taking into consideration all these points, it is not a day too soon that this legislation has been introduced.

My honourable friend the Minister for Defence has stated that although under the present scheme he contemplates a Territorial Army of a 1 lakh and 30 thousand he believes that possibly this would be a nucleus and more such schemes will be forthcoming, or under this very Act it would be possible after a year or after the period stipulated to have Armies either of another 1 lakh and 30 thousand or even more. May I appeal to him in all humility that he should take stock of the situation in which this country is placed, exposed as we are to external danger, also exposed as we are to internal insecurity, and therefore there is a necessity that we must have at least a million of such army. There was a time when I used to talk of ten millions but that is neither necessary nor possible—we do not want to conduct any invasion and for that purpose we do not want an offensive Army—but even for the defence of a country which is so vast as ours and especially of our coast-line which is really subject to attacks in every direction—possibly, it may not be within the next few years, but surely a country like ours could not remain for a long time defenceless from a naval standpoint—so for all these purposes we should not be content with having a Territorial Army of only 130 thousand soldiers. We must have an Army which is at least ten times as large as that, but surely if we have to look upon the provisions of this Bill as a nucleus on which that type of Army can be built up, then from that stand-point I have no hesitation in welcoming this Bill.

Several objections have been raised and it has been pointed out by my honourable friend Mr. Biswanath Das who spoke before me that too much power has been taken by the Centre. In fact, there is nothing in this Bill except provisions to say that that power has been given to the Centre. May I tell him that although as a democrat I would always fight so far as the rights of this House and of the people of this country are concerned—and they should get as much democratic power as possible—so far as the Army is concerned, I shall really make an exception and say that the more the concentration of power in the hands of the Central Government the better it is for the safety of the country and from every stand point. Therefore, I am not at all sorry that the power has been vested in the Government of India. Surely, it is not suggested that this is such a democratic subject that we should get the Provinces and the States and everybody into our scheme and we shall so decentralise

the power that every unit thereof should be autonomous and should get some voice in this Army. It is certainly a proposition which is not acceptable to me at all. We have been faced with certain suggestions not merely made by Mr. Das but by others as well. There have been criticisms and there have been amendments and I am taking stock of the situation as a whole and I am coming to this view that at least so far as the constitution of the Indian Army is concerned, for many years to come at any rate, I would like the Government of India to take as much power in its own hand as is possible to be done under the circumstances. We are an infant Government yet as a free country. It is only twelve months since we are free and the roots of nationalism have not yet gone deep into the soil. Our nationalism, excuse me when I say that, is only skin deep. It has got to go deep down into our blood, into our soul, and until then it is dangerous to expect that the Army should be so constituted that every unit, every Province and every State must have some say in the matter. That would be an impediment in the building up of that Army. If that proposition is seriously advanced by anybody, I should say that it is detrimental to the interests of this country and it ought not to be entertained even for a minute.

It has been pointed out, possibly on the analogy of the Indian Territorial Force under which we had built up an Army, that this should be something on that model. May I point out to this House that there is a word of difference between the conditions which existed in 1920 when that Act was passed and the conditions of the times in which we are living today. In those days it was not very fashionable or popular to join the ranks of the Army and for that all manner of temptations had got to be put in the ways of the people. The people had to be actually cajoled and for that purpose many Advisory Committees had to be appointed, Zonal Committees had to be appointed, Amenities Committees had to be appointed. Somehow or other, the thing which was distasteful had to be made popular or fashionable and for that purpose you had to do all these things. But now, is there any member who seriously suggests that in order that we shall constitute a proper Army all those temptations are necessary? Open the gates, and you will find thousands and millions of our young men would walk into them, because they know only too well that it is their duty—primary and sacred duty—to defend the borders of this country and to see that the internal security is well established in this land. Therefore, all those things which existed in those days need not be repeated today. Any time it seems to you that the co-operation of the people is not forthcoming in required measure, surely it is open to the Defence Minister to come before the House and amend the Act accordingly if by rules that same purpose could not be secured. Therefore, I am not with those people who really believe that this Act should have been framed on the same model as the Territorial Forces Act 1920.

The Honourable Minister has pointed out that he has done away with the difference between the urban units and the rural units; he has also done away with the difference between the martial races and the non-martial races; he has also done away with the preferential treatment to this province or that province; that possibly Punjab is a martial province and Madras and Bombay perhaps are less martial.

An Honourable Member: But Madrasis are very martial now.

Shri S. K. Patil: Yes, they are very martial. I am only saying that I am glad the Honourable Minister in charge of our Defence has done away with all those differences, inferior, superior and all that kind of thing. India, today, is one. Its national integrity is beyond question. It is the right of every son and daughter of India that he or she should stand four square for the defence of his or her country and that all this imaginary distinction of martial race, etc., should go and everyone should work for the defence of the country. Therefore, if these differences are done away with

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I am not at all sorry about it. I know that conditions will differ in rural and in urban areas so far as actual recruitment is concerned or the training and other conditions. But for that purpose we need not make a statutory provision that there shall be urban units and rural units. It must be possible for anyone who wants to join the army, whether he resides in a village or in a city, to join it without any impediment being put in his way. I am rather afraid that the Honourable Minister, when the scheme is announced, will find himself in difficulty because he will find ten times the number of applications that he wants, in the very first month. There is such a spirit today in the country that everybody who wants the country to be defended will come and join this. Therefore his arrangement must be so flexible that at any time when he wants to extend it there may be enough room for such extension. I know there is dearth of trainers and elaborate arrangements have to be made. It is not of course done overnight but will take some time. But we have to bear in mind that this is just a beginning. If we create an army of 130,000 people this is the first step and the beginning; and I think in ten years we shall find that this territorial army has multiplied tenfold. Therefore I appeal to those who have given notice of amendments and believe in the high principles of democracy that the time has come when the passing of this Bill ought not to be delayed even by a day. I am very glad that the Honourable Minister brought this Bill today; he should really resist the temptation of accepting any amendment which would result in delaying the passage of this Bill. It must be passed in this session and he must immediately put it into action.

We are told here—and very rightly too—that Government will frame rules; to meet contingencies the rule making power has been taken by Government as usual. But no time should be wasted in making those rules. Sometimes it does happen both in the provincial legislatures as well as in the Central Legislature that the rule-making power is taken by Government but the rules are not made for months and years and therefore the implementation of an important Bill becomes impossible. I am sure the rules must have been already made; but if they have not been made there must be no avoidable delay in making them, so that the implementation of this Bill may start on the day that this measure receives the assent of the Governor General. I welcome this Bill and I assure the Honourable Minister that the youth of India is waiting for this. In fact our young men have become impatient. They wanted this measure much earlier. But as it has come now the Honourable Minister should take every step in his power to see that India builds up one of the strongest defences in the world not only for defending its borders from foreign aggression but also for keeping the internal security which is so very necessary for its peace, progress and prosperity.

Shri Biswanath Das: Sir, on a matter of personal explanation, I do not see where both have offered. I have stated that we have confidence in the Ministers and are prepared to give them any amount of power, but on the principle of reciprocity they should also have confidence in us and agree to have all these rules confirmed by us. Then I stated that in the rule-making clause of the Bill there is no provision even for placing the rules on the table of this House. Therefore the only difference between my honourable friend and myself is...

Mr. Speaker: Order, order. The honourable member cannot argue the matter further; he can only give a personal explanation. Mr. Patil did not refer to him personally; in fact he clarified the point that he was not referring to Mr. Das. He was referring to all the amendments and not to any specific amendment.

Pandit Hirday Nath Kunzru (U. P.: General): Sir, the Bill before us undoubtedly deals with a very important subject. The Statement of Objects and Reasons fully indicates the purposes of the Bill. It will provide, when

passed, a very important means of diffusing military education in the country. But in considering this Bill I think we shall be justified in taking into account not merely its professed aims but also the language in which the intentions of Government have been expressed. I am not prepared to dismiss the subject as airy as my honourable friend Mr. Patil did. The question of the contents of the Bill is of great importance even at this time, and perhaps it is of greater importance now than it was ten or twenty years ago because of the increased consciousness among the people.

Sir, apart from clause 7 of the Bill which deals with the liability for military service there is nothing in this Act which can be regarded as of fundamental importance. This clause undoubtedly contains a very important provision that no member of the Indian territorial army would be required to perform military service beyond the limits of India except under a general or special order of the Central Government. In this respect it follows the language of the Indian Territorial Force Act. But with this single exception what does this Bill contain? All it tells us is that there will be a force known as the Indian Territorial Army, that members joining it may be punished and that they will be subject to such rules and regulations as Government in their wisdom may choose to make. Now there are undoubtedly matters which have to be left to be provided for by the rule-making power of Government. The complexity of administration, both in this country and elsewhere, has made it impossible for Parliament in any country to embody even all important details in a Bill. In consequence of this the power of the executive has increased greatly. But we have to see as guardians of public rights and interests that this rule-making power is not allowed to be increased to such an extent as to make legislation virtually a farce.

There must be certain matters which the Parliament should legitimately claim to control. It is only when the execution of the main purpose of a Bill is to be considered, that discretion can be given to the executive to carry out the purposes of a Bill. Looking at this Bill from this point of view, can it be said that all the matters that have been left to be dealt with under the Rules and Regulations are such as ought to be of no concern to this House? In order to have an objective standard to arrive at some reasoned conclusions in regard to this matter, we might well refer to the Indian Territorial Force Act. We were dissatisfied with the manner in which that Act was worked. The size of the force was limited and the training given was not the same as that given to regular soldiers. I have no doubt whatsoever that the Government will take a much keener interest in the development of the Territorial Army than the British Government did. But there are certain provisions which the British Government considered necessary to include in the Indian Territorial Force Act in order to enable a citizen who wanted to join the force to know what his minimum rights would be. One of the things to which I should like to draw the attention of the House in this connection is that the Indian Territorial Force Act recognised the importance of establishing an Urban unit. The reason for it was that public opinion desired that opportunities for military training should be provided not merely for the rural areas, but also for the urban areas, to educated people, who would not be able to give up their advocations in order to join the force. This is an important provision. I will not dispute the good intention of the Government. I have no doubt that my honourable friend the Defence Minister is as keen as anybody else that more urban units should be established. But, we are looking at the matter from the point of view of principle. We are told that the force will consist of officers and enrolled persons. We should be assured that there will be in addition to rural units, urban units. I suppose it is absolutely necessary to lay that down in the Bill. The common opinion is that the army would consist of officers and the rank and file. Yet, this matter has been excluded in the Bill. A far more important matter has been excluded on the ground that it can be dealt with under the Rules. Sir, the Govern-

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ment ought to realise that there are people in the country who want to receive military training under the Act which is going to be enacted. They will naturally compare the Bill before us with the Act passed by a foreign bureaucratic Government. Will it be a source of great satisfaction to them that provisions which were regarded as important features of the Act have been excluded from the Bill which we are now considering?

Again, Sir, the Indian Territorial Force Act provides that no enrolled person should be transferred from one branch, from one corps or unit of the force to any other branch or corps or unit without his consent. Such a provision finds a place not merely in the Indian Act, but also in the British Territorial and Reserve Forces Act. I have to draw the attention of Mr. S. K. Patil that England has a National Government. The Act to which I have referred, has a body, it is not a skeleton, which gives complete power to the Government to do as they like. If the British Government considered it necessary that such a provision should be included in the British Territorial and Reserve Forces Act, I should like to know what justifies this exclusion from the present Bill. I am sure, the House will grant, whatever confidence it may have in the good intentions of the Honourable Defence Minister, that such a provision which confers a definite right on the members of the force ought not to be omitted from the Bill.

To illustrate my point, further, Sir, I would refer to another provisions of the existing Act. It relates to the replacement of the Territorial troops, as soon as circumstances permit, by regular or other troops. This, undoubtedly, has left a great deal of discretion in the hands of the military officers. In an emergency, the Government cannot deprive the executive officers of this discretion. But, the Act clearly pointed out that the purpose of the force was to help the regular army in case of need only to the extent that its help was necessary. This provision too finds no place in this Bill. I was unfortunately not in the House when my honourable friend the Defence Minister spoke. I was therefore unable to profit by his observations, but I have no doubt that when he replies his defence will be that none of these matters would be over looked and that all of them would be adequately provided for in the rules. My honourable friend would in effect say to a citizen: "Trust the Government to do the right thing. You have no rights except such as the Government chooses to give". Is this the language in which the Defence Minister proposes to say to the people of India in the Year 1948? Is this a course which my honourable friend, Mr. S. K. Patil would seriously advocate to this House? I am afraid he spoke a little undauntedly and with too much enthusiasm. If he reflects over the matter, I am sure he will realize that the position in the country is not such as to enable anybody to claim that the people would be perfectly satisfied with the motives and intentions of the Government and would need nothing in order to assure them that those good motives and intentions would be fully carried out. A stand like that taken by the Government might easily have been taken 20 years ago. The ordinary citizen was of no account, then. Then the military authorities enjoyed great prestige and power, which they no longer do. It was considered necessary even by the British Government while framing the Territorial Forces Bill to include certain provisions which are essential and clothe the Bill with flesh and blood. For the reasons that I have given, Sir, I do not at all approve of the course which Government have chosen to adopt. I think it is an entirely wrong course and I trust that the House will not permit such a Bill ever to be brought before it in future. It is a travesty of legislation, Sir, that we should be asked to consider a Bill which practically confines itself to say that there shall be an Indian Territorial Army, which shall be governed in such a manner as Government may from time to time desire.

There is one more point, which I should like to refer to before I sit down. During the War, the services of women were needed in every country. We had to set up a special organization in India in common with other countries that were engaged in the War to enable women to play their part in the struggle that was going on. Now, I should like to know what are the intentions of the Government in regard to this important respect. Nothing, as I have already indicated, has been said in the Bill on this subject. The experience of the War has shown, Sir, but I think it is necessary for Government to tell the House in what manner they propose to utilize and train the women to be helpful to the country in an emergency. Sir, we know the various ways in which women served during the War. The National Cadet Corps Committee has recommended a scheme for the training of girls to discharge such duties as they might suitably be called upon to perform in a war. Having been the Chairman of the Committee, it is not for me to say whether its recommendations are sound or not. But I think that they provide a good starting point. Government need not wait till the girls who have received training under the scheme recommended by the National Cadet Corps Committee are ready to join any organization for women that might then be set up by Government. There are already in this country women who would be prepared to undergo training to fit themselves to help men in a crisis. There are some who are trained during the war and some of them can be used as Instructors and the others can be used in order to provide the nucleus of an organization which we hope will expand in the future. These are the main points which I should like to put before the House. I know that the House in its present temper, will not be prepared to introduce any new provisions in the Bill. I have, therefore, not troubled myself with giving notice of amendments, but I must say again with all the force at my command that this Bill should not provide a model for the future; its form is as unsatisfactory as it could be; it seems to me to have been hastily drafted, so that something might be passed by this House before this session. Now the Government are making a virtue of their fault and insisting that the points which were included in the Indian Territorial Force Act had better be left to be dealt with by the military authorities and the claim, the advantage or flexibility in the present context means telling the citizen that he has no rights whatsoever *vis-a-vis* the Government.

Shri Mahavir Tyagi: I also want to take this opportunity of thanking the Honourable the Minister for Defence not for the completeness of the Bill, since it is being criticised, but for the spirit behind this Bill. In fact, since the partition of the country, there has been a lot of frustration in the public mind, and unless there is some such lead which gives an individual an interest in society, something on which he could hinge his hope, this frustration can never be overcome. One does not know what to do in spite of our republican Government. In spite of our slogans, everything seems to have now gone practically wrong and hollow.

I call this a republican Government because we have been sent by the public and we are managing all the affairs of our State.

This Bill at least gives a slogan to the people: it gives a hope to the people. Strategically, partition has not placed us in a very happy position. On the west there is a neighbour who says he is our enemy. We have not yet called him our enemy. But every day on the radio the biggest of their leaders, their Fuhrer, calls us their enemies. He is also on our east, and even inside India there are people who are not very friendly to us. Under these conditions, we must give the public a lead how to withstand this terror—the terror of this enormously intricate situation that is brewing in the air. Every one in the streets wants a cure. Every one wants some way out of it and some lead.

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I beg to submit that if the provisions of this Bill, as have been thought of by the Honourable the Minister for Defence are given shape to, then I am sure that the structure and the set up of that organisation will infuse some hope in the individual. Now things are so hopeless. I read in the papers the other day that on account of some troop movements in East Punjab there was an influx of people from Amritsar and other places. They felt as if war was coming. India has not seen an internal war for a long time and one cannot say what will happen if really this unfortunate catastrophe occurs in India. If there is a war, whether here inside, or on the east or on the western front, one cannot be sure as to what will happen to our population. They are not trained in mass movements. We have already had an experience of the movement of the masses and we have not been able to overcome its effects yet. We have not been able to rehabilitate those masses lying here on our streets. If there is a war, whenever it is and wherever it is, it will lead to chaos. It will give rise to a situation which will be very difficult to control unless we give regular training to our people in the matter of marches, in the matter of movements, and military training. If this Bill is to infuse that military spirit and a spirit of defence in the people themselves, then I must submit that this is for the good of the country.

I am an ex-army man. I had been in the army in the first Great War of 1914. I had non-co-operated. I was court-martialled and expelled from Baluchistan and Persia where I used to be. I had been exiled from there and sent to my home. I have a little bit of experience of war. I submit that whenever there was a question of a territorial army in the British Parliament and in other countries, the main idea behind it was to infuse a spirit into the public—the voluntary spirit of coming out for defence. That was the main idea and that was in fact forced on the minds of the politicians because these politicians have always held that those who joined the army to fight had little initiative: they joined Army, because either they had a charm for the beautiful dress or the uniform or badges or because they had no other means of livelihood. They contended that educated persons who had the fire of true patriotism did not go to the standing armies. In the standing armies there were people, including officers, of all ranks, who went there according to their status. But these people came mainly for the purpose of having some employment and to occupy their spare time and use their energies in eking out a living.

Mr. Speaker: The honourable member may resume his speech after Lunch.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock.

Mr. Speaker (*The Honourable Mr. G. V. Mavalankar*) in the Chair.

Shri Mahavir Tyagi: Sir, I was talking before lunch about the origin of the territorial army. As far as I know these armies came into being because of the fast changing tactics of war. The war lords felt that there was something which was lacking in their armies and that was, tactical initiative which of course the armies of old did not possess. Old wars were fought on the strength of the muscle. Now the war of muscles is gone and our wars are wars of nerves and therefore they wanted to infuse into their armies well developed nerves and a complicated process of thinking which only such men could do as were well educated, and whose feelings of patriotism were well developed. Also there was a demand for civilians to participate more and more and take more and more interest in war affairs. Therefore this idea of the territorial army originated. Since we are also going to raise a territorial

army I beg of the Minister to see that this army is not absolutely deprived of its original roots in the people. It must have regular contacts with the public. The regular army had nothing to do with the public: it was kept absolutely isolated from the people. Every army must have a slogan, because wars of today are the wars of slogans. It so happens that our country has no slogan; being a secular state. The idea of secularity means that we can talk of truthfulness, amity, friendship and so on. But these slogans have no zest or spirit behind them. The strongest emotion of man is either one of friendship, which is maddening or there is another stronger sentiment, which is enmity. I know that enmity is a stronger sentiment. Our neighbours have taken to that fanatic slogan of war against us or calling us enemies. Therefore the bestial spirit in that part of the land will always rise and raise that slogan of war against us. They point out to us as their enemy and they will therefore raise the spirit of their people to fight against us. But our slogans are secular and have no force: they are only a pious sort of slogans. We had no slogan till now. But there is another strong feeling in man: it is the feeling of security, survival or protection of oneself and that instinct of self-preservation is the basic instinct of man. By raising this territorial force in the country we are giving to our people a slogan of survival. This is a slogan which will appeal to the country and therefore I welcome this measure.

Sir, I have nothing more to say except that the Bill as drafted is slightly lopsided, as far as its balance is concerned, as it is more in favour of the rule making authority. I agree with my learned friend Pandit Kunzru when he says that most of the laws which this House has enacted are in favour of the power which will frame the rules in regard to these Acts. It is not the elected representatives who frame the rules, it is not the Honourable the Defence Minister who frames them although for all practical purposes he is responsible for every word and letter of the rules and their spirit too. Actually what happens is that the Secretary or one or two officials draft the rules and the Minister may make a change here and there. When those rules take shape into law it will come to this that instead of the legislature legislating for the country and the army, it would be one or two officials who will legislate. Therefore I submit that this Bill is lopsided in its balance because it is more in favour of the power, viz., the secretariat officials, who will frame the rules. Those rules will for all practical purposes in the long run be the law which will govern our boys when they join the territorial army, take their training or go to their barracks. Those rules are the rules which will concern the man in the street because it is those rules which will tell the man who wants to offer himself as a recruit, whether the Territorial Army is worth joining or not. I therefore hope that when the rules are framed they are brought to the notice of the House and if any changes are required this House may be given an opportunity of having their say as to whether they would like to change any rule or not.

Since, Sir, it is a matter which relates to the army I wish to take this opportunity of saying a few words regarding those of our lads in the army who have been slain in Kashmir. Those young boys have given their lives for the cause of the safety of our country and our sympathies go to them. It is not the referendum of hands that counts but the referendum of the heads that lie beheaded on that stony soil of Kashmir. It is they who have decided our fate. If those dead ones could listen to our voice we wish to assure them through this Act that we hope to accomplish what they could not in their attempt and shed their blood. Let those beautiful flowers which will blossom in the valley of Kashmir bespeak their appreciation of the great deeds of valour which our young boys have done and the spirit they had displayed. Let our young lads by enrolling themselves in the territorial army express

[Shri Mahavir Tyagi]
their appreciation of the heroism of those young men who have given their lives and assure them that they are following the path which they had shown.

Prof. Shibban Lal Saksena (U. P. General): Sir, this is a Bill which has probably been very eagerly awaited. My honourable friend, Mr. Patil was right when he said that this Bill should have been the first Bill that this Legislature should have passed. However, we had to wait for a whole year for the Bill to come before the Legislature. In Russia, when they had won the Revolution, Lenin entrusted Trotsky with the job of creating the Red army; and within one year, from out of nothing, they created an army which drove out the invaders within the first two years. We too knew from the very beginning that all around us there were enemies. My honourable friend pointed out that we are surrounded by enemies in the east, in the west, in the north and in the south. Still the Government thought that good-will would prevail and that we could postpone the day when we shall have a National Militia containing millions of people. This House realised the importance and the need of the situation and I remember that our veteran leader Dr. Pattabhi Sitaramayya brought forward a resolution for the formation of a National Militia, about eight months ago. The reply of the Government then was that they would consider the matter and soon raise a Militia. But in the last session we were told in the course of a statement that the Government would form a Territorial Army and that it would consist of a lakh and thirty thousand people. And then we are now told it was found that a change of the Territorial Force Act was necessary to raise this force. I really wonder why the Defence Department did not see that they could not enforce their decision unless they made a change in the Act. I therefore think that there has been a very great carelessness on the part of the Department in having postponed this Bill till this date. It should have come at least at the time when the Minister made the statement during the last session. Then it could have been implemented and it would have come into force by now and would have helped the country. Unfortunately that has not been done.

What is the position today? Does this Bill fulfil the needs of the country? I think it does not. The main idea behind the demand for a militia is that every man in the country must be able to defend himself. This Bill caters only for one lakh and thirty thousand people. Of course it will make them better trained and probably make them fit to be absorbed into the army when necessary. But I think that the immediate need of the country at present is that the people on the borders and on the frontiers and people who are in danger zones, and also other people in general, should be able to defend themselves. They should be trained in the use of rifles and given rifles and other arms. If there is a war, whose clouds are gathering and which probably is a certainty, what shall we do? I think this Act will not be able to serve the purpose. I therefore want something much more than this. I want to give to the Honourable Minister the experience of my own Province. In our Province our Premier, the Honourable Pandit Pant, has evolved a scheme of training 12 lakh persons. The scheme is to take eleven men from each village and constitute a village militia. It is known as the *Prantiya Raksha Dal*. I am surprised that within the short space of less than one year we have been able to create at least half that number. They have been able to train instructors. The trained instructors are being sent to the villages and now they are raising people in each village so that by the end of the year there will be 12 lakhs of people who will know the use of arms. Of course they will not have rifles because there are not enough rifles to go round. But they will know how to use them. My submission is that the Central Government should benefit by the experience of this Province, take the initiative and see to it that in every Province a body like that is formed.

They should see to it that in every village there are at least eleven persons who know the use of arms and who can bear arms. This should be done in every Province and it should be co-ordinated from the Centre. The Centre should help by way of providing finance and by way of providing military experts for training the people. At the rate of eleven persons from each village, from the 7 lakhs of villages there will be 77 lakh people who will know at least the use of rifles.

Yesterday we were sitting in the Standing Committee on Rehabilitation and we were thinking about problems of how to rehabilitate lakhs of people who have come here. But I see that people are running away from the frontiers—in the west, in the east and also near about the south. How can our big schemes go on under these conditions? People get nervous. They will get reassured only when we are able to have some such scheme which will show that within a year we will have in every village at least eleven persons who will be trained in the use of arms and who will be able to defend the village in an emergency. If our factories are properly run, as they were run during the war, we can have all the rifles we need. My submission is that this Bill is not the Bill which can serve our needs at present. What is wanted is a Bill incorporating a plan for initiating activities like those of the *Prantiya Raksha Dal* in the U.P., in all other Provinces and co-ordinating them. The Central Government should supervise and finance all such activities. It should ask the Provincial Governments to raise such forces and should also finance them. I do not find any difficulty about finance. They can depend on half the contribution from the Provinces themselves. People are coming forward with so much enthusiasm that they are prepared to bear part of the cost of their own messing in training camps and even to pay half the cost of the uniform. When there is so much enthusiasm I do not know why we cannot utilise it.

I want, Sir, that the Honourable the Defence Minister should send the Bill to a Select Committee. We should evolve a scheme by which he can make every Province start a scheme like the scheme of the *Prantiya Raksha Dal* of U.P. The Central organisation should be able to co-ordinate their activities. It should also have these one lakh and thirty thousand men or more, who should be trained as instructors. The Territorial Force should consist of instructors who should be able to give the benefit of their training to other people. That will be something which will reassure the country; there will be then no panic; people will know that the country will not take any aggression lying down.

The issue is grave. Although our brave sons and our brave brothers have defended the soil of Kashmir and the country in the snows, still we do not feel gratified when we hear that there is a reversal or a defeat. We do not want that a small power like Pakistan should be able to give us defeats. I know that they are in advantageous positions; they can have their bases in Pakistan near the fighting lines. Still we are a bigger and a mightier country and we should therefore be able to see that our brave men whom we have sent to defend our honour are not let down. If the enemy has got 80 pounder guns our men should have even bigger guns and we should not be throwing the lives of our men so cheaply. I think the country is agitated over the whole question and people do not want a Bill in this form.

My honourable friend Pandit Kunzru said that there is no flesh and blood in this Bill. I agree with his criticism. The rule-making power should not become the power of making laws. At present really all the laws are made by the rules and the rules will be really what the laws should be. I think this is a power which is very dangerous to our democracy and should not have been given. Still I am in hurry and I do not want that the thing should be held up be-

[Prof. Shibban Lal Saksena]

cause the Bill has not been clothed with flesh and blood. I am eager that proper rules should be made as soon as the House passes this Bill into an Act. But I do want that this Bill should become a much more comprehensive measure. The Bill should therefore be sent to a Select Committee where all the provisions of the Bill should be recast in such a manner that the whole Bill becomes a new Bill, having more flesh and blood and providing for all important things in the Act and leaving less important things for the rules, so that it may become fully suited to the needs of the country today.

I also want to point out that today we are only faced with Pakistan. But we are now a free country and we have to take our place among the nations of the world according to what our population warrants. America sent one core and sixty lakhs of people outside its frontiers in the war to fight for Imperialism. That is about 12½ per cent. of its total population. We cannot afford to maintain a regular army even one-fourth of that size. But if we want to live in the world with honour and with our head high we can do one thing. We can train every man in our country who can bear arms in the full use of arms. And that is the purpose of the National Militia or the Territorial Army. I therefore think that if we begin in the manner that I have suggested, and all Provinces start similar things as the *Prantiya Raksha Dal* of U.P., if the men in the villages are given training gradually to make them into complete soldiers, then we shall have very soon 77 lakhs of people trained in the whole country. We can raise the number gradually so that very soon our country will be able to boast itself of possessing an adequate number of trained people who can fight any danger to our country. At present we are in a grave situation. Everywhere peace is threatened. We are all reading in the papers what happens round about Hyderabad, what happens on the Pakistan frontiers, and we have no reply to people who question about these things. I do wish we could give a reply and this Bill, suitably recast in the manner suggested, will give the reply: Our Parliament has passed a Bill; we are prepared to give the whole country training in arms, we shall have a National Militia, a force which will be worthy of our country, which will defend the honour of our country at any time, so that no country dare cast its eyes upon us.

Sir, with these words, I support my request to send the Bill to a Select Committee.

Begum Aizaz Rasul (U.P.: Muslim): Sir, I am grateful to you for so kindly giving an opportunity of extending my wholehearted support to this Bill. I welcome the Bill and congratulate the Honourable the Defence Minister for bringing forward such a legislation.

There is no doubt that this new and important measure will open a new era in the military position of our country. I am glad that an opportunity is being given for infusing military education in the country. Sir, at a time when the safety of India is threatened from all sides, we must do everything in our power to strengthen our defence, and I am glad that an opportunity is being given to the youths of this country to take training in the defence of their motherland. It has been rightly pointed out here—and I am glad that the Honourable the Defence Minister has also mentioned it—that for a vast country like India the number of one lakh and thirty thousand is an extremely inadequate number. But I hope that as time goes by larger and larger number of people will be able to receive this military training and that this number of one lakh and thirty thousand will before long be very much expanded.

Sir, a very pertinent question that was put by the honourable Pandit Kunzru was regarding the position of women in the defence of their country.

Experience of the last war has amply proved that women can play a very great and important part in this line. I hope that the Honourable Minister, when making out the plan for this training, will keep in mind the fact that women should also be given an opportunity of training themselves for the defence of their country. We hope that ways and means will be devised and opportunities will be given to women to take the right training in order to make themselves most useful in the spheres in which they can do so in this Territorial Army.

Sir, I know that the House is very much pressed for time and, therefore, with these few words I wholeheartedly support this Bill.

सेठ गोविन्द दास : सभापति जी, मैं इस बिल का स्वागत करता हूँ, यद्यपि मैं यह मानता हूँ कि संसार का आण सेनायें भरती करने में नहीं है और तबतक हमारा मानव समाज सुखी नहीं हो सकता जबतक कि हम महात्मा गांधी के बताये हुए रास्ते पर न चलें। मैं तो उस समय की कल्पना करता हूँ कि जिस समय दुनिया में यह फौजें नहीं रह जायंगी और जिस तरह से आज चारों तरफ हमें खून खराबी, रक्तपात दिखाई देता है वह नहीं रहेगा। मैं मानता हूँ कि निसर्ग ने मनुष्य के हृदय में जो पाशविकता दी है वह रहने वाली है। व्यक्तिगत झगड़े दुनिया में कभी खत्म नहीं हो सकते, वे रहेंगे। एक मनुष्य दूसरे मनुष्य से ईर्ष्या भी करेगा। उस ईर्ष्या के फलस्वरूप झगड़े भी होंगे। कभी कभी रक्तपात भी हो जाया करेगा। परन्तु उसी के साथ मैं यह भी मानता हूँ कि जिस तरह आज दुनिया में बिना व्यक्तिगत दुश्मनी के भी फौजें लड़ती हैं, दो फौजों के जो सैनिक होते हैं ये एक दूसरे को जानते तक नहीं, उनमें कोई शत्रुता नहीं रहती, उनमें कोई ईर्ष्या नहीं रहती, उनमें कोई वैमनस्य नहीं रहता, इतने पर भी मैदानों में जा कर लोग लड़ते हैं, रक्तपात होता है, हजारों और लाखों की संख्या में लोग मरते हैं, यह पवित्रस्थिति जरूर बदली जा सकती है। व्यक्तिगत पाशविकता, के रहते हुए, व्यक्तिगत झगड़ों के रहते हुए भी सामूहिक पाशविकता, सामूहिक मारकाट का अन्त अवश्य हो सकता है। कहा जा सकता है कि दुनिया में हमेशा लड़ाई होती आई है और हमेशा होती रहेगी। मैं कहना चाहता हूँ कि दुनिया में जो चीजें पहले होती थीं आज नहीं होती। एक समय ऐसा था, जो कि इतिहास से सिद्ध है, कि जब मनुष्य मनुष्य को खाजाता था। और मैं आपसे कहना चाहता हूँ कि वह वक्त ऐसा वक्त रहा होगा कि जो मनुष्य सबसे अधिक मनुष्यों को खाने की क्षमता रखता होगा उसकी समाज पूजा करता होगा, और समाज में वह सबसे बड़ा वीर माना जाता होगा। आज मनुष्य मनुष्य को नहीं खाता। एक समय ऐसा था कि मनुष्य शरीर का सौदा होता था और यह बात इतिहास से सिद्ध है कि जिसके पास अधिक से अधिक गुलाम होते थे वह समाज में बड़ा आदमी समझा जाता था। लेकिन आज मानव शरीरों से सौदे नहीं होते। गुलामों के बाजार नहीं लगते और गुलामों का क्रय विक्रय नहीं होता। मेरे कहने का मतलब यह है कि यदि हम मानव इतिहास का अवलोकन करें तो हमको यह स्पष्ट दिखता है कि समय समय पर मानव ने जो मूल्य निर्धारित किये उनमें परिवर्तन हुआ है मेरा विश्वास है कि एक समय भी आ सकता है कि जब इस तरह का सामूहिक रक्तपात समाप्त हो जायगा और हम को व्यक्तिगत पाशविकता के रहते हुये भी सामूहिक पाशविकता दिखाई न देगी। लेकिन जबतक यह समय नहीं आ जाता जबतक महात्मा गांधी के बताये हुए मार्ग पर सारा संसार नहीं चलता तबतक हम सेनाओं का अन्त नहीं कर सकते, तब तक फौजों के निर्माण की आवश्यकता है और इसीलिए मैं इस बिल का स्वागत करता हूँ।

[सेठ गोविन्द दास]

मैं माननीय रक्षा मंत्री जी को इस पर बधाई देता हूँ कि वे इस प्रकार का बिल हमारे सामने लाये यद्यपि यह बिल अभी बहुत थोड़े दायरे में हमारे सामने आया है जैसा कि अभी मेरे पहले के वक्ता ने कहा इसका प्रान्तों में विस्तार होना चाहिए। संयुक्त प्रान्त में यह कार्य हो रहा है। हमारे मध्यप्रान्त में भी होमगार्ड का काम बहुत अच्छी तरह से चल रहा है और वहाँ पर हजारों की संख्या में होम गार्ड्स में भरती हो रहे हैं तो मैं यह चाहता हूँ कि यह और अधिक विस्तृत किया जाय।

इसके आरम्भ में लिखा हुआ है कि :

"It extends to the whole of India and applies to all classes of persons in the Territorial Army"

हमारे विदेशी प्रभुओं ने अब तक हमारे यहाँ पर कुछ खास खास जातियों को ही फौजों में भरती होने का अधिकार दिया था, लेकिन हम इस बात को कभी नहीं मानते हैं। हम इस बात को मानते हैं कि जिसने भी इस देश में जन्म लिया है, चाहे वह किसी भी जाति में पैदा हुआ हो, उसको अधिकार होना चाहिए कि वह अपने देश की रक्षा में भाग ले सके। यह हर्ष की बात है कि इस बिल में ऐसी कोई कैंद नहीं है कि अमुक अमुक जाति के लोग ही टैरिटोरियल फौज में भरती हो सकते हैं। यह बिल सारे देश पर लागू होता है और सब जातियों के लोग इस सेना में आ सकेंगे। लेकिन जैसा कि मैं आपसे कहा यह बहुत संकीर्ण रूप से हमारे सामने आया है। मैं आशा करता हूँ कि यह केवल आरम्भ मात्र है और आगे चलकर यह काम बहुत बढ़ाया जायगा। मैं इसका स्वागत और समर्थन करता हूँ।

(English translation of the above speech).

Seth Govind Das. (C.P. and Berar: General): Mr. Speaker, Sir, I welcome this Bill, although I admit that the raising of armies is not the only effective way for the protection of the world and until Mahatma Gandhi's ideals are not followed, there would be no real peace for the society. I look forward to the day when there would no longer be no armies anywhere in the world, and there will be no bloodshed which we find on all sides at present. I also admit that the bestiality which man has inherited from Nature will persist and personal quarrels will never end in this world but will continue. A man will envy another man and this would give rise to disputes. At times there will also be bloodshed. But along with this I also admit that just as armies fight each other in the world without any personal reasons—the soldiers of both the armies are not even known to each other—they do not harbour any enmity, jealousy or hostility to one another, and in spite of all this they go and fight in the field. There is bloodshed—thousands and lacs of people are killed. Such a state of affairs can surely be changed. In spite of barbarities committed by individuals, mass barbarity and slaughter can surely be put an end to. It can be said that wars have always been waged in the world and they will continue to be waged. I would like to point out that the things which existed in the world previously do not exist now. There was a time when a man used to devour a man and this is corroborated by history, and I would like to tell you that during those days a man who had the greatest capacity to devour men must have been worshipped by the society—and he was regarded as the greatest hero. Now-a-days man does not devour man. There was a time when a man was treated as a saleable commodity—and this fact is supported by the history that he who possessed the largest number of slaves was considered as the biggest man in the community. But now-a-days men are not sold. The slaves are no longer bought and sold in market places.

What I mean to say is that if we read the history of mankind, it would be clearly observed that there has been a change in the valuation of man from time to time. I am confident that a time will come when such sort of mass bloodshed will end and we will not see mass savagery despite the existence of individual savagery. But until this time does not come and the whole world does not follow the footsteps of Mahatma Gandhi, we cannot wind up the armies. Till then it would be necessary to raise the armies and for this reason I welcome this Bill. I congratulate the Honourable the Defence Minister for his having brought before us such a bill, although this has got a very limited scope—just as the speaker who preceded me observed that it should be extended to Provinces. This work is also being done in the United Provinces. In the Central Provinces and Berar also the Home-guards are carrying on nicely and thousands of persons are enlisting themselves in the Home-guard establishment. Therefore, I want that this should be further extended.

It has been laid down in sub-clause (2) of Clause (1) of the Bill:

"It extends to the whole of India and applies to all classes of persons in the Territorial Army"

Our erstwhile foreign rulers gave the privilege of enlistment to some selected communities only, which we do not admit. We are of the opinion that everybody born in this country to whatever community he may belong should have the right to participate in the defence operations of this country. It is a matter of gratification that this Bill is not restricted to any particular community in the matter of recruitment to the Territorial Army but extends to the whole of India and the recruitment to this Branch of the Army will be open to every community. But just as I have stated this has been presented to us in a very narrow form. I hope that this is only a beginning and its scope would be considerably enlarged in the near future.

I welcome and support it.

Shri H. V. Kamath: Mr. Speaker, Sir, so long as British rule had not been liquidated from India and so long as the British had not left our shores, the people of India as a whole were naturally not defence-minded, because the people thought—and rightly so too—that any attempt on their part to enrol for defence or to train themselves for defence meant their defending the British Empire in India and fighting wars of Empire outside India. Our leaders—Mahatma Gandhi and all the Congress leaders—opposed this, and it has been only since the 15th of August 1947 that we, the people of India, have woken up to the reality of the defence of India. From this point of view, this Bill, as one of my friends has remarked, has not come a day too soon.

We, Sir, before attaining our freedom, were told that as soon as India became free there would be introduced or enforced or brought about, three things and they were: nationalisation, industrialisation and militarisation. These three fundamentals of national development were always kept in view before us by the leaders. Neither of these three have been implemented in full today, but we have taken steps forward in all the three aspects. Militarisation has been dubbed as something evil, something pernicious, by various writers and theorists, but it depends, Sir, on what outlook, on what basis, on what orientation, this militarisation of a nation is effected. Leaders like Shri and Netaji have shown that with the proper outlook and proper orientation, an Army could be created which could not be corrupted by the usual military practices, and that is the Army which we want to build up for a free India today, so that it can be a model Army for all the countries in the world.

Here, Sir, we come to the proposition: How big can our Army be? There are various computations. Some theorists say that it should be one per cent

[Shri H. V. Kamath]

effective Army; some have gone up to 5 per cent of the population and some say that it could go up to 10 per cent in an emergency. I think, Sir that 5 per cent of the population will not be a very difficult proposition. On that computation, India with a population of 300 million—I would not say 400 million, because we are divided, and 100 million have gone out of India—on a computation of 5 per cent including the Regulars and the Reservists. It should not be difficult for us to have an Army of about 15 million. It is too big a number to think of—an almost astronomical figure—and the expenditure connected with this Army is something enormous, but, Sir, we have to bear in mind that during the last War, Germany with a population of 60 million, i.e. Germany by itself minus the territories which she conquered later, had a trained Army including the Reservists of about 3 to 3½ million—that comes easily to 5 per cent, or a little more, and Russia had a force including their Reservists, of about 6 to 7 million. On that basis, therefore, I do not see at all why it is difficult for us to raise a force of 15 million in course of time. We are not embarking on a campaign of aggression or of expansion, but as some of the previous speakers have pointed out, we are menaced from without and there is no doubt that India today is menaced from without by more forces than one and it is as well for us to be on our guard. "To be fore-warned is to be fore-armed."

My friend Pandit Kunzru raised a few objections to the Bill as it has been brought before the House today. I agree with him that the Bill could perhaps have been better drafted and perhaps could have been a bit more clear in certain respects, but I am sorry that throughout his speech he did not put forward any concrete proposals which could have made this measure for creating a Territorial Army more flexible, more elastic, more popular and more in consonance with the will of the people. Had he advanced some concrete suggestions instead of merely criticising this measure, we would have been very happy indeed, because, Sir, he has been an expert in this field for over two decades and I would gladly take lessons from him.

Then there was an objection from my friend Mr. Tyagi about certain rules that will be framed under it or in accordance with it. His objection was that they will not be submitted to this Legislature. In all probability, it is so. But may I remind him that the rules that will be framed by the Secretariat of the Defence Ministry will be brought before the Standing Committee elected by this House. So I would entreat him to have full confidence in the members of the Standing Committee which he and the other friends in this House have elected to assist and co-ordinate the activities of the Defence Ministry.

Then, Sir, one or two more points and I have done. What is the underlying purpose of a Territorial Army? There are two aspects of it. One is to train instructors who will train the men later on in the event of an emergency, and the other is to get ready or to prepare actual combatants. If the basis of the Territorial Army is expansion in case of emergency, then training of leaders acquires far more importance than training of mere combatants in drill and use of weapons, which acquires only secondary importance. In short, we should focus our attention and our energies on this very important aspect of training such leaders as will train the men later on in the event of an emergency. The fundamental purpose of the Territorial Army is to train or to change a crowd of individual combatants into a disciplined tactical instrument, because tactical efficiency is the coping stone of an Army and as long as it is merely a crowd it cannot function in war as a disciplined unit. That is why this Territorial Army should expand its scope so that all citizens will be embraced within its fold. Then, Sir, in the end, I would stress these main points. We wish to create this Territorial Army, and we must train many men who are qualified for that purpose. We must train them in the theory of war, the theory of resistance

and the theory of aggression, the technique of offence and defence and then, Sir, the leaders will train the men later on. This will be the nucleus of the future trainers. Therefore, importance must be given to lecture classes and lecturing tours (Interruption). My honourable friend Prof. Ranga wonders why there should be lecture classes and lecturing tours. He himself opened a Summer School of Politics or Economic or something like that, some years ago, and he is a great believer in lecturing and in speaking and in exhorting. Of all persons in this House, he should be the last to raise any objection to lecturing.

Mr. Speaker: Perhaps on this occasion he does.

Shri H. V. Kamath: Then, Sir, as I have said, the crowd has got to be trained into a disciplined unit and here, as Mr. Tyagi said, discipline today is more a matter of brain than of brawn and not so much a thing of the body or the muscles as a thing of mind and spirit; and I hope, Sir, therefore that this Territorial Army will in time grow into a very big force which will assist, as is stated in the Statement of Objects and Reasons, the regular force in the event of a national emergency. Sir, I am not a Jeremiah; I do not want to be a Cassandra nor do I want to be a pessimistic or gloomy prophet; I feel, from how events are moving in India—events at home and abroad, that perhaps the day is not far off when, God forbid, we may have to take up arms. Man after all fears and hopes; that day will, I am afraid, come and we may have to take up arms. I hope some of us in this House will join the Territorial Army and set an example to other people in this country to do the same and show what we can do to others, to our friends and neighbours.

I have done. I do hope and pray that this Army, this Territorial Army will grow into a real citizen army of India, into which any citizen will be welcome, man or woman will be welcome. I would refer in passing that in the event of a war or a similar emergency, women would do better to defend our homes and take up jobs which men have left behind in order to join the front and not join the Army directly. They would be of far greater service to the nation by doing this duty than by joining the Army and going to the front. There are enough men in India; man-power is so tremendous here that we can recruit millions of people for the Army who will be glad to go to the front. Sir, I have done.

The Honourable Sardar Baldev Singh: Mr. Speaker, Sir, I am glad to note the general approval with which this measure has been received by this House. There has been criticism, which, I think, is based on a misapprehension. I would first like to point out one or two objections which were raised by my honourable friend, Pandit Kunzru. He said that there was no mention of women as far as this Territorial Army Bill is concerned. I may point out that if you carefully go through this Bill, you will find it is clearly stated that in case of emergency, the Indian Army Act will be applicable to the members of the Territorial Army. Now, Sir, members of the Territorial Army are subject to the Indian Army Act and in the Indian Army Act there is no provision for women to be taken on active service; I do not ignore the important role which our women have played in the past and I am sure in case of national emergency, our women will play a still greater part.

Pandit Hirday Nath Kunzru: May I put a question? Is it necessary for you to put the entire force at any time under the Army Act?

The Honourable Sardar Baldev Singh: It may not be necessary and as I have already pointed out in my speech when introducing the Bill, I have tried to avoid all kinds of complications. It is a Bill which is based on very, very broad basis and as there is no provision for the employment of women in the Indian Army Act itself, they have been left out, but as I have said, it is not our intention to leave them out altogether; in fact, I very much welcome

[Sardar Baldev Singh]

the desire of the House that the women of this country should take an active part in the defence of this country whenever a national emergency arises.

The other point which has been made out by Pandit Kunzru is in connection with clause 7. He made a point that it would be inconvenient for the members of the Territorial force if they were to be transferred from one unit to another. Ordinarily, there is no intention at all to transfer one member from one unit to another, but this provision has been kept in the Bill for an emergency. In case of emergency, it might be found essential for us to transfer members of the Territorial Army from one unit to another. It is impossible for the Government or for anybody to take the consent of the member concerned in an emergency. In case of an emergency, we have to transfer him from one unit to another. It is for this reason that the power has been kept by the Government. But I want to assure the House and my honourable friend, Pandit Kunzru, that in peace-time and in normal conditions, there is absolutely no intention to transfer anybody from one unit to another.

Then, Sir, objection was raised that Government has taken a long time to introduce this Bill I do not think we could help it as I pointed out in my speech in the last session. Immediately after the 15th of August, Government took up this question and at the first possible opportunity the decision of the Government was announced and I promised that the Bill would be taken up in this House as early as possible. There is no doubt that some months' delay has taken place, but as I pointed out in the last session of the House, steps have already been taken and the preliminary arrangements that were required to be taken for the formation of the Territorial Army have already been taken. A Directorate at the headquarters has been established and we have gone quite a long way to take necessary steps as far as the preliminaries of this Bill are concerned. My friend, Mr. S. K. Patil said that he does not want Government to sit on this Bill and take a few months framing the rules. May I inform the House that we have already taken this matter in hand and the rules are practically ready.

Then, Sir, a suggestion was made that the rules should be put before this House. It is very difficult to put the rules before the House and have the Bill passed during this session. The other day, while discussing the different provisions of the Bill informally with the members of the Standing Committee of this House, I gave an assurance that as far as these rules are concerned, I will consult them. And wherever it is necessary to make certain provisions or safeguards, I will be quite prepared to consult them and accommodate the members as far as possible. It is not my intention to do anything which will be detrimental, or to keep away anything from the members of this House. It is only to avoid delay that I have suggested this course.

Mr. R. K. Sidhva (C.P. and Berar: General): They must be placed on the table of the House.

The Honourable Sardar Baldev Singh: Of course, when the rules are framed, they will be placed on the table of the House. I have nothing more to say except a few comments that I may have to make when the Bill is taken clause by clause.

Mr. Speaker: The question is:

"That the Bill to provide for the constitution of a Territorial Army for India be taken into consideration."

The motion was adopted.

Mr. Speaker: The Bill will be taken clause by clause.

Shri Mahavir Tyagi: Sir, I beg to move:

"That after part (f) of clause 2 of the Bill, the following new part be added:
(g) 'Advisory Committee' means an Advisory Committee constituted under section 5 for each unit of the Territorial Army."

Sir, I do not want to take up the time of the House by making a speech. The Honourable Minister knows what the significance of an Advisory Committee is. I have moved this amendment just to know what his reactions are to this idea. This idea of an Advisory Committee was incorporated in the previous Bill. I feel some such organisation may put some public spirit in the matter of recruitment and infuse a public spirit in the Territorial Force. It is only for that reason that an Advisory Committee was provided in the previous Bill. I want to know why he thought it fit to drop the idea now. If there are some good reasons for dropping it, I may withdraw my amendment. Otherwise, I move, Sir.

The Honourable Sardar Baldev Singh: Sir, I am sorry, I cannot accept this amendment. The reason why it has been left out from the present Bill is that the whole conception of the Bill is quite different. In the old days, there was a provision for an Advisory Committee when the old Government wanted to show favours by appointing members to these Advisory Committees. That was one of the ways with which they attracted people to this Territorial Force. Our conception is quite different. We want citizens of India to voluntarily take an active part. All the same, if after a few months working we think that an Advisory Committee is necessary, I have given an assurance to the Standing Committee that we will provide for it in the rules. There is nothing to prevent us from making this provision. It is not necessary to make a statutory provision.

Shri Mahavir Tyagi: Sir, I beg to withdraw the amendment.

Mr. Speaker: I am not placing it before the House. I take it he does not press it.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I have got a verbal amendment. But, if the Honourable Minister is not willing to accept it, I do not propose to press it.

The Honourable Sardar Baldev Singh: I am not accepting it.

Mr. Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Mr. Speaker: The new clause which Mr. Tyagi suggests falls through; it is supplementary to his first amendment. So, that amendment need not be called.

The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5 was added to the Bill.

Shri Mahavir Tyagi: Sir, I beg to move:

"That after clause 5 of the Bill, the following new clause 6 be inserted and the subsequent clauses be renumbered accordingly:

'6. Civil rights and exemptions—(1) The acceptance of a commission as an officer of the legislative Assembly, Legislative Council, Constituent Assembly, or Parliament of the Indian Union or any province or State thereof.

[Shri Mahavir Tyagi]

(2) An officer or man of the Territorial Force shall not be liable to any penalty or punishment for or on account of his absence during the time he is voting at any election of a member to serve in any Parliament or Legislature, or during the time he is going to or returning from such voting.

(3) If a Sheriff or Assessor or Juror is an officer of the Territorial Force, then during embodiment he shall be discharged from personally performing the office of Sheriff, Assessor, or Jury."

In submitting this amendment, Sir, I beg to point out that even in the British Territorial Force law, a provision of a similar nature has been made. Territorial Armies are generally meant to infuse a spirit of self-sacrifice in the people for a cause which they hold dear. Here in India, we are debarred according to the provisions here, from accepting any office or holding membership of any Legislature of the country. I submit that if this amendment of mine is accepted, by the Honourable the Defence Minister, he will have a chance of infusing into his Territorial Force persons who can raise the morale of the forces. I hear objections are raised that the Government of India Act prohibits this. I think there also a provision is made that if the Constituent Assembly so desires they can remove this disqualification. Section 26 of the Government of India Act 1935 reads as follows:

"(1) A person shall be disqualified for being chosen as, and for being, a member of either Chamber—

(a) if he holds any office of profit under the Crown in India, other than an office declared by act of the Constituent Assembly not to disqualify its holder."

Sir, "Constituent Assembly" is the word which has been introduced here by Section 8 of the Indian Independence Act of 1947. The Constituent Assembly is authorised to remove this disqualification. It is not necessary that they should do this by means of a separate Act. They can even make a provision in this Act. If they provided that this restriction will not apply to members of the Assembly, this will do. I submit, Sir, there is no constitutional difficulty in the Honourable Minister's accepting this.

Mr. Speaker: I think the honourable member need not argue that point. I find that this provision which relates to the disqualification under the Government of India Act by reason of a person holding an office of profit has been deleted in the present Government of India Act as adapted by the India (Provisional Constitution) Order 1947. I do not think that difficulty arises.

Shri Mahavir Tyagi: If that difficulty does not arise then, I submit that my suggestion may be taken notice of by the Honourable Minister for Defence and if he feels that members of the Constituent Assembly can add some glamour to his Force, and can also bring dignity which is sought for everywhere,—I submit that this would be an asset,—he may please remove the disqualification.

Mr. R. K. Sidhva: May I know, Sir, whether you have given your ruling on this matter?

Mr. Speaker: I was considering the point from another point of view, not from the point of view which the honourable member had just argued. I was just wanting to know as to whether there are any provisions in the Army Act, which, when they become applicable, prohibit an officer of the Army from being a member of the Assembly.

Mr. R. K. Sidhva: Sir, I wanted to raise this point of order. Even the present Act—I am glad my honourable friend mentioned it—disqualifies a member from holding any office so long as that Act exists; and in the last war...

Mr. Speaker: Will the honourable member point out to me the particular section?

Shri Mahavir Tyagi: Section 26 of the Government of India Act as amended by section 8 of the Indian Independence Act, 1947.

Mr. Speaker: Therefore, I told the honourable member that sections 24 to 27 are omitted in the Adaptation made subsequently. So the section which he reads now is not part of the Government of India Act.

Shri Mahavir Tyagi: According to what you say there is no hitch.

Mr. Speaker: Therefore I said that it appears to me that there is no hitch. I have, in my hands, a copy of the Government of India Act as adapted by the India (Provisional Constitution) Order, 1947.

Shri K. Santhanam (Madras: General): That is correct but no paid official of Government can be a member. When a member becomes a paid official of Government his membership is automatically vacated. Whether any person serving in the territorial army and receiving any kind of remuneration will be treated as a paid official is a matter which will require consideration.

Mr. Speaker: Let me proceed clearly. When I saw this amendment, I myself, had a doubt as to whether this should be taken up or not. That is why I looked into the Government of India Act and as I did not find the provision here, I inquired as to what these provisions 24 to 27 were about; and one was section 26 which related to the disqualification of members. That section having been deleted there is no such disqualification now so far as the Government of India Act is concerned. That is what I told the honourable member. Now, of course, there is that other point raised by Mr. Santhanam. I am not quite clear yet, unless I am shown some provision of the law. I quite agree with the propriety of what he is saying that no person who is holding an office of profit in the Government should be a member of the Assembly. But I wanted to be satisfied as to whether there is any statutory bar now, in view particularly of the deletion of this provision from the Government of India Act and retention of this disqualification so far as the Provincial Governments are concerned, as will be found from section 69 of the Act. If there is any doubt about it I may be shown the specific provision.

Pandit Thakur Das Bhargava (East Punjab: General): In the Assembly electoral rules there is a provision that any person who holds an office of profit cannot become a member of this House.

Mr. Speaker: That will mean that he will be disqualified from standing as a candidate, and those rules were also made before these sections were deleted. We shall have to see what the effect of the deletion is. Therefore I said that I was looking at it from a different standpoint, namely, whether there is any provision in the Army Act which provides any such bar as that. Very probably there is no such section there.

The Honourable Sardar Baldev Singh: Sir, I do not think there is any such provision in the Army Act, though it is difficult for me to say off-hand. But all I can say is that the officers of the territorial army will be paid although the amount will be nominal. And if the section still holds good they will come under the definition of the section. But, as you have pointed out, I think this amendment is not necessary as this provision has been deleted.

Shri Mahavir Tyagi: Sir, in the circumstances I will not press the amendment.

Mr. Speaker: So I will not put it to the House. Anyway, assuming that the view which we hold today is an erroneous one, it is always possible to come to this House for subsequent legislation so as to enable them to hold office if they are members of this Assembly.

یہذا تھاکر داس بھارگو : جناب سپیکر صاحب! میں جناب کی اجازت سے ملندرجہ ذیل amendment move کرتا ہوں -

"That in clause 6 of the Bill, for the words 'domiciled in India' the words 'who is a citizen of India' be substituted."

اس کے بارے میں میں صرف اتنا عرض کرنا چاہتا ہوں کہ جہاں تک domicile کا سوال ہے کوئی بھی آدمی Territorial army کا ممبر بن سکتا ہے - کیونکہ قانون میں اسکی کوئی definition درج نہیں ہے - یہ domicile کا لفظ جو ہے وہ با معنی بھی ہے اور دو معنی بھی ہے - اسکی جو کچھ بھی definition ہم کو ملتی ہے وہ صرف اذین شکسیشن ایکٹ (Indian Succession Act) کے دفعہ 11 میں ملتی ہے اور وہ اس طرح پر ہے -

"11. Any person may acquire a domicile in British India by making and depositing in some office in British India appointed in this behalf by the (Provincial Government) a declaration in writing under his hand of his desire to acquire such domicile; provided that he has been resident in British India for one year immediately preceding the time of his making such declaration."

اسکی مراد یہ ہے کہ اگر کوئی شخص جسکی وطنیت انگلینڈ جرمنی یا ریشیا ہو اگر وہ ہندوستان میں ایک سال سے رہتا ہو - تو وہ اگر ایک declaration جاری کرے کہ میں domicile حاصل کرنا چاہتا ہوں تو Succession Act کے اس دفعہ کے تحت وہ domicile حاصل کرے گا - اور یہ حاصل کر کے وہ Territorial Army میں داخل ہو سکتا ہے - اسلئے میں یہ عرض کرنا چاہتا ہوں کہ اگر اس کی بجائے Citizen of India رکھا جائے تو اسکا مطلب بلا شک یہ ہوگا کہ کوئی دوسرا شخص Territorial Army میں داخل نہیں ہو سکیگا - اگر لفظ domicile رکھے تو ہر ایک غیر آدمی اس Territorial Army میں داخل ہو سکتا ہے - میرے خیال میں ایسا ہونا بہت بڑی غلطی ہوگی - اور اگر کوئی غیر شخص اس میں داخل ہو جائے تو اس کا نام Territorial Army رکھنا بھی تھپک نہیں ہے - آپ کو معلوم ہے کہ یہاں پر بہت سارے آدمی پاکستان سے ہندوستان میں آگئے ہیں - کچھ تو ان میں سے گورنمنٹ کی مرضی کے خلاف آئے ہیں اور کچھ گورنمنٹ کی مرضی سے آئے ہیں - اگر ان میں سے کوئی domicile حاصل کرے تو اسکا اس Territorial Army میں داخل ہونے کا اتنا ہی حق ہوگا جتنا کہ دوسرے کا ہے اور جب تک موجودہ الفاظ دفعہ میں ہیں اسکی بھرتی کوئی بھی طاقت نہیں روک سکتی ہے -

در اصل domiciled کی مراد یہ ہے کہ وہ شخص Indian Citizen ہو - شاید یہ کہا جائے کہ Indian Citizen کی تعریف Constitution بلے تک نہیں بن سکتی - لیکن یہ درست نہیں ہے - کوئی باہر کا آدمی جب تک ہندوستان میں بذریعہ Naturalization Act ہندوستان کا National نہ بلے وہ ہندوستان کا Citizen نہیں ہے - اور آپ جانتے ہیں کہ Naturalization Act ہندوستان میں موجود ہے -

ایک آدمی Naturalize ہونے کے بعد کسی جگہ کا National بنتا ہے - اور جب تک وہ Naturalize نہ ہو تب تک اسکو Domiciled کہنا غلطی ہے - اگر ایک شخص Naturalize بھی نہ ہوا ہو اور National بھی نہ ہو تو وہ Domicile کیسے ہو سکتا ہے - دراصل Domicile کا مطلب یہ ہے کہ اگر ایک شخص ایک ملک کو چھوڑ کر دوسرے ملک میں اپنی مرضی سے بسنے کے لئے آتا ہے - اور وہاں کا باشندہ بن جائے اور کچھ دیر کے لئے وہاں رہے تو وہ Domicile بن جاتا ہے - لیکن اسوقت ہمارے پاس Domicile کی کوئی ایسی تعریف موجود نہیں ہے جو کہ صاف ہو - ہر ایک آدمی موجودہ تعریف Succession Act کی دفعہ 11 سے domiciled بن سکتا ہے لیکن Indian Citizen نہیں بن سکتا - اسلئے میں عرض کرتا کہ اس بل کے اس دفعہ 11 میں "domiciled in India" کے بجائے "who is a citizen of India" سبستٹی ٹیوٹ (substitute) کیا جائے -

(English translation of the above speech)

Pandit Thakur Das Bhargava: Mr. Speaker, Sir, with your permission I beg to move the following amendment:

"That in clause 6 of the Bill, for the words 'domiciled in India', the words 'who is a citizen of India' be substituted."

I would like to say this much only, that so far as the question of "domicile" is concerned, any body can get himself enrolled in the Territorial Army, as there is no definition of the word in any legal enactment. This word "domicile" has many meanings as well as double meaning. Whatever definition is available, we find in Section 11 of the Indian Succession Act, and that runs as follows:

"11. Any person may acquire a domicile in British India by making and depositing in some office in British India appointed in this behalf by the Provincial Government, a declaration in writing under his hand of his desire to acquire such domicile; provided that he has been resident in British India for one year immediately preceding the time of his making such declaration."

This means that if any person who is domiciled in England, Germany or Russia and has been residing in India for the last one year will be able to acquire a domicile by making a declaration of his desire to acquire such domicile under the above Section of the Indian Succession Act, and after acquiring this he can join the Territorial Army. Therefore, I submit that if the words "citizen of India" are substituted for "domiciled in India", this would undoubtedly preclude any alien person from being enrolled in the Territorial Army. If the word "domiciled" is allowed to stand then every foreigner can enrol himself in this Territorial Army. In my opinion, it would be a great mistake to let such a thing happen. And if any foreigner is enabled to get himself enrolled in this Territorial Army, then it would not be improper to call the army a Territorial Army. You are aware that many persons have come over here from Pakistan. Some of them have come against the wishes of the Government and some with their consent. And if any of these persons acquires a domicile then he will have as much right to join this Territorial Army as any other person. So long as these words exist in this Clause, no power can stop their recruitment.

[Pandit Thakur Das Bhargava]

In fact "domiciled" implies that the person must be an Indian citizen. It may be argued that the words "Indian citizen" cannot be defined till the constitution is adopted. But this is not correct. No alien can be a citizen of India until he becomes a national of India by naturalization, and you know that the Naturalization Act is applicable to India. A person becomes the National of a country after naturalization, and so long as he is not naturalized, it would be wrong to call him "domiciled". How can a person acquire domicile when he has neither been naturalized nor declared a National? In fact the word "domicile" means that if a person migrates from one country to another with a desire to reside there, then after having resided there for sometime, he acquires a domicile of the latter country. But at present we have not got any such definition of the word "domicile" which may be clear. Every person can acquire domicile by virtue of the definition existing in Section 11 of the Indian Succession Act, but he cannot become an Indian citizen. Therefore, I will submit that in Clause 6 of this Bill, for the words "domiciled in India" the words "who is a citizen of India" be substituted.

Mr. Speaker: Amendment moved:

"That in clause 6 of the Bill, for the words 'domiciled in India', the words 'who is a citizen of India' be substituted."

The Honourable Sardar Baldev Singh: I find a little difficulty in accepting the amendment of my honourable friend. As he has himself pointed out the definition of "citizen of India" has not yet been made. The provisions that can be made against the enrolment of some of the people from outside in the Territorial Army rests with us. We can without including the words "citizen of India" in this Bill at present, on account of the difficulties I have pointed out, keep out any one from the Indian Territorial Army. There is no difficulty. I hope that in the next few months we will adopt our constitution and after that whatever is the definition of "citizen of India" that can be included in this Bill. In the meantime I can assure the honourable member that the fears that he entertains can be guarded against.

Pandit Thakur Das Bhargava: Such a rule will be inconsistent with the words and will not be in consonance with section 6.

The Honourable Sardar Baldev Singh: Not the rule, but the actual recruitment.

Pandit Thakur Das Bhargava: In view of the assurance given by the Honourable the Defence Minister I am withdrawing my amendment.

Mr. Speaker: The real difficulty is that the word "citizen" is not defined and "domicile" means something much more than mere residence. Anyway, he is withdrawing his amendment.

Has the honourable member leave of the House to withdraw?

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

Mr. Speaker: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

بلڈت تھاکر داس بھارگو: جناب والا! اس دفعہ کے بارے میں میں صرف یہ عرض کروں گا کہ اس دفعہ نمبر ۷ کی رو سے ہر ایک آدمی پر یہ لازمی کر دیا گیا ہے کہ اس کو ملٹری سروس کے لئے ہندوستان سے باہر بھیجا جاسکتا ہے۔ میں اس کے خلاف

نہیں ہوں لیکن میں یہ عرض کرنا چاہتا ہوں کہ of Objects and Reasons Statement سے یہ معلوم ہوتا ہے کہ یہ Territorial Force چار اغراض کے لئے بنایا گیا ہے اور ان میں سے ایک غرض یہ ہے کہ اس Force کو ہندوستان کے Internal کے لئے رکھا جائے۔ اور یہ اس بل کے نام سے بھی صاف ظاہر ہوتا ہے۔

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Shri K. Santhanam (one of the Panel of Chairmen).]

نہایت ہی Exceptional موقعے ایسے آئیں گے جب کہ کسی کو ملٹری سروس کے لئے ہندوستان سے باہر بھیجا جائیگا۔ کیونکہ اس فوج کی نوعیت Regular Force سے بالکل مختلف ہوگی۔ اس فوج اور Regular Forces کے کام اور نوعیت اور Nature میں بہت فرق ہے۔ اس لئے اس فوج کے بارے میں یہ امید رکھنی کہ اسکو باہر بھیجا جائے تھیک نہیں ہوگا۔ کوئی بھی آدمی اپنی مرضی سے اپنے ملک سے باہر نہیں جانا چاہتا ہے۔ تو یہ امید رکھنا کہ یہ اپنی مرضی سے باہر جائیں یہ درست نہیں ہوگا۔ خصوصاً جبکہ اس کام کے لئے آپ کے پاس Regular Forces موجود ہیں۔ اس لئے اس بارے میں میں گورنمنٹ سے یہ گزارش کروں گا کہ وہ یہ جو حکم باہر کی سروس کے لئے دے اس کے متعلق وہ ایک جنرل حکم جاری نہ کرے بلکہ جب ضرورت ہو تو اس وقت ایک خاص حکم اس بارے میں جاری کرے۔ ایسا بھی ہو سکتا ہے کہ اس Force Territorial کی ہندوستان کے اپنے بچاؤ کے لئے ضرورت ہو چہاں کہ اس کا اصل ملشا ہے تو اس صورت میں اسکو باہر بھیجا درست نہیں ہے۔ میں یہ بھی عرض کرنا چاہتا ہوں کہ میں اس Territorial Force کے باہر بھیجنے کا اصولاً خلاف نہیں ہوں لیکن جب بھی اس Force کو باہر بھیجا جائے تو اس بات کا خیال رہا جائے کہ وہ کسی خاص ضرورت کے وقت بھیجے جائیں۔ اس Territorial کے افراد ایسے ہونگے جو obligatory social service کو پورا کرنے کے لئے اس میں شامل ہونگے وہ Regular Army کے تلخواہ اور اسکے لوازمات کے لئے شامل نہیں ہونگے اسلئے ایسے اشخاص کا اول فرض اپنے ملک کے بچاؤ کے لئے ہے گو ذمہ داری بشرط ضرورت باہر جانیکی بھی ہے۔

Mr. Chairman: The deletion of these words may mean that each individual man and officer will have to be given a special order.

بلڈت تھاکر داس بھرو: جو کچھ ارشاد جناب والا نے فرمایا ہے میں اس کی نہایت ادب سے قدر کرتا ہوں اور جناب کا نہایت ہی مشکور ہوں کہ جناب نے اس امر کی طرف میری توجہ دلائی ہے۔

اگر اس قسم کا جنرل آرڈر نہ ہو اور ایک سپیشل آرڈر ہو۔ تو وہ ہر ایک آدمی پر ایسے ہی لاگو ہوگا۔ جیسے کہ ایک یونٹ پر ہوگا۔ ہر ایک آدمی کے لئے الگ الگ آرڈر کرنے کی ضرورت نہیں ہے۔ اگر کوئی ایسی ضرورت پیش آتی بھی ہو تو

[پنڈت تھاکر داس بھارگو]

ایک یونٹ کے لئے آرڈر کر دیا جائے۔ تو اس میں کوئی اعتراض نہیں ہوگا۔ میرے فرض کرنے کا مطالبہ یہ ہے اور میں یہ چاہتا ہوں کہ ایسا کرنے میں جو ایجنٹن ادا جائے اس سے ملک کے legislature کی بھی concurrence وارو سنٹرل گورنمنٹ کی بھی concurrence ہو۔ ایسے موقعہ پر جو سپاہی Force Territoria کے باہر جاویں وہ گورنمنٹ کے خاص حکم سے اور لیجسلیچر کی مشاء دعا و برکات کے ساتھ باہر جاویں اور یہ محسوس کریں کہ ان کے دیہی کے منتخب شدہ نمائندے بھی گورنمنٹ کے باہر بھیجنے کے فعل کی تصدیق کرتے ہیں اب یہ کہا جایگا کہ لیجسلیچر کی اجازت حاصل کرنیکا Emergency کے وقت موقع نہیں ہوتا تو اس کے لئے میں یہ عرض کرونگا کہ اس Territorial Force کے لئے ایسا موقع بہت دیر کے بعد آئیگا جب کہ اس کو باہر بھیجنا لازمی ہو جائیگا۔ اسلئے اس صورت میں جب بھی ان کو باہر بھیجنے کی ضرورت پڑے تو ہاؤس کی اجازت لی جا سکتی ہے۔ لیکن اگر کسی وقت ایسی ضرورت پڑے اور یہ ہاؤس نہ بیٹھا ہو تو اس صورت کے لئے اس میں ایسی ترمیم کی جائے جس سے کہ سنٹرل گورنمنٹ کو ایسا کرنے کا اختیار ہو۔ کہ وہ ہاؤس کی اجازت کے بغیر خاص صورتوں میں آدمیوں کو باہر بھیج سکے۔ اور بعد ازاں لیجسلیچر کی اجازت حاصل کر سکے۔

میں دراصل اس چیز کو چاہتا ہوں کہ Territorial Army میں داخل ہونے والے آدمیوں میں وہی آدمی ہوں جو کہ social obligation کو پورا کرے سپرت سے اس میں داخل ہو رہے ہوں۔ اور وہ اس ملک کے پورے patriots ہوں۔ اور ان میں اپنے ملک کے بچاؤ کا جذبہ ہو۔ اگر اس معاملہ میں یہ convention قائم کیا جائے۔ تو جس وقت ایسے موقع آجائیں جب کہ کسی کو باہر بھیجنے کی ضرورت پڑے تو اس وقت باہر جانے میں ان لوگوں کی مرضی بھی گورنمنٹ کی مرضی کے ساتھ ہی شامل ہوگی۔ جسکا انکشاف لیجسلیچر کے ریزولوشن سے ہوگا۔

(English translation of the above speech.)

Pandit Thakur Das Bhargava: Sir, in regard to Clause 7 I would like to say this much only that it enjoins that every person shall be liable to perform military service beyond the limits of India. I am not against it. But it would be observed from the Statement of Objects and Reasons that this Territorial Force has been raised to serve a fourfold purpose and one of this is that this Force will be maintained for the internal defence of India; and this fact is also quite obvious from the title of this Bill. [At this stage Mr. Speaker vacated the Chair, which was then occupied by Shri K. Santhanam (one of the Panel of Chairmen).]

There would be few exceptional cases when a person will be sent out for military service out of India, because the constitution of this Force would be on quite a different footing from the Regular Forces. There is a tremendous difference between the duties and nature of this Force vis-a-vis the Regular Forces. Therefore it would not be in the fitness of things to expect this Force to go out of India. No body likes to go beyond the limits of his country

Shri K. Santhanam (one of the Panel of Chairmen). against his wishes and it would not be proper to expect him to do so, especially in view of the fact that you have got Regular Forces for this purpose. Therefore, I would request the Government that they should not issue any general orders for service abroad, but issue a special order in this connection as and when an emergency arises. It may be possible that this Territorial Force may be required for the defence of the country which is its real object. Then in that case, it would not be correct to send this Force abroad. I would also like to say that I do not oppose in principle the despatch of this Force abroad, but whenever this Force is sent abroad, it should be borne in mind that this course is taken only in an emergency. This Territorial Army will consist of those persons who will get enrolled for the purpose of fulfilling the obligations of social service. They will not join this for the sake of the pay and other amenities which are provided for the Regular Army. Therefore, the primary duty of such persons is to defend their country, although they shall be liable to perform service abroad in the event of an emergency.

Mr. Chairman: The deletion of these words may mean that each individual man and officer will have to be given a special order.

Pandit Thakur Das Bhargava: Sir, with all due respect, I bow to what you have said and am very much obliged to you that you have drawn my attention to this fact. If there is no such general order and there is a special order, then it will be applicable to each individual in the same way as it will apply to a unit. There is no need for the issue of a separate order for each individual. If any such contingency arises, then the orders should be issued for a unit and there will be no objection. My submission is that I would like that the action in this respect should have the concurrence both of the legislature of the country and the Central Government. The soldiers who are detailed for service abroad on such occasions will go out under special orders of the Government and with the blessings and permission of the Central Legislature. They would realize that the elected representatives of their country also support the action of the Government in sending them abroad. It may be said that there is no time to obtain permission of the Legislature in the event of an emergency. I would submit that so far as this Territorial Force is concerned, such an event will occur after a long time when it would be considered necessary to send them abroad. Therefore, whenever any such contingency arises, then the permission of this House can be obtained. But if at any time such an emergency arises and the House is not sitting, then some amendment should be incorporated in this clause which may seek to authorize the Central Government to take necessary action in such an event, so that it may be enabled to send persons out of India without the permission of the House in certain conditions, and later on take formal permission of the Legislature.

As a matter of fact, I want that the Territorial Army should consist of those persons only who enlist themselves with the spirit of discharging the social obligations and they are true patriots and have strong feelings for its defence. If this convention is established, then in the event of such an emergency when it may be found necessary to send persons abroad, their willingness would be implied in the consent of the Government which would be made clear by a Resolution of the Legislature.

Mr. R. K. Sidhva: The clause says that no officer or enrolled person shall be required to perform military service beyond the limits of India except under an order. Now a territorial army is meant principally for local service, for defending our own country. But supposing while defending our country there is trouble on our borders with Pakistan. I want to know from the Honourable the Minister whether this Territorial Army will not be allowed to go into Pakistan area to defend our country. If that is so then I do not think that the object of this Bill will be achieved.

[Mr. R. K. Sidhva]

Any country beyond India is foreign territory. In this sense Pakistan is also a foreign country. That is why I want to have the position made clear. My personal views are that our relations with Pakistan and all countries in the world should remain cordial. That is also the aim of the Government of India. But when we are passing a law, perchance something may happen between India and Pakistan, in that event will our Territorial Army be permitted to go into Pakistan?

Shri M. Ananthasayanam Ayyangar (Madras: General): It can go not only to Pakistan but also to Arabia.

Mr. R. K. Sidhva: In that case it is all right. But the view expressed by Pandit Thakur Das Bhargava is different.

The Honourable Sardar Baldev Singh: The Territorial Army can go anywhere but it has to have special permission. That is why it is included.

With regard to the objection raised by my friend, Mr. Bhargava, the fact is that we must have the sanction of this House. When this House is in session, then of course the House has the right to discuss it. But this House may not meet for months. It is to avoid that difficulty that we have taken this power. But still it is open to the House to discuss it when it meets. So I do not think there is any real difficulty if this is allowed to stand. I think it is a perfectly simple affair. There is no desire to exclude the House from this matter.

Shri M. Ananthasayanam Ayyangar: Does the Honourable Minister mean to say that when the House is in session he will report to the House before taking action and when the House is not in session he will report the action already taken by Government?

The Honourable Sardar Baldev Singh: I might make that point also clear. Sometimes it would be difficult for us to refer such matters to the House but what I say is that it is always open to the House to discuss any matter that they like. When the House is in session every member of the House is taken into confidence but the difficulty will arise when the House is not in session. When a decision of this nature is taken, when the House meets next it will be open to the House to raise the question.....

Mr. Chairman: Military matters will have to be kept secret and I do not think it is right to ask for any kind of an undertaking.

Shri Krishna Chandra Sharma (U.P.: General): Under Section 10(a) of the old Indian Territorial Force Act 1920 it is provided that: "No officer or enrolled person shall be required to perform military service beyond the limits of India save under a general or special order of the Central Government". If it could be done under the old Act, there is no reason why under the new Bill it could not be done.

Mr. Chairman: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in the Proviso to clause 8 of the Bill, for the word 'service', wherever it occurs, the words 'operations or special duty' be substituted."

This is an amendment of substance. It seems to me that the proviso does

away with the effect of the main clause. The main clause says:

"Every person enrolled under this Act shall be entitled to receive his discharge from the Territorial Army on the expiration of the period for which he was enrolled."

That means in effect that he will be discharged as soon as his service terminates or the period for which he had agreed to serve ends. The proviso says:

"No enrolled person who is for the time being engaged in military service under the provisions of this Act, shall be entitled to receive his discharge before the termination of such service."

While the main part of the clause says that as soon as a man's period of engagement is over he will be entitled to be discharged, the proviso says that until his 'service' terminates he is not entitled to be discharged. I thought that the period of service in the proviso means military operations or special duty.....

Mr. Chairman: The expression in the first part is not 'period of service'.

Mr. Naziruddin Ahmad: The period for which he is enrolled means the period of service which has expired. There seems to be something like inconsistency. I am trying to interpret the 'period for which a man is engaged' as period for which he has agreed to serve. When the period of service ends he is entitled to be discharged. It is on account of this apparent clash between the two that I have been induced to submit this amendment. If there is any military operation, whether his period ends or not or he is on special duty, whether his period of enrolment expires or not, he cannot be entitled to be discharged. I have suggested this amendment for a discussion and for an explanation by the Honourable the Defence Minister.

Pandit Thakur Das Bhargava: As the present section stands it is absolutely clear. A man who is enrolled for a particular period is discharged on the expiry of the period but when he is engaged in military service even if the period expires, he will be only discharged after the particular engagement is over. If the words which my honourable friend wants to substitute are accepted then it will give rise to difficulties. There may be many operations in one engagement. A person may be engaged on duty and at the same time the words 'special duty' will not cover exigencies of the situation, because there may be one special duty and the engagement may not be finished by the time the special duty is over. The words as they are, are more comprehensive and serve the purpose better and if my honourable friend's amendment is accepted it may involve us in difficulties.

The Honourable Sardar Baldev Singh: Sir, I have nothing more to add to what my friend Pandit Bhargava has said. Military service is a well understood expression. There is no doubt about it. If the amendment of my honourable friend is accepted it would create more confusion and nullify the effect of this clause.

Mr. Naziruddin Ahmad: In that case I do not press the amendment.

Mr. R. K. Sidhva: I want to know from the Honourable Minister as to what will be the period of service for the Territorial Army?

Mr. Chairman: That will be provided by the rules.

Mr. R. K. Sidhva: Still I want to have some idea, in the interest of security of service because it will induce people to enrol themselves in larger numbers if some period is known.

The Honourable Sardar Baldev Singh: If the honourable member wants to have detailed information it is given in the existing rules. The new rules will be more or less on the same lines.

Shri M. Ananthasayanam Ayyangar: The present Act says six years as the outer limit and it is open to the Government to enter into arrangements for any shorter period, say 3 or 4 years.

Mr. R. K. Sidhva: In the first year they will be enrolled for six years.....

The Honourable Sardar Baldev Singh: The intention is to proceed more or less on the same basis as the existing rules. If a change is necessary we can incorporate it. We have not fixed any period yet.

Shri Mahavir Tyagi: Sir, I beg to move:

"That in the Proviso to clause 8 of the Bill, the following be added at the end :
'or within six months after the date of expiry of the period for which he had offered to be enrolled or whichever is less.'"

I submit that even in the British Territorial and Reserve Forces Act it is provided:

"Where the time at which a man of the Territorial Force would otherwise be entitled to be discharged occurs while a proclamation ordering the Army Reserve to be called out on permanent service is in force, he may be required to prolong his service for such further period, not exceeding twelve months, as the competent military authority may order."

This is meant for the Reservists. If their term of service expires while they are on military or active service they will not be discharged and they may be required to prolong their service for such further period, not exceeding 12 months, as the competent military authority may order. Now, if the war lasts for ten years? Persons who offer themselves to be enrolled in your territorial force are not going to be on front like the regular army people. If you are to rope in people for the regular army in that manner, the territorial army will never be popular. If you want it to be a real Territorial Army in the sense in which it is understood you have to keep a proviso that these people will be required to serve only for such period as they have offered themselves for voluntarily. If that period expires while they are on military service, of course all of them cannot be discharged, that would weaken the front. For that purpose you must keep a certain definite proviso, so that you can extend by the force of this law their service for a few months, say 6 or 10 months. If you pass this Bill as it is, and if a war lasts for 10 or 12 years, these persons will be stranded on the fronts for years together. That would be very bad as far as the spirit of the territorial force is concerned. It may be that this too could be formulated by the rule-making authority but if you pass this clause as it is the House is committed to it and the hands of the rule-making authority will be tied. No officer can then discharge the man.

4 P.M. Sir, this is a very important clause and I hope the Honourable the Defence Minister will give due consideration to this point.

The Honourable Sardar Baldev Singh: I have got this amendment carefully examined. But my difficulty is that in case of active service it will create lot of difficulties. My mind is not quite clear on this, but all the information that I have been able to get on this particular amendment goes to show that in case of active service it will create lot of difficulties and embarrassment for us. That is why I find it difficult to accept the amendment.

Shri Mahavir Tyagi: Why does the difficulty not arise in the British Army where they have got this Proviso?

Shri Krishna Chandra Sharma: May I say something?

Mr. Chairman: I am afraid the Honourable Minister has already given his reply. I want to know whether the mover wants the amendment put.

Shri Mahavir Tyagi: Without this change it will become a regular army.

Mr. Chairman: That is a matter between the Minister and the honourable member. Does he want his amendment put?

Shri Mahavir Tyagi: It is a very important matter. Let the amendment be put to the House.

Mr. Chairman: The question is:

"That in the Proviso to clause 8 of the Bill, the following be added at the end :
'or within six months after the date of expiry of the period for which he had offered to be enrolled or whichever is less.'"

The motion was negatived.

Mr. Chairman: The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9 was added to the Bill.

Pandit Thakur Das Bhargava: Sir, I beg to move:

"That for clause 10 of the Bill, the following be substituted :

"10. Whoever contravenes any of the provisions of this Act or the rules made thereunder shall be punished with fine which may extend to one hundred rupees to be recovered in such manner and by such authority as may be prescribed."

اگر آپ دفعہ ۱۰ کو ملاحظہ فرمائیں تو روشن ہوگا کہ یہ ایسی باتوں سے بھرا ہوا ہے جو کسی معمولی شخص کی سمجھ میں نہیں آسکتیں۔ یہ دفعہ پرانے Territorial Force Act کی ایک دفعہ کی ہوبہو نقل ہے۔ یہ نہیں سوچا گیا کہ اُس زمانے میں اس کی ضرورت تھی۔ لیکن اب صورت تبدیل ہو گئی ہے اور اس دفعہ کی بالکل ضرورت نہیں ہے۔

اول تر میں یہ عرض کرنا چاہتا ہوں کہ اس دفعہ میں آفیسرس (Officers) کا ذکر نہیں ہے۔ اس دفعہ میں ایک enrolled person کو سزا ہو سکتی ہے۔ لیکن اگر کوئی افسر اس Act کی یا اس کے ماتحت بنے ہوئے rules کی خلاف ورزی کرکے جرم کرتا ہے تو اس افسر کی کوئی ذمہ داری نہیں ہے۔ لیکن میں جو Amendment پیش کر رہا ہوں اُس میں یہ پراویزن (provision) رکھا گیا ہے کہ enrolled person اور افسر میں کوئی تمیز نہ ہو۔ موجودہ بل کی دفعہ ۱۰ میں افسر بصورت جرم بھی باز پرس نہیں ہو سکتے۔

دوسری بات جو کہ قانوناً بالکل ناقابل برداشت ہے وہ یہ کہ اگر کوئی دفعہ (۱) ۹ (۲) کی رو سے جرم کرتا ہے تو اُس کو Army Act میں سزا دی جا سکتی ہے۔ لیکن اس میں آگے یہ رکھا گیا ہے۔

"In addition to, or in substitution for, any punishment or punishments to which he may be liable under the Indian Army Act"

"In addition" کے معنی یہ ہونے کہ ایک جرم کے لئے ایک مرتبہ

جو Army Act میں سزا ملنی چاہیئے اور دفعہ ۱۰ کی رو سے سو روپیہ جرمانہ بھی ہو سکتا ہے۔

Mr. Chairman: Is it the intention of the honourable member that when a member of the Territorial Army is in active service he should not be liable to the penalties of the Indian Army Act? That will be the net result of this amendment I want to know whether that is the intention of the honourable member.

پلڈت تھاکر داس بھارگو - میں ادب سے عرض کروں گا کہ میرا منشا یہ ہے جہاں تک دفعہ (۲) ۹ کا سوال ہے جو Army Act کے Offence ہونگے اُن کے واسطے اس دفعہ میں سزا ہو سکتی ہے Army Act کو applicable کرنے کا منشا یہ ہے کہ وہ اشخاص جو آرمی ایکٹ (Army Act) میں آتے ہیں ان کے لئے دفعہ (۲) ۹ applicable ہو گا۔ دفعہ ۱۰ کی رو سے enrolled person کو آرمی ایکٹ (Army Act) میں بھی سزا ہو سکتی ہے اور اس دفعہ میں بھی سزا ہو سکتی ہے جو کہ قانون کے منشا کے برخلاف ہے - ایک شخص کو ایک جرم کے لئے ایک ہی جگہ سزا ہو سکتی ہے۔ اور اگر Substitution ہو تو جو Army Act میں جرم ہیں وہ بہت سنگین جرم بھی ہیں جیسے mutiny وغیرہ -

Mr. Chairman: My suggestion was only whether something like "except when he is liable under section 9(2)" or something like that must be put in to make it clear.

پلڈت تھاکر داس بھارگو : جناب والا نے جو اعتراض فرمایا ہے میرا Amendment بالکل اُسی غرض کو پورا کرتا ہے - جہاں تک Army Act کے جرائم کا سوال ہے اُن کا ذکر اس میں کرنے کی ضرورت نہیں ہے - جہاں تک اس Act کا یا اس کے rules کا سوال ہے اُن کے ماتحت افسر ہو یا enrolled person اُن کو سزا دی جا سکتی ہے - اس Act کے جرم بہت سنگین نہیں ہونگے - لیکن Army Act میں mutiny بھی شامل ہے - اگر کوئی mutiny کرے اور دفعہ ۱۰ میں اُس کی سزا کا substitution کیا جائے تو اُس پر صرف ۱۰ روپیہ جرمانہ کر کے چھوڑا جا سکتا ہے - جہاں تک اس ایکٹ کے جرائم کا سوال ہے

"any enrolled person may be punished either by a criminal court or summarily or by order of the prescribed authority."

لیکن اس میں ایک proviso کر دیا گیا ہے کہ ملازم کو حق ہوگا کہ وہ authority prescribed سے summary trial کے واسطے انکار کر سکتا ہے اور کہ سزا ہوگا - تو یہ چیز ملازم کی مٹھی میں ہے کہ وہ court کے ذریعہ فیصلہ چاہتا ہے یا authority prescribed کے ذریعہ - میں عرض کروں گا کہ اس طرح کے قانون کی ضرورت نہیں ہے - Criminal court بھی summary trial کر سکتی ہے جب کہ جرم سنگین نہیں ہے - تو Criminal court ہر ایک صورت میں لازمی ہوتی ہے - میں نے جو ترمیم رکھی وہ اُن لوگوں کے واسطے ہے جو Army Act گورن سے (govern) نہیں ہوتے ہیں - اور میں سمجھتا ہوں یہ ترمیم منظور ہو جائیگی - میں عرض کروں گا کہ اگر آئریبل ممبر

صاحب پسند کریں تو اس پر غور فرمایا کہ یہ اُن کے purpose کو serve کرتی ہے یا نہیں -

(English translation of the above speech.)

Pandit Thakur Das Bhargava: Sir, I beg to move:

"That for clause 10 of the Bill, the following be substituted:

"10. Whoever contravenes any of the provisions of this Act or the rules made thereunder shall be punished with fine which may extend to one hundred rupees to be recovered in such manner and by such authority as may be prescribed."

If you read Clause 10, you will find that it contains some provisions which are beyond the comprehension of the common man. This Clause is an exact copy of a Section of the old Territorial Force Act. It was required in those days but now conditions have changed and there is no need for this Clause at all. This fact has been ignored. First of all, I would like to say that this Clause does not make any mention about officers. It provides for punishment for an enrolled person. But if any officer commits an offence in contravention of any of the provisions of this Act or the rules made thereunder, he is immune. But the amendment which I am moving has provision to the effect that there should not be any discrimination between an officer and enrolled person. According to Clause 10 of the present Bill nobody can question or bring to book an officer even though he may be found guilty. Another point the legal aspect of which is not understood is that if anybody commits an offence which falls within the purview of sub-clause 9 (1) or 9 (2), he is punishable under the Indian Army Act. It has been further laid down:

"In addition to, or in substitution for, any punishment or punishments to which he may be liable under the Indian Army Act....."

Thus the words "in addition" imply that a person can be punished twice viz., firstly under the Indian Army Act and secondly under clause (10) a fine extending to one hundred rupees may also be imposed.

Mr. Chairman: Is it the intention of the honourable member that when a member of the Territorial Army is in active service he should not be liable to the penalties of the Indian Army Act? That will be the net result of this amendment. I want to know whether that is the intention of the honourable member.

Pandit Thakur Das Bhargava: With due respects, I would submit that my intention is that so far as Clause 9 (2) is concerned, the offences which come within the ambit of Indian Army Act can be dealt with under the provisions of this Clause. The object of making applicable the Army Act is that Clause 9 (2) will be applicable to those persons who are governed by this Act. In accordance with the provisions of Clause (10), an enrolled person can also be punished under the Army Act, as well as under the former Clause which is contrary to the intention of the law. A person can be punished for one offence only at a time. And if substitution is to be made, then most of the offences which are contained in the Army Act are very heinous offences such as mutiny etc.

Mr. Chairman: My suggestion was only whether something like "except when he is liable under section 9 (2)" or something like that must be put in to make it clear.

Pandit Thakur Das Bhargava: Sir, my amendment exactly meets the objection raised by you inasmuch as the offences referred to in the Army Act are concerned, there is no need for incorporating these in this Clause. And so far as the provisions of this Act or any rules made thereunder are concerned, an officer or enrolled person can be punished under it. The offences under this Act will not be very serious. But the Army Act covers 'Mutiny' also. If any person takes part in a mutiny and his punishment is substituted under the provisions of Clause 10, then he can be let off after the recovery of fine amounting to Rs. 100.

[Pandit Thakur Das Bhargava]

So far as the offences covered by this Act are concerned "any enrolled person may be punished either by a criminal court or summarily by order of the prescribed authority". But a proviso has been made here that an accused will have the right to object to a summary trial being held by the prescribed authority, and he can claim that he should be tried by a Criminal Court. In such a contingency, arrangement for a Court shall have to be made. Thus it would rest with the accused to decide whether he wants to be tried by a Court or the prescribed authority. I would submit that there is no need for such a law. When the offence involved is not heinous; then the Criminal Court can also hold a summary trial. Thus the necessity of a Criminal Court is quite obvious in every case. The amendment which I have moved relates to those persons only who are not governed by the Army Act and I hope this would be accepted. I would request that if the Honourable Minister approves of this, he may kindly consider whether or not it serves his purpose.

Mr. Chairman: Amendment moved:

"That for clause 10 of the Bill, the following be substituted:

"10. Whoever contravenes any of the provisions of this Act or the rules made thereunder shall be punished with fine which may extend to one hundred rupees to be recovered in such manner and by such authority as may be prescribed."

Shri Krishna Chandra Sharma: The clause is rather unhappily worded. In Section 11A of the old Act there was summary trial and punishment. Those very words have been taken and put in here. From the heading it appears that if the offence is a serious one it would be punished under clause 9 but if the offence is not so very serious it may be punished under clause 10—equivalent to Section 11A of the old Act. "In addition to" means in addition to the procedure laid down in clause 9, and not in addition to the punishment.

Pandit Thakur Das Bhargava: In addition to the punishment.

Shri Krishna Chandra Sharma: Reading the clause as a whole it comes to. in addition to the procedure laid down in clause 9 the second procedure may be adopted in the manner laid down in this clause.

Mr. Chairman: I think there is no difference even then because that procedure may also result in punishment. Therefore the addition to procedure is equal to an addition to the punishment.

Shri Krishna Chandra Sharma: In criminal trial a person cannot be punished twice for one offence. It is impossible to punish a man twice. The question of punishment for a second time does not arise. What it means is that if the offence is a comparatively serious one it should be tried in accordance with clause 9 and if it is a comparatively minor one it may be tried under clause 10 and only punishment of fine may be given.

Pandit Thakur Das Bhargava: The Defence Minister might say "God save me from my friends". You are only supporting my amendment.

Mr. Naziruddin Ahmad: Sir, I rise to support the amendment. The honourable member who has just spoken has not carefully attended to the wording. Clause 10 says:

"In addition to, or in substitution for, any punishment or punishments to which he may be liable under the Indian Army Act, 1911....."

So if he is punished under clause 9, he may again be punished under clause 10, although it is right that a man should not ordinarily be punished twice for the same act, because of a section in the Criminal Procedure Code that you cannot be punished twice. But here if you specifically provide for double punishments for the same act there is no reason why he could not be punished

twice. So, as the honourable member has pointed out, this clause has been unhappily phrased. One part of the unhappy phrasing is this:

".....any enrolled person may be punished either by a criminal Court or summarily by order of the prescribed authority for any offence....."

There is here no mention of any trial. It says that if an enrolled person commits any offence under this Act he can be summarily punished. A criminal Court may say: "Section 10 does not speak of any 'trial' but of summary punishment. I will therefore punish you without trial." Although the marginal note says, "*Summary trial and punishment*", there is no mention of the word "trial" within the section. But that is the subject matter of another amendment which I have tabled, but if Pandit Bhargava's amendment is accepted my amendment would not be required. I submit, therefore, that the amendment which is now under consideration is a simple amendment and it avoids duplication of punishment and is easier to understand. I therefore support it.

The Honourable Sardar Baldev Singh: Sir, I have already explained my difficulty in accepting this amendment. As has been pointed out, there is no intention to punish him twice.

Mr. Naziruddin Ahmad: But there is specific provision for double punishment.

Pandit Thakur Das Bhargava: The way to hell is paved with good intentions!

Shri M. Ananthasayanam Ayyangar: It is not mere good intentions. This is exactly a copy of the existing provisions of Section 11A of the Army Act. What this section says is: "in addition to any punishment to which he may be liable under the Indian Army Act". It is not as if he is liable to punishment twice. It is not as if you can award him imprisonment for one month and in addition impose a fine. The Court is given power in addition to the punishment to impose a fine Rs. 100 more. If the man is prescribed to undergo a summary trial in addition to the punishment liable under the Act, he is punishable but not "punished". The Court can give that punishment or a fine may be imposed. But he is not actually punished twice. I do not think there is any difference and there is no need for this amendment.

Mr. Chairman: Does the honourable member persist in his amendment?

Pandit Thakur Das Bhargava: With your permission I beg leave to withdraw my amendment.

Mr. Chairman: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 10 of the Bill, for the words 'may be punished', the words 'may be tried and punished' be substituted."

This is the very point which I was submitting. Under section 10 a Court will say, "You are now charged with this offence. I do not wish to try you but I want to punish you".

Mr. Chairman: The honourable member has not caught the explanation of the previous member. The word 'punishable' does not mean "tried and punished".

Shri M. Ananthasayanam Ayyangar: You are doing the very thing which you wanted to avoid!

Mr. Naziruddin Ahmad: If it is made "punishable" I have no objection but the question of "trial" is my main point.

Mr. Chairman: But you cannot make it "triable and punishable".

Mr. Naziruddin Ahmad: No, "tried and punished". It would be all right if we say merely "tried", because trial includes punishment in case he is found guilty. If you merely say that he may be "tried", then the punishment follows as a matter of course. So the word "punished" is not necessary and I am not particularly anxious about that word.

Mr. Chairman: The honourable member has made his point clear. I would request honourable members to enable me to finish this Bill and probably take up the other Bills.

The question is:

"That in clause 10 of the Bill, for the words 'may be punished', the words 'may be tried and punished' be substituted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clauses 11, 12 and 13 were added to the Bill.

Shri Mahavir Tyagi: I beg to move:

"That in part (c) of sub-clause (2) of clause 14 of the Bill, after the word 'prescribe', the words 'the period and the course of' be inserted."

Sir, there is not much to be said on this, it is a very simple amendment. This clause authorises the Government to prescribe the rules. Some items are given with regard to which particular attention is invited of the Government to frame rules for these items. The addition of these words does not at all change the body of the Bill.

Mr. Chairman: Has the honourable member observed the words in sub-clause (a) also. It says:

"(a) prescribe the manner in which, the period for which and the conditions subject to which any person may be enrolled under this Act;"

If his amendment is something different he may move it.

Shri Mahavir Tyagi: That is all right. Sub-clause (a) gives the period for which they are enrolled. But sub-clause (c) relates to the period and course of military training. My submission is that instead of prescribing only "military training", they may as well prescribe the period for which every year a man will be called for training, and also prescribe the course of training. They have only said:

"(c) prescribe preliminary and periodical military training, compulsory and voluntary, for any enrolled person and provide for the embodiment of any unit for that purpose;"

That is all right, but I wanted to add that after the word "prescribed" they might add the "prescribed period and course" of training. You have to prescribe the course for a man who enrolls; he must know the course and the period for which he is under training.

Mr. Chairman: What does the Honourable Minister say?

The Honourable Sardar Baldev Singh: As has been pointed out this is already covered.

Shri M. Ananthasayanam Ayyangar: I want to know on a point of information whether "periodical" does not include the word "period". It is the adjective of the word "period". Training means, there is a course of training and periodical training means or implies a "period". So there is both the time factor and the syllabus. I do not know what else is wanted. The amendment seems to be unnecessary.

Mr. Chairman: Does the honourable member want to proceed with his amendment?

Shri Mahavir Tyagi: No, Sir.

Mr. Chairman: So the honourable member does not insist. Yes, Mr. Naziruddin Ahmad may move his amendments.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in part (e) of sub-clause (2) of clause 14 of the Bill, for the words 'by whom', the words 'by which' be substituted."

The text says: "prescribe the authority by whom the conditions" etc. Speaking of any "authority" we do not say "whom". If we speak of a "Court", we say "which".

Mr. Chairman: The authorities are not generally neutral gender. I think "by whom" is all right.

Mr. Naziruddin Ahmad: If it is "Court", we say "which". If it is "Judge", we may say "whom." On this analogy, it should be "by which".

Mr. Chairman: Does the Honourable Minister accept?

The Honourable Sardar Baldev Singh: I have no objection.

Mr. Chairman: The question is:

"That in part (e) of sub-clause (2) of clause 14 of the Bill, for the words 'by whom', the words 'by which' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in part (f) of sub-clause (2) of clause 14 of the Bill, for the words 'by whom' the words 'by which' be substituted."

This is the same as the previous one. I hope it will be accepted.

Mr. Chairman: The question is:

"That in part (f) of sub-clause (2) of clause 14 of the Bill, for the words 'by whom' the words 'by which' be substituted."

The motion was adopted.

Shri Mahavir Tyagi: Sir, I have also an amendment, No. 37. I do not want to move the whole of it, but only (h). I move:

"That after part (g) of sub-clause (2) of clause 14 of the Bill, the following new part (h) be inserted and the existing part (h) be relettered accordingly:

"(h) prescribe the manner and rate of the payment of separation and other allowances to the families of men of the Territorial Force when embodied or called out on actual military service;"

Sir, I have borrowed this clause from the Territorial Force Act of the British Parliament. They were also equally wise there. They have also raised a Territorial Force. They have also had a sense of patriotism. Their people also volunteered themselves. They felt the need for having such a thing. If you go on basing your hopes on the air, it is a different thing. Otherwise, you should have some such thing to ensure their security to the people who come forward to enrol in your Army. If not, you will not have the Army. Do not be guided by the spirit of gentlemen members here. They merely offer best wishes, but the people who will enrol will look into the provisions, clauses and sections of this Bill. I submit this is a useful clause. It would give security to those persons who leave their families and enrol. Suppose a man alone is

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the earning member of the family. He should at least get some separation allowance or something like that to be sent to his people when he is fighting in your Army. Even in jail when these gentlemen on this side and the other were arrested, their families were given some sumptuary allowance or something of the kind. Therefore, I suggest this may be considered.

Mr. Chairman: Amendment moved:

"That after part (g) of sub-clause (2) of clause 14 of the Bill, the following new part (h) be inserted and the existing part (h) be relettered accordingly:

"(h) prescribe the manner and rate of the payment of separation and other allowances to the families of men of the Territorial Force when embodied or called out on actual military service;"

The Honourable Sardar Baldev Singh: I find it difficult to accept the honourable member's amendment.

Mr. Chairman: Shall I put the amendment?

Shri Mahavir Tyagi: If he does not accept, I am helpless.

Shri M. Ananthasayanam Ayyangar: But I would like to know why the Honourable Minister is not able to accept (h). Something must be given to them. What is the objection to have rules prescribing this?

The Honourable Sardar Baldev Singh: That is what I was going to say. It can be dealt with under the rules.

Shri Mahavir Tyagi: Then, he is accepting it, Sir.

Mr. Chairman: Does the Honourable Minister accept the amendment?

The Honourable Sardar Baldev Singh: No, Sir. I am not accepting.

Shri Mahavir Tyagi: Sir, I beg leave to withdraw the amendment.

Mr. Chairman: Has the honourable member leave of the house to withdraw?

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

Mr. Chairman: The question is:

"That clause 14, as amended, stand part of the Bill."

The motion was adopted.

Clause 14, as amended, was added to the Bill.

Clause 15 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (2) of clause 1 of the Bill, for the words 'wherever they may be,' the words 'wherever for the time being they may be stationed or operating' be substituted."

The expression in the text seems to be a little incomplete. By adding the words "for the time being" and "stationed or operating" I would like to make it complete.

The Honourable Sardar Baldev Singh: I do not accept.

Mr. Naziruddin Ahmad: I do not press.

Mr. Chairman: The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I shall move amendments Nos. 3 and 4 together. I move:

(i) "That in the Long Title of the Bill, the words 'for India' be omitted."

(ii) "That in the Preamble to the Bill, the words 'for India' be omitted."

The Honourable Sardar Baldev Singh: I have no objection to that.

Mr. Chairman: The question is:

(i) "That in the Long Title of the Bill, the words 'for India' be omitted."

(ii) "That in the Preamble to the Bill, the words 'for India' be omitted."

The motion was adopted.

Mr. Chairman: The question is:

"That the Long Title and the Preamble, as amended, stand part of the Bill."

The motion was adopted.

The Long Title and the Preamble, as amended, were added to the Bill.

The Honourable Sardar Baldev Singh: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Chairman: Motion moved:

"That the Bill, as amended, be passed."

Mr. R. K. Sidhva: Mr. Chairman, the very fact that this Bill has taken a very short time in passing so many clauses of such a Bill of an important nature goes to prove that the House is almost in agreement with the principle of this Bill and they welcome such a measure at this stage. Now that the Bill has been passed into law, I am quite sanguine that our nationals will pour in large numbers to enrol themselves into this Territorial Army. I have no doubt about them, because the morale and the spirit of our countrymen is very high to defend their country. It has been suggested, Sir, that the number of this Army should have been larger than 1,30,000. As the Honourable Minister has stated there is no prevention for expansion later on. At the same time, I do feel that we do not want number, we want "quality" and I, therefore expect from the Defence Ministry that when the applications are received, they will thoroughly scrutinize them, before accepting them. My reasons are that we have all sorts of people in this country who in their outward look would identify themselves as patriots, but they may be doubtful. We have internal trouble and we do not want, therefore, to lay great stress on the number. I am, therefore, Sir, emphasising this point to the Ministry that they should be very careful in scrutinizing each and every application. There will be no dearth of men to enrol in this Army. I will give you an example, Sir, as to how the morale and spirit of our Army is very high. Only last April, some of us—Pandit Thakur Das Bhargava, Mr. Kamath and some of our Assembly friends went to a Hospital in Delhi, where the Kashmir wounded people, nearly 1,500, were lying as in-door patients. Some had their legs amputated; some had their arms broken; some had their eyes extracted. With all that, Sir.....

The Honourable Sardar Baldev Singh: May I, Sir, point out to the honourable member not to give these details on the floor of the House?

Mr. Chairman: May I also appeal to honourable members that they would be doing a service if they enable me to get through the other Bill also?

Mr. R. K. Sidhva: What I was saying, Sir, is this. While we were going through the hospital, talking with the patients there, we saw their spirit was high. They themselves volunteered and said: "After we are released from this hospital, we shall go back to the Front in Kashmir to fight". They on the contrary complained that the Government would not allow them to rush into the territory of Pakistan. They said: "If they allowed us, we would smash the raiders within a very short period". Sir, it was a high compliment to the Army that have been enrolled even today. Notwithstanding the serious difficulties under which they have been fighting, they are even ready again to go to the Front for the defence of our country. I only wanted, therefore, to prove that as far as our Army's morale and spirit is concerned, there is no question. The only question is that of discipline and I only like to see that discipline is maintained. I have no doubt of any lack of discipline, but I have heard from

[Mr. R. K. Sidhva]

some high-ranking Army officers that there is some lack of discipline and I hope that in the new Territorial Army to be formed discipline will be strictly maintained and it will not be argued that we are under democratic rule and therefore there should be lesser efficiency in military matters. No army can run efficiently without discipline. I attach great importance to that and I am quite sanguine that the new Territorial Army will be full of discipline.

As far as the rules are concerned, we have passed them. It was said that the rules should be brought before this House. I yield to none in my desire always to see that as far as possible all the measures and all the provisions of bills should be brought before this House. But in this particular Bill, I do not see what objection there could be for the provision of some of the rules. In regard to clause 14 (2) (a), I expected the Honourable Minister should have brought it before the House and I made a mention of the period for which any person may be enrolled under this Act, but when I put a question, it seems he himself is not quite clear in his mind and therefore he has left it. Sub-clauses (b), (c) and (d) relate to periodical military training and certainly rules will be required for the purpose of training. Then sub-clauses (d), (f) and (g) also relate to the kind of punishment and the certificates to be given. Therefore, Sir, I have carefully seen that even the clauses that are mentioned for the working of the rules are absolutely harmless and therefore, I do not think that any encroachment has been made upon the rights of this House by asking us to give absolute power to Government to frame the rules. I do not share the views expressed by some of my honourable friends who hold that the Government is ours and therefore we may also entrust them with the work of preparing the rules themselves. I do feel, Sir, that there is nothing wrong in making provisions in clause 16 such as we have passed just now.

I heartily congratulate the Honourable Minister and I welcome this measure. I am quite sanguine that in view of what the Honourable Minister has stated that the rules are complete, that within a month or two this Territorial Army of 1,30,000 will be formed and all the patriots of this country will join it.

Shri Mahavir Tyagi: I wish to take this opportunity to bring it on record that when the Honourable Minister for Defence came into the House and asked for our help, we gave him the fullest support. Although many of our friends advice he did not accept, we are now sending him rich with all the powers that he wanted from this House. We the peoples' representatives have given him all power and we all wish him good luck and success. The Honourable Minister has not accommodated any one of us except of course my honourable friend on this side, for a word or two, but then we do not mind his stiffness; he is the Minister of the Army; My honourable friend is accustomed to be stiff and hard, we do not mind. In spite of our purse being very stiff, we have given him the power to enrol lakhs of people into this Territorial Army and spend. The boys are there and whatever powers the Honourable Minister wanted are there. We are prepared to give further powers, but one thing is very important and that is he and his Government should guard us and see that not even an inch of our territory goes out of our hands. He will have to face us again if there is the slightest loss of territory, whether it is in Hyderabad or Kashmir or in the sea or in the mountain. In short he is responsible and he is the custodian of the boundaries of Hindusthan. We wish him good luck.

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted

INDIAN NAVY (DISCIPLINE) AMENDMENT BILL

The Honourable Sardar Baldev Singh: (Minister for Defence): Sir, I move:

"That the Bill to amend the Indian Navy (Discipline) Act, 1934, be taken into consideration."

Sir, this is a non-controversial measure. The necessity for this amendment has arisen on account of the fact that British Officers having higher ranks have already left and the rules require that only an officer of a certain rank can preside at the court-martial trial. Indian officers who have at present been promoted to higher ranks do not yet have these ranks. In order to enable the Indian officers to preside at court-martial trials, this amendment is necessary. I hope the House will accept the Bill.

Mr. Chairman: Motion moved:

"That the Bill to amend the Indian Navy (Discipline) Act, 1934, be taken into consideration."

Shri C. M. Poonacha (Coorg: General): On a point of information, Sir, in the Statement of Objects and Reasons, it is said that we have got only two Captains in the R.I.N. I would like to know whether it is a fact that we have at present only two captains in the R.I.N.

The Honourable Sardar Baldev Singh: I have already stated that the number of captains in the R.I.N. is very small. In fact, we have only two officers in captains rank in the Executive branch and, they are acting. That is why necessity has arisen for this amending Bill.

Shri C. M. Poonacha: Sir, in the Statement of Objects and Reasons it is said that we have only two captains in the R.I.N. I would like to know how many captains we have in the R.I.N. at the moment.

The Honourable Sardar Baldev Singh: It is stated in the Statement of Objects and Reasons. That is true.

Mr. Chairman: The question is:

"That the Bill to amend the Indian Navy (Discipline) Act, 1934, be taken into consideration."

The motion was adopted.

Shri C. M. Poonacha: Mr. Chairman, Sir, this is no doubt a simple measure; but at the same time, I fail to understand the implications of the Bill. The Bill suggests that because of the paucity of officers of the rank of captain in the R.I.N., the Minister is constrained to bring in a measure which enables officers holding lower ranks to preside over courts-martial. I understand that captains of a particular branch only are now authorised to sit as President of the court-martial, and captains of other branches are not allowed. Whereas in the Army as well as in the Air Force, the officers who are entitled to take seat as President of a court-martial have no bar whatsoever, whether they belong to any particular branch, or not. In the R.I.N. only officers of the Executive Branch are entitled and officers of other branches are not entitled to sit as President of the court-martial. If this is a fact, Sir, I am afraid we are excluding a good number of competent officers, whom we have at the moment, from taking part in the proceedings of court-martial, and also taking their seat as President in the court-martial. To illustrate further, I would like to put it to the House that in the R.I.N. in the Supplies Branch, you have more qualified officers. For recruitment to the Supplies Branch, a graduate's qualification is insisted upon, whereas for the Executive Branch, no such qualification is insisted. Therefore, judging the position as it is, you have more qualified officers in the Supplies Branch than in any other Branch. You debar them from taking their seat as Presidents, of a court-martial and come before this House to bring in a measure seeking to lower down the qualification of the officers that are going to take their seat as President of a court-martial. This will certainly bring down the standard of the proceedings of the court-martial.

[Shri C. M. Poonacha]

Therefore, I would humbly suggest to the Honourable Minister of Defence to consider this matter very carefully. I am for the present prepared to support this Bill; but I would do so only as a temporary measure. At the same time, I would request him to examine this position more carefully and utilise all such officers, who are qualified, in the R.I.N. to take their due share in these courts-martial.

For example, there will be offences relating to accounts, supply, and all such manner of things. Officers of the Executive Branch may not be quite competent to deal with cases relating to accounts and other things. While you have officers who are competent to take their seat relating to offences of this nature are concerned, you want to exclude them and without any justification restrict them to the Executive Branch, and plead before this House that there is a paucity of officers. Assuming this Bill is passed, you have for the moment only about six or seven Commanders and that will not improve matters very much. If you remove the bar that is being placed, you would be having more officers and this Bill would not have been called for at all. I would, therefore, suggest to the Minister to examine this position and see that the officers who are now readily available in the other branches are also enabled to take their seats as Presidents and members of the court-martial. Then the need for more competent officers for the court-martial would to a great extent be mitigated.

Prof. Shibban Lal Saksena (U.P.: General): Sir, when I read this Bill, I was sorry that our Navy should have only two men who are fit to.....

Mr. Chairman: The honourable member will please confine himself to clause 2 of the Bill. This is not a general discussion.

Prof. Shibban Lal Saksena: I was saying, Sir, that I was sorry to see that there are only two officers in the Navy who are fit to try these cases. I was referring to the great lee way that we have to make up. The present suggestion that men less qualified should be enabled to try offences is not fair. I think that as a matter of justice we should not reduce our standards, and it is really a sorry state of affairs that we have not taken care to see that in our navy we have more men who are capable of doing this work. Our navy should be properly expanded and we should see that we have enough officers of the required cadre to sit on courts-martial and punish offenders.

Mr. Chairman: I am afraid these are general remarks which have no particular application with reference to clause 2.

The Honourable Sardar Baldev Singh: Sir, I have nothing to add to what I have already stated. I think the honourable members have misunderstood the position. As I stated in my original remarks, this Bill is meant to enable Indian officers to be Chairman of Courts-Martial. That is, as I said, due to the nationalisation scheme. I may point out further that during the last war also this need was felt because a lot of officers were absent and only officers of the lower ranks were available. That is why there was need to amend the Bill temporarily during the war period. Now that the British officers are gone and we have no officers of the status that has been laid down in the Act, it is considered that officers of the lower rank should be enabled to be Chairman of Courts-Martial. That is the only amendment which is sought to be made in the Bill. It has nothing to do with promotions or with the reasons as to why there are only two Captains in the Navy, etc. The amendment is only intended to enable Indian officers holding the rank of acting Captains to sit as Presidents of Courts-Martial.

Shri C. M. Poonacha: Sir, may I have some information? My point was that there was a sort of bar placed on officers of senior rank of the other branches. The R.I.N. consists of the executive branch, the supply branch, the engineering branch and the medical branch. I should like to know if there is any bar on officers of some branches of the R.I.N.? Otherwise I have no quarrel. If the Honourable Minister can give the assurance that all Captains of the R.I.N. will be entitled to take their seat in these Courts-Martial I have no quarrel.

The Honourable Sardar Baldev Singh: I am not aware of any bar.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sardar Baldev Singh: Sir, I move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

EXCHANGE OF PRISONERS BILL

The Honourable Shri N. Gopalaswami Ayyangar (Minister Without Portfolio): Sir, I move:

"That the Bill to provide, in pursuance of an agreement with Pakistan for the exchange of prisoners, for the transfer of certain prisoners from India to Pakistan and the reception in India of certain prisoners from Pakistan, be taken into consideration."

I think it is unnecessary for me to go into detail over the history of these negotiations for the exchange of prisoners between the two dominions. In answer to a number of questions on the floor of this House I have given that history more than once. First of all an agreement was entered into for the exchange of prisoners between East and West Punjab alone. We asked for the extension of this arrangement to the North-West Frontier Province, Baluchistan and Sind, while Pakistan wanted this arrangement to be extended to the East Punjab States and the States of Alwar and Bharatpur as well as the Delhi Province. With regard to East and West Punjab the arrangement that was entered into was delayed being given effect to because Pakistan was insistent that we should extend the scope of the scheme to the East Punjab States and the two other States as well. That meant a certain amount of delay. We were considering it but we thought at the same time that, if possible, the arrangement in East and West Punjab should be given effect to as the first instalment of this arrangement while we considered the proposals for extension of the arrangement to other areas. After a good deal of correspondence and negotiation between the two Governments the East-West Punjab arrangement was started being given effect to, and a certain number of prisoners from each province were sent over to the other side. Suddenly Pakistan suspended this arrangement because they said that they wanted an arrangement as regards Delhi to be concluded. Meanwhile we had agreed to the extension of the scheme to the East Punjab States and to Alwar and Bharatpur. With regard to Delhi there was a particular case which excited a good deal of public attention and comment and that was sub-judice; and until that case was disposed of we thought it would not be right for us to enter into any final arrangement as regards Delhi. We wanted certain conditions to be satisfied before we could

[Shri N. Gopalaswami Ayyangar]

agree to the transfer of Delhi prisoners. Those conditions Pakistan was unwilling to agree to. Pakistan was insistent that as far as possible the arrangement that was in force as between East and West Punjab should be applied to the Delhi province as well. This case got subsequently disposed of and the negotiations were resumed, and as a result of the negotiations which were carried on in the last month or six weeks we have come to a final agreement under which all Muslim prisoners from the areas in India to which the scheme applies will be sent over to Pakistan and all Hindu and Sikh prisoners from West Pakistan will be transferred over to India. That arrangement has been finally concluded and steps are in train for making a list of the prisoners on either side, getting them checked up and then moving these prisoners to a point on the border where the Pakistan prisoners will also be brought, and the whole exchange will be effected practically in one transaction and practically at one place. That is the agreement. But perhaps honourable members would like to have some particulars of this arrangement.

The area that is to be covered includes in Pakistan the provinces of West Punjab, the North-West Frontier Province, Sind and Baluchistan and the States which have acceded to Pakistan into the Western Pakistan area. In India the area will cover the provinces of East Punjab and Delhi, the Phulkian States, the Patiala Union, Himachal Pradesh and the Matsya Union. In East and West Punjab all prisoners who are willing to go will be transferred. In the States all Muslim prisoners whose families have migrated to Pakistan and who are willing to go to Pakistan will be transferred. Pakistan is to take similar action in regard to Hindu and Sikh prisoners. All Muslim prisoners from Delhi whose families have migrated to Pakistan and who are willing to go there will be transferred. From Sind all Hindu and Sikh prisoners who are willing to come to India will be transferred. Persons who are guilty of offences committed after the 1st August will not be covered by the agreement.

The agreement also includes inmates of Borstal Institutes and Reformatory schools provided the parents or other lawful guardians are dead or have migrated to the other Dominion. There is also an arrangement as regards persons in the employ of the two Governments. The civil personnel who had the right to opt for Pakistan and who opted for Pakistan but were detained for offences committed in India or in the States are also to be transferred provided their families have migrated to Pakistan.

So far as these persons are concerned, the agreement covers the whole of India, wherever these Government employees may be. Reciprocal action has to be taken by the Pakistan Government in regard to India Government personnel.

These lists are now being made up and it is hoped that the checking of these lists on either side will be completed in the course of the coming week. It is hoped also that the movement of these prisoners and the actual exchange will be effected by about the middle of this month.

All this agreement has to be implemented by legal provisions in either Dominion. So far we have been working under an Ordinance issued by the Governor General. This particular Bill will repeal that Ordinance which in the ordinary course will expire somewhere about the 20th October. We will repeal that Ordinance and this will become an Act upon the Statute Book. It has to be an Act because there are portions of this Bill which will have to be enforced even after the exchange has been completed.

So far as the provisions of the Bill themselves are concerned, I do not think I need say much. The Bill provides only for the transfer of Muslim prisoners:

EXCHANGE OF PRISONERS BILL

from here to Pakistan and for the reception of Hindu and Sikh prisoners from Pakistan in India: and I want to make it perfectly clear that this exchange covers every class of prisoner, convicted prisoners—whether convicted for political or other offences, under-trial prisoners, security prisoners, detenus. All these are covered by the agreement that has been entered into.

With regard to what happens after they come over here I wish to explain the legal position.

In India, they will be received by an officer designated by the Central Government who will receive them in East Punjab. East Punjab has now an Act on its Statute Book which provides for the execution of sentences of convicted prisoners received from Pakistan, for the trial of under-trial prisoners and for taking such further action according to law as may be necessary in the case of other prisoners. That Act will take effect so far as the treatment of these prisoners after they are received here is concerned. That Act is being extended to the two Centrally administered areas of Delhi and Ajmer-Merwara. No other province has a similar Act. No State, I believe, has a similar Act. But the idea is that it is desirable, as we are receiving all these prisoners from West Pakistan, that their cases should be disposed of in these three areas, namely, East Punjab, Delhi and Ajmer-Merwara. Of course, if it is intended that the prisoners who are received as convicted prisoners should be distributed to other provinces or States there are other provisions of the law in force in East Punjab which will enable this being done. There is also this further circumstance: even though these under-trial prisoners may be tried after they are received in East Punjab and in the other two areas, whatever sentences may be inflicted on conviction on such under-trial prisoners, they could be executed by the two Governments concerned, and if it is found desirable to transfer any of them to other areas that could be done under the Prisoners' Act which is in force.

Therefore, in order to implement this agreement which we have entered into with Pakistan, we have produced a Bill which is within the competence of this Legislature to enact into law, which is as much as it is absolutely necessary for the purpose intended. Sir, I move:

Mr. Chairman: Motion moved:

"That the Bill to provide, in pursuance of an agreement with Pakistan for the exchange of prisoners, for the transfer of certain prisoners from India to Pakistan and the reception in India of certain prisoners from Pakistan, be taken into consideration."

The Assembly then adjourned till a Quarter to Eleven of the Clock on Thursday, the 2nd September, 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

DEBATE

PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Thursday, 2nd September, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

STATEMENT OF BUSINESS

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): May I, Sir, draw the attention of the House to the state of business? This House would normally adjourn the day after tomorrow; but there is plenty of important work to be done. It is quite possible that we may not be able to finish that important work in the time available unless we make some special provision. We would like to get through some legislation. Tomorrow, I understand, is going to be devoted to discussion of non-official resolutions. Therefore we really have only today and the day after tomorrow unless this House wishes to extend the date of the session by a few days. I would suggest for your consideration that instead of extending the period of the session we might extend the daily sitting hours for the next two or three days. Probably that would better meet the convenience of members who may have made arrangements to leave the city. Therefore my suggestion is, subject to your approval, that the House should meet for two extra hours in the evening or afternoon; that is to say, the House may rise at 5 o'clock as usual but meet again at 5-30 and sit till 7-30 p.m. these extra hours being devoted to official business.

Pandit Hirday Nath Kunzru (U.P.: General): With reference to what has been just said I may suggest that any arrangements that might be made for the convenient dispatch of official business should be of such a character as to enable honourable members to have sufficient time to study the business that will come up before the House. That more time will be needed is undoubted. The only question is whether the session should be extended by a day or two or whether the sittings should be late. The Prime Minister has suggested that the sittings should be lengthened. I venture to think that if that suggestion were followed it would leave us very little time to study the business that we will be called upon to consider. I am sure honourable members themselves are desirous of looking into all matters carefully before they discuss them in this House. I hope, therefore, that they will bear the inconvenience of sitting here for a day or two more rather than agree to an extension of the sittings of the House, which will make it virtually impossible for us to know what the business will be that we shall be asked to transact.

The Honourable Pandit Jawaharlal Nehru: In this matter Government are entirely in the hands of the House; they are prepared to agree to any procedure or any change in the time-table which is convenient to honourable

[Pandit Jawaharlal Nehru]

members. My suggestion was made because we consulted a number of members and they preferred that particular procedure. There is no proposal, so far as I know, of bringing any new matter before the House but only of dealing with the business already on the order paper. So presumably members are acquainted with that business. For the rest I am in your hands.

Pandit Hirday Nath Kunzru: Of course the matters to be considered are already on the Order paper, but the Prime Minister should bear with us that there have been so many Bills before this House that it has been virtually impossible even for the most industrious of us to look into more than a very few Bills. The fact, therefore, that we shall consider only such questions as have already been placed on the agenda will not help us in a proper consideration, for the simple reason that we have not yet had enough time to look into them.

Dr. B. Pattabhi Sitaramayya (Madras: General): Sir, may I add one word to what the Prime Minister said? It is only a question of balancing inconvenience,—that is inevitable,—either by prolonging the session or by increasing the hours of sitting. The majority of our friends seem to think—so far as it has been possible for us to ascertain their views—that the latter course is better. As the Prime Minister has explained, no new business is sought to be brought forward and tomorrow is merely a continuation of the non-official business of the previous day. We have plenty of time to prepare the case. So far as the business already finished is concerned, we have gone through a lot of it. There remains very little and it should not be said that we have left over the business of the session to a later date. I therefore, approve of the Prime Minister's suggestion and hope the House will agree.

Prof. Shibban Lal Saksena (U.P.: General): Sir, there are still eleven Bills to be discussed and passed and as Dr. Kunzru said, it will be very difficult for us to study these Bills carefully. I personally think that it is much better to have a day more to be able to study the Bills and discuss them properly. The question is not of convenience or inconvenience but whether the Bills are properly considered and passed. We do not want these to be rushed through and therefore I think it would be much better to have one extra day.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, as one of the members who have to devote their attention to the humbler sides of a Bill, I suggest that it is impossible for any member to look into Bills with the amount of care that they deserve. We find every day that ordinary mistakes are being repeated from Bill to Bill in spite of their being mentioned in the House; and we cannot look into them on the floor of the House either. There are a few major Bills on the agenda and if we have to look into them and be of some help to the House, I think the course suggested by the Honourable Prime Minister will be inconvenient though of course if that is the sense of the majority, others will have to obey. The point is not the extra time devoted to the subject in the deliberation in the House, but that those who wish to come prepared after a full study and thereby economise time would find it inconvenient to do so. On the other hand a procedure has developed of accommodating Ministers and accepting Bills with mistakes which are to be corrected outside. This tendency should be checked; and if it is desired that small mistakes and errors should not deserve the serious attention of the House, of course the suggestion made may be accepted. But I think matters of form are as important as matters of substance, and therefore some time should be allowed to members. Those members who have made arrangements to go can cancel their arrangements, and the inconvenience of sitting for a day or two more would not be much in view of the importance of the Bills before the House.

Mr. Speaker: In the matter of the request made by the Prime Minister which was supported by Dr. Sitaramayya and commented upon by other members, I am afraid my position is a bit awkward and embarrassing. I am entirely in the hands of the House; though the discretion may be mine, I will use it as the House desires me to use it. When I say my position is awkward and embarrassing, what I mean is that I have felt that sittings extending beyond 5 P.M. cannot be measured by the length of time; at least, I feel exhausted by the end of the day; and it is not possible to apply the mind to the business before the House, with the vigour and freshness which it is necessary, for the conduct of business in this House. I am therefore personally always unwilling to have an extension beyond 5 P.M. but that is—as I said—entirely in the hands of the House. There are I think certain ways which we can find out for the purpose of economising time. One of them would be perhaps that Government could scrutinise their business and see what is of a type that must be put through before this session ends. The other might be that those honourable members—fortunately there are only a few of them—who feel that they must speak on every subject may as well curtail their speeches and keep to the points of discussion before the House rather than go into generalities and take a longer time. That will also economise time. I do not mean to pass any criticism. I am just suggesting ways and means. Considering these two, it may be just possible for us not to sit for very long hours—two hours have been proposed—and yet finish the business by the 4th.

There is also another aspect. I personally do not favour any legislation being hurried through at the fag end of a session, without a proper consideration of not only the principles of the measures but even of the phraseology of the measures. Therefore, I was suggesting that if the position with regard to the business is reviewed, it may be possible to finish by the 4th. However, in the alternative we may sit for some time longer, but not for two hours longer. I believe it would be most exhausting to sit from 10-45 A.M. to.....

Shri Krishna Chandra Sharma (U.P.: General): The session might begin at 10 in the morning!

Mr. Speaker: For that matter it might begin at 8 o'clock in the morning. I remember on one occasion in the Bombay Assembly I conducted the Assembly from 8 o'clock in the morning till 12 noon and again from 2 P.M. to 6 P.M.

If it is certain that the business cannot be completed, then we must sit late. I think we should leave it to the Leader of the House and whatever he decides we shall accept.

The Honourable Pandit Jawaharlal Nehru: The question only arose because after a consideration of the matters left over, we came to the conclusion that it was not possible, or hardly possible, to get through the urgent matters in the time at our disposal. Of course no one can judge. The matter is in the hands of the House. It is just possible that what appears to be a relatively simple matter may be argued for hours, or something that should take more time may take less. But taking a reasonable view of the situation and after deleting what was not urgent, the rest may require more time than available. We are however going into the matter at the end of the day to find out what can be postponed.

As I said previously, Government is entirely willing to allot an extra day. It is a matter for the convenience of the House, not so much of the Government, because Members of Government have to work for much more than up

[Pandit Jawaharlal Nehru]

to 5 P.M. in any day. We have to work till the small hours of the morning whether here or elsewhere. It would mean transferring the venue of work from some other place to the Chamber here. So I do not know how to decide it myself because I was prepared to accept the other alternative.

First, what I have suggested is that this should apply for two days only. Not today; but only to-morrow and the day after. If it is found possible for us to finish the work earlier than the day after tomorrow we will not sit till late. On the other hand if there is a general consensus of opinion that in order to give full consideration we should not hurry through this, I am prepared for the House to sit on Monday.

Mr. Speaker: Now the position is clarified to a much greater extent. Anyway we are not sitting today for two hours more. Let us see what progress we make and the matter can be decided tomorrow.

Shri M. Tirumala Rao (Madras: General): There is no use prolonging the issue like this and keeping things in the air.

Mr. Speaker: We shall know the position by this evening.

The Honourable Pandit Jawaharlal Nehru: Because of the number of Committee meetings, members should stay on for a day or two more.

Mr. Speaker: However, we will review the position.

Shri K. Hanumanthaiya (Mysore State): We must know definitely when the session closes. As the Honourable the Leader of the House suggested all members here have not the good fortune of being elected on Committees and most of us will have no work to do. Therefore I request that the date be definitely known so that we may go and do some work in our respective home towns.

Mr. Speaker: Any further time taken in this discussion makes the prolongation a certainty.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF RELIEF AND REHABILITATION

The Honourable Shri Mohan Lal Saksena (Minister of State for Relief and Rehabilitation): Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of Relief and Rehabilitation *vice* Mr. A. P. Pattani resigned."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of Relief and Rehabilitation *vice*

Mr. A. P. Portani resigned."

The motion was adopted.

Mr. Speaker: I have to inform honourable members that for the purpose of election by means of the single transferable vote of a member to the Standing Committee for the Ministry of Relief and Rehabilitation the programme of dates will be as follows:

Nomination to be filed in the Notice Office upto 4 P.M. today.

Election, if necessary, will be held on Friday, the 3rd September, in the Assistant Secretary's room (No. 21) in the Council House between the hours of 10-30 A.M. and 1 P.M.

ELECTION TO STANDING COMMITTEES FOR MINISTRY OF WORKS, MINES AND POWER AND FOR ROADS

Mr. Speaker: I have also to inform the Assembly that upto the time fixed for receiving nominations for the Standing Committee for the Ministry of Works, Mines and Power and Standing Committee for Roads, one nomination in the case of the first and two nominations in the case of the second were received. As the number of candidates is equal to the number of vacancies in each of the two Committees. I declare the following members to be duly elected:

Standing Committee for the Ministry of Works, Mines and Power.—Mr. E. John Philippos.

Standing Committee for Roads.—(1) Shri Moturi Stayanarayana and (2) Mr. R. V. Thomas.

PATENTS (EXTENSION OF TERM) BILL

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Sir, I beg to move for leave to introduce a Bill to make provision for the extension of the term of patent in certain cases.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to make provision for the extension of the term of patent in certain cases."

The motion was adopted.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I introduce the Bill.

RESSETTLEMENT OF DISPLACED PERSONS (LAND ACQUISITION) BILL

The Honourable Shri Mohan Lal Saksena (Minister of State for Relief and Rehabilitation): Sir, I move for leave to introduce a Bill to provide for the speedy acquisition of land for the resettlement of displaced persons.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the speedy acquisition of land for the resettlement of displaced persons."

The motion was adopted.

The Honourable Shri Mohan Lal Saksena: Sir, I introduce the Bill.

EXCHANGE OF PRISONERS BILL—*concl'd.*

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved by the Honourable Shri N. Gopalaswami Ayyangar yesterday:

"That the Bill to provide, in pursuance of an agreement with Pakistan for the exchange of prisoners, for the transfer of certain prisoners from India to Pakistan and the reception in India of certain prisoners from Pakistan, be taken into consideration."

I believe the Honourable the Minister's speech was unfinished.

The Honourable Shri N. Gopalaswami Ayyangar (Minister without Portfolio): It was finished.

Mr. R. K. Sidhva (C.P. and Berar: General): In going through the Bill I find that when passed it will be immediately applicable to East Punjab and later on when the Government sees fit it will be applicable to the other parts of both the Dominions. I do not understand why a distinction has been made when both the Dominions have come to a settlement for exchanging populations between one Dominion and another. Actually the exchange has taken

[Mr. R. K. Sidhva]

place barring very few that are held over. Although I can understand that Government may by notification do immediately, when a distinction has been made I have my doubts about the application of this Act in the other parts of Pakistan. I would suggest therefore that this Bill when it becomes law should be applied to the entire Western Pakistan and no portion should be held over for the purpose of declaration by notification. (Pandit Balkrishna Sharma: "You have no jurisdiction over there").

The Honourable Minister while introducing the Bill yesterday made a long statement about the agreement that has been arrived at between the Dominions of India and Pakistan as to the exchange of prisoners from the West Punjab. As far as the other parts of Pakistan are concerned he stated that in the event of prisoners being willing to be sent over to India they will be sent to the Indian territory. Who will verify whether or not such prisoners want to come to India? The Government of India should arrange a procedure whereby our officers should also be present to verify the fact whether the prisoners in Western Pakistan are willing to come over or not. The Honourable Minister used the words "expressed his willingness". The Pakistan Government may say that the prisoners are not willing to come. Are the Government prepared to accept that statement, even though it may not be correct? To avoid all this it is desirable that an agency should be established whereby some officer on our behalf would verify the statement of the Pakistan Government on behalf of the prisoners concerned.

The Honourable Minister also stated that the exchange when it took place some months ago the Pakistan Dominion did not adhere to the agreement arrived at and that after sending away one batch they stopped sending the further batches. Therefore he suggested that now a system would be adopted whereby prisoners from Pakistan will be brought over to our border and prisoners from India will be taken to their border and then exchanged. I do not know whether that is reciprocal, whether it will be simultaneous and where is the guarantee that the prisoners for India will be brought while we send the prisoners here to their territory. Government have frequently told us in reply to questions that such and such an agreement had been entered into at certain conferences but it is not adhered to by the Pakistan Government and when questioned the Honourable Ministers have stated that the Pakistan Dominion being an independent government; they could only use their good offices and beyond that they could not go. That means that as far as Pakistan is concerned this agreement will go into the wastepaper basket, unless proper arrangements are made. I would suggest therefore that the Honourable Minister should make a very firm arrangement for the exchange of prisoners, so that our prisoners are safe from the other side and that the number sent over from here is the same as we get from there. If the number from Western Pakistan is 500, the same number should be sent from here. Otherwise the exchange should not take place. When there is an equal number, the balance should be adjusted when the others are sent. We do not know what is the total number of prisoners in Western Pakistan. It may be more or it may be less than the number here. . . .

Mr. Speaker: May I suggest to the honourable member, that as I understand the position, the legislation is merely to give effect to what the Pakistan Government and we have agreed to do. It is not for us, at present, to determine the various ways, methods or means as to how the whole thing is to be carried out. It is of no use, unless the Pakistan Government agrees. (Mr. R. K. Sidhva: "They have agreed"). Yes, they have agreed. The object of the present legislation is merely to give effect to whatever has been agreed to. It

is no use at present going into the details of how things should be, what precautions should be taken and what not. The whole question has been so many times brought before this House by honourable members in the form of questions and supplementary questions and various suggestions have also been made. So it is better that we restrict ourselves only to the scope of the Bill, rather than go into the wider question as to how we should regulate our relations, if there is a breach of the agreement by Pakistan Government; for then, there will be no end. It will be outside the scope of the Bill. I am not saying this merely because there is an urgency to put through quickly as much business as possible. The honourable member's suggestions can be given to the Honourable Minister outside the House.

Mr. R. K. Sidhva: Sir, this Bill has originated out of the Inter-Dominion Conference. You were not in the Chair yesterday when the Honourable Minister gave us a detailed statement as to how the prisoners will be exchanged and so on. In reply to that I was suggesting that while he is exchanging the prisoners he might bear in mind that the same number should be exchanged with the other side. I was giving a reply to what he stated yesterday. . . .

Mr. Speaker: He will bear this in mind. This Bill seems to be more a formal business. The Honourable Minister has explained to the House the whole position. If any suggestions are to be made now, then we shall be going out of the scope of the Bill. What the agreement should be is an entirely different matter. This piece of legislation is intended to give effect to the agreement. The agreement is not before the House.

Mr. R. K. Sidhva: Because of our experience in the past of agreements not being adhered to by Pakistan I was making a request to the Honourable Minister: nothing else.

As regards under-trial prisoners the Honourable Minister stated that the Bill covers their cases also. I am very glad of that but I do not know what will be the procedure about these under-trial prisoners, whether they will be tried here and if so, whether witnesses will be brought over from Pakistan and as regards our under-trial prisoners who go there, witnesses from India will be sent there. That requires a little clarification. As regards the sentences given to the prisoners while they were here or in the other Dominion will they be released by each Dominion after exchange or they will have to complete their sentences. That should also be made clear. If a prisoner has been sentenced to 10 years imprisonment, will the sentence be remitted or the prisoner will have to complete the remaining portion? Similarly as regards the prisoners sent to the other side. That is an important point. There may be prisoners who have been sentenced to be hanged or transported for life: some may be political prisoners. What will happen to them. Has any agreement been arrived at. I would like to know what the Government of India intend to do in this respect. That is a question which I would like to put to the Honourable Minister. I would like the Honourable Minister to state whether he is sure that the Pakistan Government will enact immediately similar law to Sind or not—I mean whether there is some doubt about this Act coming into force in Sind immediately. If so I would like to know the reason. Today the answer was given that barring 2 lakhs Harijans there are hardly 90,000 Hindus in the whole of Sind. It is not possible for them to be sent out to India unless the steamer transport again exists or some other arrangement is made. In these circumstances I would like to know whether Sind has been included or not—in the agreement for the purpose of transfer of prisoners. If it is not I want to know the reason.

[Mr. R. K. Sidhva]

There are many political cases being tried in Sind today. Some are under-trial cases; I would like to know from that point of view as to what will be the position. While agreement has been reached between the two Dominions the political cases of the under-trials are still being proceeded with. They have been going on since one and a half years. Notwithstanding the decision of the two Dominions and the agreements, they have been going on for one and a half years without any decision being arrived at by the Pakistan Government. The Government of India have frequently told us that the Pakistan Government do not adhere to the clauses of the Agreements that are arrived at. As such I am very anxious to know what arrangements they will make if even after this Act they do not carry out the terms. My anxiety is only that. I do want that we should play our part honestly—as we will play. But I do not want the other side to give excuses, under any circumstances, and take us by surprise, as in many respects they have done, achieving their own object and not allowing justice to play its fair part. I certainly welcome the Bill in the sense that it is very desirable. While all the nationals have been transferred from one Dominion to the other there is no reason why the prisoners should be kept there, particularly when the officers of the jails are of different communities. I receive letters that our prisoners are not being treated fairly. I therefore submit that this Bill should be applied to the whole of India.

Shri H. V. Kamath (C.P. and Berar: General): Mr. Speaker, Sir, I find that the only parallel to this measure is the exchange of prisoners of war during war time or after that. It is true that we have had no war here—In India or in Pakistan—but during the last twelve months conditions were such that they could almost be said to have been tantamount to undeclared war. If not a war, there has at least been a great storm here and I would describe these prisoners as orphans of the storm. It is very happy that the Government is going to make arrangement for the exchange of these orphans of the storm from one Dominion to the other.

Certain issues arise in connection with the implementation of the Agreement which has been effected between the Governments of Pakistan and India. It is said in the Preamble “Whereas it is necessary to provide in pursuance of the said agreement for the transfer of certain prisoners from India to Pakistan and for the reception in India of certain prisoners from Pakistan”. I suppose that the discussion will be confined to this aspect of the Bill—how far and how long we will take for receiving prisoners from Pakistan to India and for sending prisoners from India to Pakistan. My friend Mr. Sidhva remarked that there is no provision about Sind and other Provinces of Pakistan. So far as I can remember, the Honourable Minister in the course of his speech yesterday did mention that Sind, Baluchistan and the North-West Frontier Province were also included,.....

Mr. R. K. Sidhva: It will be applied later on.

Shri H. V. Kamath:.....and that the Government of Pakistan had agreed to include these Provinces within the ambit of this measure.

Mr. R. K. Sidhva: I said the Act should be applied immediately.

Shri H. V. Kamath: This Bill applies to India. How can it have jurisdiction over Pakistan? We cannot apply this Bill to Pakistan.

Mr. Speaker: The point is obvious. The honourable member may proceed.

Shri H. V. Kamath: The other day, in connection with a question raised on the floor of this House, I made a reference to certain persons in Pakistan jails, particularly in Sind jails. There are not many perhaps, but I personally

know that there is at present one left who has been there since the ‘Quit India’ movement was started in 1942. I do not know in which particular jail he is—whether Karachi jail or Hyderabad jail. I am told his name is Nanak Ishar Das Ahuja. He was sentenced to nine years imprisonment in 1942. He has not yet been released. He is in some jail in Pakistan—in Sind. I would request the Honourable Minister to look into the case and see that this person who was convicted in 1942 and has since been held in Pakistan jail, is also included in the list of persons to be transferred from Pakistan to India. Then there are, I understand, two persons—one is Wanchoo Kewaram; another is Mero Jaisa Ram,.....

Mr. Speaker: I think he may give the list of names outside the House.

Shri H. V. Kamath:..... who absconded from Pakistan in 1942 but against whom warrants are still pending. They have not been withdrawn by the Pakistan Government. Therefore it is necessary that the Government should give an assurance, make a statement or announcement that if these persons discover themselves on Indian soil they will not be extradited or sent to Pakistan or taken up for trial in India.

There is another aspect to which Mr. Sidhva casually referred. That is how far we can be sure that even after having agreed to repatriate or send some prisoners from Pakistan to India, the Pakistan Government would implement it in letter as well as in spirit. That is a very moot point. The other day the Prime Minister speaking, I believe, if my memory does not betray me, somewhere in South India said that the edifice of the Pakistan Government has been built on lies and deceit. And he quoted instances to show how Pakistan has not honoured her agreements with India and how this edifice which was founded on communal hatred has been built and reared on lies and deceit. If that spirit persists with the Government of Pakistan I for one would request the Government to see that such things do not happen—that such agreements made in good faith and in good spirit, made as men of honour, are not violated in practice. Because, it is very likely that the Government of Pakistan may not supply to us—not deliberately perhaps, but inadvertently—the lists of all the persons held by them in their jails. Who is going to go from here to Pakistan, go to the jails there and see what persons are held there and whose names are concealed from the lists supplied to us? I find that the Pakistan Radio and some of their leaders still refer to India as an enemy. It is a very unfortunate state of affairs that though we are doing everything, our very best, to be friendly with Pakistan, their leaders continue to refer to India—even on the day of Independence, the 15th August, one of their leaders referred to India as the enemy of Pakistan. If that is the outlook that guides and orientates their policy then it is very likely that even in this matter of exchange of prisoners everything they do may not be aboveboard. We have to be cautious and we have to be on our guard to see that this agreement which has been arrived at between us and them is honoured in letter and in spirit. It is all very well for us to say that whatever Pakistan may do or may not do, we shall do the right. That is being said in certain quarters. They say that whatever Pakistan may do or may not do, we shall do the right. But, Sir, I do not feel personally.

Mr. Speaker: I am afraid the honourable member is going into a repetition of the arguments already advanced. I have pointed out to Mr. Sidhva that all that question need not be discussed at this stage. The discussion is purely as regards the legislation and he can make any suggestions with regard to its provisions. In fact, he is repeating the arguments of Mr. Sidhva and arguments on the way the arrangements have to be come to. I do not think it is at all relevant to this subject. There will be no end to it, if he goes into

[Mr. Speaker]

the details of the relations of the Indian Dominion with the Pakistan Government—the background, the experience, the future pitfalls and all that—if he does so there will be no end to this discussion. All that is not relevant on this discussion.

Shri H. V. Kamath: Sir, I bow to your ruling, but I thought, as the Preamble says, that we are going to provide in pursuance of the said agreement for the transfer of certain prisoners, and my point was how far this transfer will be completely effected.

Mr. Speaker: That is what he has already referred to.

An Honourable Member: It is for the Government to see.

Mr. Speaker: I see no new point; if he has any new points to suggest . . .

Shri H. V. Kamath: I will come to that new point, Sir.

Mr. Speaker: Time is running against us.

Shri H. V. Kamath: Or we are racing against time.

Today there was a Question on the list which unfortunately did not come up for oral answer. It was Question No. 771 by Sardar Hukam Singh asking for information. If that Question had been answered today, I need not have referred to it now. That Question is relevant in the present context. It is about non-muslims detained in mental hospitals in Western Pakistan. It may be that they were not detained in jails. But a storm had broken out wherein homes were shattered, estates and properties lost and these men must have lost their balance of mind. They must be treated as well as anybody who is at present in Pakistan jails. The storm has affected them as well as those who are today held in Pakistan jails. Therefore, I would request the Government to see that these detainees or inmates of mental hospitals in Western Pakistan, in so far as they were admitted after the 15th August 1947, should also be considered and their cases will have to be examined. I do not say that all the inmates of the lunatic asylums must be brought over here, but those who have been affected by the events that supervened after the 15th August 1947, and who have been proved to be suffering from the effects of that storm, should be brought here along with the other prisoners.

One last point, Sir, I refer to it with great trepidation and if I go astray you will please pull me up. That point is this: the Minister yesterday, in moving the Bill for consideration of the House, referred to—he did not mention the name but he referred to—a certain case in Delhi which has exercised the minds of many people in our country. I too will not refer by name today—I will follow the very sound rule he adopted. But I would have suggested, or I would have liked that our Government, while negotiating with the Pakistan Government, should have tried at least, if not insisted upon, to get into India two of our comrades—I can recall only these two prominent ones, but there may be others. These two very prominent colleagues of ours have been in the Indian National Congress for two decades or over; they have suffered in the freedom movement and have been comrades in distress for the last so many years. Sir, I refer to Khan Abdul Gaffar Khan and Dr. Khan Sahib. I should have been very happy if these two leaders of the Congress—till lately—were brought to India. And we would have been very glad to send from India to Pakistan one who disturbed communal harmony, practised communal hatred. It would have been a grand exchange—a sight for the Gods—a heavenly exchange—if we would have welcomed in our midst these two who preached communal harmony and communal concord all their lives, who worked and sacrificed for the unity and independence of India.

پنڈت تھاکر داس بھارگو : اس بل کے اندر جیسا کہ جناب والا نے فرمایا ہے اگر اسی پر اکتفا کیا جاتا کہ اس کو صرف exchange of prisoners تک ہی محدود رکھا جاتا تو بہت اچھا ہوتا -

میں نہایت ادب سے اس بل کے بارے میں صرف دو منٹ لینا چاہتا ہوں - میں یہ گزارش کروں گا کہ اگر اب بھی ممکن ہو تو اس بل کے scope کو نہ بڑھایا جائے -

(English translation of the above speech).

Pandit Thakur Das Bhargava (East Punjab: General): Sir, It would have been much better as you have said, if the scope of this Bill had been restricted to the exchange of prisoners only. With due respect, I would take only two minutes on this Bill and would submit that even if it was now possible, the scope of this Bill should not be enlarged.

(The honourable member then continued in English).

Sir, with your permission I would suggest that this Bill is not restricted in scope to the matter of exchange of prisoners only. If you kindly see clause 5 and amendment No. 20 which appears in the name of the Honourable Shri Gopalaswami Ayyangar, it would appear that the scope of the Bill is much greater than it should have been. Whatever the agreement be, so far as the agreement is concerned and the exchange or transfer consequent upon it is concerned, it is quite sufficient for us that the Bill provides for the exchange of prisoners. What would happen to the prisoners after their exchange is a matter in which the Government will have their final say. The Pakistan Government has no concern with it, as our Government will have no concern when the prisoners go to Pakistan and Pakistan Government will deal with these prisoners.

Clause 5 and the proposed amendment No. 20 deal with this matter. I would respectfully beg of the Honourable Member in charge of the Bill to be pleased to delete these two things from here and either, if enactment is necessary, bring another enactment, or by virtue of executive orders regulate the future destiny of prisoners who are brought here. This amendment No. 19 deals with the fate of those who will be brought here. What the amendment seeks to do is to invest the Judgment of the Pakistan Courts with a certain sanctity so that those judgments become binding on our Courts.

I was referring to amendment No. 20 by Shri Gopalaswami Ayyangar. I beg to submit that I have met many of the prisoners who have come here from Pakistan by virtue of the exchange which took place some time ago.

Those prisoners have given to me very gruesome details of the tyranny exercised by the Courts in Pakistan. I know from June to August 1947 how the courts in Pakistan were behaving. Even the High Court was affected and the judgments were not rightly given but given with very great bias against particular classes of people because at that time conditions were not normal. Any sentence passed in those days should not bind our hands and we should decide after the prisoners have come what is to be done with those prisoners.

We know that in many cases innocent persons were sentenced to imprisonment and they were given sentences in other ways even when they did not deserve them, so that the judgments passed on them are open to review. I can tell you of two or three cases which passed through my hands. There was a case in the Punjab in Ferozepur District where two persons accused of murder were exchanged and they were let off scot-free in Pakistan. I know

[Pandit Thakur Das Bhargava]

of many people who have come back from Pakistan who were under-trial prisoners before they were exchanged. They are being tried in Gurgaon. So this question of trial of prisoners has nothing to do with this Bill and similarly the jurisdiction of the courts to try a person when he returns from Pakistan after having been exchanged will depend upon the law at present in vogue in this country. Suppose a person is exchanged and thereafter he turns up again with or without the permission of the Government of India, suppose he is an under-trial prisoner, what we shall do with him will be determined by the provisions of the Criminal Procedure Code and not this Bill. I know about 80 men who were prisoners here and who were accused under Sections 302 and 395, who went to Pakistan by way of exchange as prisoners and then they were let off there, and finding that conditions there were not good, they returned back to India. I do not know whether they returned with or without the permission of Government of India and they have been arrested and they are now in jail in Gurgaon and are again being prosecuted under the Sections for which they were previously undergoing trials. I do not want the present law of the land to be changed. In fact, both these matters are not germane to this subject and as pointed out by you, it would be more proper that we do not discuss the matter here and regard the scope of the Bill as restricted to mere exchange. If this is accepted, then there would be no occasion for me to move my amendment or oppose the amendment of my honourable friend.

Prof. Shibban Lal Saksena (U. P.: General): Sir, I have carefully listened to the speech of the Honourable Minister yesterday and I also carefully studied this Bill. In sub-clause (3) of clause 1, we say that this applies to East Punjab, although in the next sub-clause it is said that it can be extended to any other province or State by notification and in both places it is stated, as you will see from the definition of "transferable prisoner" in clause 2, this Act applies to any person who, being a Muslim, is willing to be transferred to Pakistan under the provisions of this Act. Now, I do not like this kind of provision. It is a serious slur upon Muslims here, that because they have been sentenced to imprisonment or penalties, they should be willing to go to Pakistan to find acquittal or release there. This assumes that Muslims do not look upon India as their motherland. I do feel that this will encourage Muslim prisoners in India to expect in Pakistan a sort of immunity from imprisonment or penalties for whatever crime they commit in India, and crime by Muslims will increase. (Pandit Thakur Das Bhargava: "They have been released.") Those who went from here have already been released. I know that. Therefore, I studied very carefully whether this Bill is proper or not. Last evening when the Honourable Minister was telling us the reasons for this Bill, he said that an Ordinance had already been passed and what we are doing here is to give our seal of approval upon that Ordinance. I think this is no proper reason. In fact, the Ordinance was passed without consulting us. We object to many things in that Ordinance. As the statement of Objects and Reasons of this Bill itself says: "The agreement worked for some time and a large number of non-Muslim prisoners were received from West Punjab and all Muslim prisoners except about 300 were returned to Pakistan from East Punjab." Thus the original agreement which was concluded was for exchange of prisoners between East Punjab and West Pakistan and it worked well for some time and then Pakistan insisted on certain other prisoners in Delhi not falling within the original agreement also being returned to them, and because Government did not think it proper at that time to agree, therefore they did not comply for sometime and now they have brought this Bill in order to give effect to the demands of the Pakistan Government. I think this kind of yielding is quite wrong. If an agreement had been concluded, it ought to have been fulfilled; if it was not fulfilled it ought to have been ended then and there. Merely because after making an

agreement, Pakistan wants certain other bargains and wants to amend the original agreement for this purpose, we should not have agreed. This kind of thing I intensely dislike. I do not want that because a party to the original agreement wanted to bargain and get something more and therefore to change it, so we should agree. I dislike this kind of thing. I therefore take this occasion to say that this kind of thing is not proper and I hope this would not happen in future. If we throw out this Bill it would mean censure on the Government which has already yielded to the demands of Pakistan against public feeling; so we have to agree to this Bill, but I do want to tell the Government that the country does not like our always yielding to the other side and presenting the legislature with a *fait accompli*. This encourages Pakistan to think that by breaking agreements they can get a better bargain.

Then, Sir, I have carefully considered what will be the benefit of this Agreement. Some prisoners will come here. On coming here they will have to undergo the sentence which they have been given probably by the Pakistan courts. Some will be hanged probably and others will have to undergo sentences of imprisonment. I do not see what is the fun of their coming here merely to execute the balance of their sentence. If you want this Bill to show them some mercy, some kindness, then pardon should be granted to them. Bring them here and release them, so that they may feel that they have come to their country and have been released. If they come here merely to rot again in jail, I do not see the fun in their being brought here. They may as well rot in Pakistan jails rather than in our jails here. I therefore think that this provision that they will come here and they will have again to undergo the sentence is not proper. As my friend has pointed out, the prisoners sent from here to Pakistan have been released. I therefore think that prisoners who come from Pakistan should also be released and should not be required to undergo their sentences. If you cannot do that, then don't get them at all here. Let them remain there. I know the tyranny which they are suffering there. We heard only the other day that in Rawalpindi a prisoner was killed in jail. All these things are really horrible, but if you really want they should, after undergoing a year or so of imprisonment in Pakistan, come here only to continue to undergo imprisonment, then what is the use of it to them? You must see that when they come here they will be released and they will be allowed a fresh lease of life and given an opportunity to become good citizens of this country. There is no sense in this Bill if we do otherwise.

Another omission in this Bill is about Bengal. You are quite prepared to extend it to the entire country, but Pakistan is only prepared to do it in respect of Western Pakistan. So what about East Bengal? I think there are many patriots of this country who may be languishing in Eastern Pakistan jails. They cannot come under this agreement. If they wanted to bargain and ask for the exchange of some particular prisoners to Western Pakistan, you should also have asked them for exchange of prisoners from East Bengal, so that our patriots who may be imprisoned there may come here. I think that it is not proper that we should treat only Western Pakistan as Pakistan and treat Eastern Pakistan as not Pakistan. So if we want to do something in this respect, we must see that our prisoners in Eastern Pakistan are also brought here.

Mr. Speaker: But does the Bill make any such distinction, either between Eastern Pakistan or Western Pakistan?

Prof. Shibban Lal Saksena: Yes, Sir. Yesterday in his speech the Honourable Minister said that the agreement applies only to East Punjab and Western Pakistan.

Mr. Speaker: I think the Bill speaks of Pakistan. Am I right there?

The Honourable Shri N. Gopalaswami Ayyangar: This agreement relates only to Western Pakistan.

Mr. Naziruddin Ahmad (West Bengal: Muslim): But it can be extended to other parts of India.

Shri M. Ananthasayanam Ayyangar (Madras: General): There is no agreement for Eastern Pakistan.

Mr. Speaker: There may not be any agreement, but the Bill is one. It does not speak in terms of Eastern or Western Pakistan. And it can be extended to Eastern Pakistan.

The Honourable Shri N. Gopalaswami Ayyangar: No, Sir, but in view of an amendment which I shall move there would be no objection to its being extended to Eastern Bengal when that becomes necessary and has become a matter of agreement.

Prof. Shibban Lal Saksena: I am glad, Sir, for the Honourable Minister's explanation. The prisoners lying in Eastern Pakistan should also be brought here and released.

Then, Sir, I would only refer to one other matter. My honourable friend Mr. Kamath said that because we are sending one prisoner from here, we should also try to get distinguished prisoners like Khan Abdul Ghaffar Khan and Khan Sahib from there. I do not think it is very wise for us to say that Mr. Kamath has done injustice to them. I do not think the Khan brothers would like to come here. That would be unpatriotic on their part. I think Khan Abdul Ghaffar Khan and Khan Sahib are doing a great work there. They are leading a movement which probably is bound ultimately to change the whole face of Pakistan. They are patriots, and Pakistan is now their country. They are raising their powerful voice against the present mad policies of the Pakistan Government because they are convinced that these policies will ruin Pakistan. They have fearlessly and deliberately chosen to tell the truth to their countrymen without counting the cost. They would not like to save their skin like cowards by seeking transfer under any such Indo-Pakistan Government. They can only bear comparison with Socrates, and I can imagine them cheerfully drinking the cup of hemlock after scornfully rejecting the offer of escape from prison. May their patriotic efforts in the service of their nation be crowned with success.

The Honourable Shri N. Gopalaswami Ayyangar: Mr. Speaker, Sir, I wish to say only a few words. In the debate that has taken place on my motion, there was some point made by Mr. Sidhva about the willingness of prisoners to be transferred to the other Dominion. That they should be willing is a matter of agreement between the two Dominions. Both Dominions have agreed that those who are willing to be transferred should be transferred, and as a matter of fact, I remember only a day or two ago having an enquiry from Pakistan in regard to certain prisoners in Sind, that they are saying that they do not want to go to India. I would like to say that that statement as to willingness is tested—and we have instructed our High Commissioner personally to verify whether the fact of unwillingness is correct. If that is correct, if they want to stay in Pakistan, we cannot compel them to come over to India.

Sir, with regard to the Bill being immediately applicable to Eastern Punjab, I wish only to say this. An amendment which I shall be moving will make the Act extend to the whole of India. It would be brought into force in East Punjab and it can be extended to any province or state in India, whenever that is necessary. As a matter of fact, we are extending it to those areas which under the agreement we have already entered into with Pakistan come

under the scheme of exchange. We can extend it to other provinces and States when that becomes necessary. After all this extension relates only to the transfer of prisoners by us from India to Pakistan. The extension to Sind is a matter for the Pakistan Government and not for us, and we expect, I take it, that Pakistan has already taken that action, that the Pakistan Government has already extended it to Sind, because it is part of their agreement with us that prisoners in Sind should come within this agreement of exchange.

Then, Sir, about under-trials, it has been said that there is no point in getting prisoners over from the other side if we are going to execute the sentences already inflicted on them by Pakistan courts or we are going to continue the trial of such prisoners, which was unfinished in Pakistan before they are transferred over to India. I personally would have welcomed it because it would have lightened our labours very greatly. But as a matter of arrangement between the two dominions and from the larger standpoint of offenders against society being dealt with for crimes committed by them, it has been agreed between the two dominions that we should take over the prisoners at the stage at which the Pakistan Government and the Pakistan courts have dealt with them on the day of the transfer, and Pakistan takes over our prisoners under the same conditions. When they come over here let us assume it is a case of a convict prisoner. Now, normally the remainder of his sentence will have to be executed here, but it is open under the law which exists in this country for us to review the cases of such prisoners and either reduce their sentences or remit their sentences according as we think the merits of the case justify. Similarly in the case of under-trial prisoners when they come over here, it is open to us to examine the records of the case and take such action under the law and according to the conditions in this country. We might either continue the prosecutions or if we do not think that the case is of sufficient importance, then we can withdraw the cases. We can deal with security prisoners by dealing with the balance of the security period for which they may be undergoing sentences in whatever way we think it is proper for us to do. Similarly in the case of detenues, we may choose to release them. If a man has been detained in Pakistan for political reasons and not for crimes to be proved in a court, that may be a strong ground for our releasing him straightaway and all that is within our competence.

I explained yesterday that the law in force in East Punjab where these persons will be received and the law in force in Delhi, and Ajmer-Merwara to which the East Punjab Act will be extended, provides adequately for dealing with every class of prisoner that we take over from Pakistan. On the point raised by my honourable friend, Pandit Thakurdas Bhargava, there is something to be said for his point of view. But we thought that, once we received prisoners from the other side, we should indicate exactly what should be done with them. There are cases where we transfer prisoners over to the other side and they come back here either having been tried and sentenced there or escaping from prisons there and perhaps trying to take advantage of better conditions in India, but there is a provision in this Bill itself that no such person can return to India without the express permission in writing from the Central Government. Before that permission is given, I take it, that each individual's case will be adequately examined by this Government. In the second place, where they do come without such permission and are found in India, they commit a breach of the provisions of this Act and they can be arrested and tried and sentenced to a term not exceeding three years rigorous imprisonment. If any part of their sentence on the other side has not been served, then the Court that tries this person can sentence him to an additional term of imprisonment equivalent to the balance of the term that has not been served on the other side. But there is one case where perhaps there is a lacuna

[Shri N. Gopalaswami Ayyangar]

in this particular Bill and if Pandit Thakurdas Bhargava will move his amendment to clause 8, I think, I shall be prepared to suggest an alternative form in which the difficulty he is feeling will be met and we shall be able to remove this lacuna to which I have referred.

The other points that were made were about Pakistan's past conduct. I do not think, as you, Sir, have already pointed out, that this is relevant to the consideration of this Bill. We are trying to eliminate all chance of either party not implementing its obligation under the agreement by collecting the prisoners together on either side at a point on the border to effect the transfer practically in one transaction. We shall see before that transfer is effected that everybody who has to come over here has been included in the list we receive from Pakistan.

Mr. R. K. Sidhva: About the under-trials, Sir?

The Honourable Shri N. Gopalaswami Ayyangar: I think I explained it fully yesterday. When the undertrials are brought over and are received in East Punjab, there is an Act in force in East Punjab providing adequately for the treatment of these repatriated prisoners. That Act will come into force and their cases will be dealt with in accordance with the provisions of that Act.

I do not think I need detain the house further. I have covered most of the important points that were raised in the course of the debate.

Mr. Naziruddin Ahmad: Sir, I desire clarification on a small matter. There are under-trial prisoners in both the Dominions. If they are exchanged, their trial might lead to difficulties, because the offences would have been committed outside the Dominion in which the trial will take place. The Pakistan offenders who are under-trial have committed offences in Pakistan and *vice versa* Indian under-trial prisoners are alleged to have committed crimes in India. The place of trial, the production of witnesses and several other factors will come in. I desire to know whether there is any law or any contemplated law to deal with these complications. There will be questions of courts jurisdiction. I only desire clarification.

Sardar Hukam Singh (East Punjab: Sikh): There is other question also. So far as I remember you said that the present agreement relates to East Punjab alone. We will send out prisoners from East Punjab, the Acceding States and Delhi while they will send prisoners from the West Punjab, and Acceding States. I want to know whether after we have sent out the Muslim prisoners from East Punjab, States and Delhi, would there be any Muslim prisoners left and they would like to have them after this agreement is completed. What I mean is, if we shall require certain other prisoners and we would like to have them, we will have no chance of reciprocity, and we will be losing this game as well.

Shri H. V. Kamath: On a point of information, Sir, has there been any dead line fixed for the completion of exchange of these prisoners? There is the further point raised by me about the detenus in mental hospitals of Pakistan.

Mr. Speaker: To that there is the reply already in answer to a question that the matter is under consideration.

Babu Ramnarayan Singh (Bihar: General): One question, Sir. Cannot the Government effect the exchange of prisoners without this legislation?

Mr. Speaker: That also may be answered now.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, the Government cannot effect the exchange. By Government, we mean the Executive. The Executive has got to act under the law and unless the Executive is clothed

with the necessary powers by legislation, it cannot transfer prisoners from here over to Pakistan. But it is quite possible that we shall be quite prepared to receive Hindus from Pakistan without any legislation on our side if we were to adopt the policy that Professor Shibban Lal Saksena recommended and if Pakistan will make a present of all Hindu and Sikh prisoners in Pakistan, no legislation would be necessary. But, Pakistan will not hand over any prisoners from the other side unless we transfer prisoners over to the other side and for effecting that transfer legislation is necessary.

With regard to the question of reciprocity, I believe there is some misapprehension in the minds of honourable members. Reciprocity is only with regard to the fact of exchange. It does not extend to the numbers exchanged. Pakistan has agreed that every Hindu and Sikh prisoner in the Jails in the areas to which this scheme extends will be sent over to India. We have agreed that every Muslim prisoner in the areas to which the scheme extends in India will be transferred over. If our numbers are less than the numbers in Pakistan, we are still entitled to and shall insist upon the whole lot of them being transferred over to India. I think I have made this point clear already. If there is any doubt about it, let me clear it once and for all.

And now the points which my honourable friend Mr. Naziruddin Ahmad raised. He referred to the offenders after they are received here being Indian nationals or people who will become Indian nationals, who had committed offences in Pakistan. His very delicately poised constitutional and legal mind naturally finds some difficulty to understand how such persons could be tried in India. The answer to that is that the law under which they will be tried is an East Punjab Act and that act has provided that prisoners who come over to India,—under-trial prisoners—will be tried under the law in force in East Punjab for offences committed in Pakistan as if such offences had been committed in India. I am sure the honourable member is aware of a similar provision in the Criminal Procedure Code. The law permits that sort of thing. That is how our courts will obtain jurisdiction.

Regarding the dead line, we have been trying to fix a specific date for effecting this transfer. We thought we could do it on the 9th of this month. The lists are coming in. Verification takes a little time. It is proposed that this date will be fixed within a few days thereafter. I am not in a position to announce the actual date. It will depend on how far both sides are ready with their lists, not only with the lists, but with the collection of prisoners at the point at which the transfer is to take place. As soon as we are sure of that, we will effect the exchange.

Mr. Speaker: The question is:

"That the Bill to provide, in pursuance of an agreement with Pakistan for the exchange of prisoners, for the transfer of certain prisoners from India to Pakistan and the reception in India of certain prisoners from Pakistan, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will take the Bill clause by clause at 2-30 P.M.

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

The Assembly re-assembled after Lunch at Half past Two of the Clock
Mr. Speaker (the Honourable Mr. G. V. Mavalankar) in the Chair.

Mr. Naziruddin Ahmad: Sir, I move:

"That in part (b) of clause 2 of the Bill, the word 'duly' be omitted."

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I accept it.

Mr. Speaker: The question is:

"That in part (b) of clause 2 of the Bill, the word 'duly' be omitted."

The motion was adopted.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I move:

"That in part (b) of clause 2 of the Bill, after the words 'in a prison' the words and figures 'on or before the 1st day of August 1948' be inserted."

The reason for it is obvious.

Mr. Speaker: The question is:

"That in part (b) of clause 2 of the Bill, after the words 'in a prison' the words and figures 'on or before the 1st day of August 1948' be inserted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in part (c) of clause 2 of the Bill, the word 'the' occurring in line one be omitted."

This is an offensive word in the context and is no part of the definition or name. This occurs in the definition of "the Provincial Government". The word "the" is no part of the name and is only an article, and so the word is not really wanted. Like evacuees from one Dominion to another this article should be evacuated from within the definition to outside it.

Mr. Speaker: Amendment moved:

"That in part (c) of clause 2 of the Bill, the word 'the' occurring in line one be omitted."

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I cannot accept it. I think it is necessary and it is also necessary to indicate that the Government referred to is the Government of a particular State. That is why I believe the Draftsman has included the definite article in the definition.

Mr. Speaker: The question is:

"That in part (c) of clause 2 of the Bill, the word 'the' occurring in line one be omitted."

The motion was negatived.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I move:

"That in part (c) of clause 2 of the Bill, the words 'in which this Act is brought into force' be omitted."

This is consequential on an amendment which I shall move later to clause 1. I can move it now because I do not think there is likely to be any controversy over that other amendment.

Mr. Speaker: The difficulty is that if it is not done now we shall have to keep clause 2 pending.

The Honourable Shri N. Gopalaswami Ayyangar: I shall explain this amendment to the House. I am proposing the deletion of sub-clause (3) to clause 1. If that is made there is no question of bringing the Act into force later on in any particular area. Clause 1 would then read as if the Act applies to the whole of India. There is no special provision to bring it into force in any particular area and so in clause 2 (c) it is not necessary to keep the words which I want to delete by the amendment I have moved. Sir, I move.

Mr. Speaker: The question is:

"That in part (c) of clause 2 of the Bill, the words 'in which this Act is brought into force' be omitted."

The motion was adopted.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I move:

"That in part (d) (ii) of clause 2 of the Bill, for the words 'in any other Province or Acceding State in which this Act is brought into force' the words 'in any other part of India' be substituted."

This is the same as the one I mentioned in the case of the other amendment.

Mr. Speaker: The question is:

"That in part (d) (ii) of clause 2 of the Bill, for the words 'in any other Province or Acceding State in which this Act is brought into force' the words 'in any other part of India' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I wish to say something about the words "official Gazette." The phrase is defined in the General Clauses Act in section 3 (37 a). For a long series of years "Official" was written with a capital letter. And for some time past there has been some difference of opinion among different Draftsmen, and in some measures it is written with a capital and in others with a small letter. This matter was then raised here and it was agreed—though not on a motion—that the word in the context should begin with a capital letter. In this session in some Bills it has been written with a capital letter and in others with a small letter. I am told that in some recent Acts the word begins with a small letter. But I submit, the real authority is the General Clauses Act and there is no option with the Draftsman. It is the prerogative of the Secretary or of the Secretary acting under the authority of the Speaker, though the Draftsman's opinion may be taken. I think the Draftsman's report should be called and definite instructions should be given. My point is that the practice should be uniform. If it is spelt uniformly with a small letter I would not mind but it should not be written differently in different Bills. In view of the authority of the General Clauses Act and the practice that has obtained for a good part of a century, we cannot depart from that practice simply because we have introduced some mistakes in some recent Bills. In the circumstances I submit that you may be pleased to give a final ruling on the point which will settle the practice once for all.

Mr. Speaker: I am not prepared to say anything at this time. But it is to be seen whether a small 'o' really makes a difference in the substance. Anyway, I am not placing it before the House.

The question is:

"That Clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clauses 3 to 7 were added to the Bill.

Pandit Thakur Das Bhargava: Sir, I move:

"That in sub-clause (2) of clause 8 of the Bill, the following be added at the end:

'and if at the time of his transfer to Pakistan he was an undertrial prisoner, the jurisdiction of the courts in India shall be revived and such person shall be liable to be dealt with according to law as if he had not been a transferable prisoner.'"

I have already submitted my reasons informally for moving this amendment. I understand the Honourable the Minister in charge of this Bill has an amendment which he has shown to me, and I have only moved this amendment with the idea to have an occasion to place that amendment and I seek the permission of the House for that amendment.

Mr. Speaker: I will then put it in the amended form.

The Honourable Shri N. Gopalaswami Ayyangar: I accept the substance of my honourable friend's case. I think there is a lacuna in the Bill which his amendment tries to fill. But I think the drafting of it has to be more satisfactory.

[Shri N. Gopalaswami Ayyangar]

tory and this is the draft I propose, namely, instead of adding a proviso to sub-clause (2) of clause 8, I move:

"That after sub-clause (2) of Clause 8 of the Bill, the following be added as sub-clause (3):

(3) If at the time of his transfer to Pakistan, the person contravening the provisions of sub-section (1) was undergoing trial in any court in India for any offence, he shall, without prejudice to the provisions of sub-section (2), be liable to be tried for such offence by the same or any other court having jurisdiction:

Provided that if such person has, before his return to India, been tried for the offence by a court of competent jurisdiction in Pakistan and convicted or acquitted of the offence, he shall not be liable to be tried again for the same offence by any court in India."

Mr. Speaker: Amendment moved:

"That after sub-clause (2) of clause 8 of the Bill the following be added as sub-clause (3):

(3) If at the time of his transfer to Pakistan, the person contravening the provisions of sub-section (1) was undergoing a trial in any court in India for any offence, he shall, without prejudice to the provisions of sub-section (2), be liable to be tried for such offence by the same or any other court having jurisdiction:

Provided that if such person has, before his return to India, been tried for the offence by a court of competent jurisdiction in Pakistan and convicted or acquitted of the offence, he shall not be liable to be tried again for the same offence by any court in India."

Perhaps, the proviso creates a difficulty.

Shri K. Santhanam (Madras: General): The only point I want to know is this: supposing an under-trial is transferred to Pakistan and he is released formally by the authorities according to law. Then suppose he comes here. Will the offence against him be revived? The proviso says that if he is tried and convicted then the offence will not be revived. What happens if he is released according to the usual procedure?

The Honourable Shri N. Gopalaswami Ayyangar: The answer to that is that each case will have to be dealt with on its merits. We do not propose to prosecute every person who might be released without trial in Pakistan. But we cannot shut our eyes to the fact that people who had committed, say murder in India, were transferred over to Pakistan and are released there without even being tried, if they get back to India we will reserve the right to revive the proceedings against such people and we will not exercise this right only in cases where a trial has taken place and the man has been properly acquitted. That is the whole idea behind this amendment.

Mr. Speaker: I am doubtful whether the proviso will not bar the trial of a person who is undergoing trial here for murder, he is transferred and, as Mr. Santhanam pointed out, is tried there by the Pakistan court and acquitted for want of evidence. That man, even when he returns here, under the terms of the proviso, will not be triable in India. That seems to be the effect.

The Honourable Shri N. Gopalaswami Ayyangar: If the trial is continued in Pakistan and if according to law he is acquitted of the charge that had been framed against him we are prevented from ordering a fresh trial of the man if he happens to return to India. But there may be cases where Pakistan might simply say, we do not care about the trial. You get away: and if then people come back we should be in a position to revive the proceedings.

Shri K. Santhanam: May I know how the trial can be conducted without evidence, without witnesses who are all here?

The Honourable Shri N. Gopalaswami Ayyangar: That difficulty is there. Either the witnesses have got to be got over here for the purposes of the trial or provision exists, I think, in the East Punjab Act for examining the witnesses on commission in one Dominion by Courts which issue commissions in the other. We are providing for those cases. There is no doubt that the inconvenience is there. We have got to face it.

Pandit Thakur Das Bhargava: In regard to the proviso, I have got every doubt whether this proviso is necessary or even effective. I know of a case in which two murderers committed a murder here and then they were under trial. They were sent by way of exchange from East Punjab to Pakistan. They were released there. Four of the co-accused were tried in Ferozepur and three of them have been acquitted on the 22nd August. The fourth man who was alleged to have been the abettor has been sentenced to transportation for life. Now those two persons sent from here by way of exchange have been sending letters to their co-accused. They are at large and they can come back to India. I think the provisions now made will be able to give justice to them and they will be tried in the courts here.

But as regards the proviso, it says that if they are tried in Pakistan and convicted or acquitted, then the courts here will recognise the judgment as good. In the first place I do not think that the courts in Pakistan will have jurisdiction to try a prisoner of that sort. But even if the courts of this or that, country do get jurisdiction conferred by virtue of certain measures, even then there will be no evidence there. The crime was not committed there, the evidence could not be had there and there can be no proper trial there. But what I object to very seriously is this. We cannot say all at once that if there is a trial in Pakistan we shall recognise it as good. It is a foreign government and in regard to foreign judgments the law is that if the judgment satisfies certain conditions then the courts in the country may recognise it: otherwise that judgment is of no substance in law. If it is held that the trial was good, that the conviction is regarded as good because the judgment is good, then there will be some justification in saying that because there has been a trial there, the trial is recognised as good. But we cannot beforehand say in respect of any judgment that the judgment would be regarded as good. Why should it be regarded as good at all. According to section 403 of the Cr. P. C. if there is a judgment ending in a conviction or acquittal, it is a bar to a second trial but a conviction or acquittal order of the Pakistan court has got no validity in India and therefore I would suggest that so far as this proviso is concerned it is neither necessary nor effective.

Mr. Naziruddin Ahmad: This clause leads to a large number of complications. The transfer of under-trial prisoners is arranged on a reciprocal basis. If we once agree that some under-trial prisoners of India should be sent to Pakistan and the corresponding under-trial prisoners from Pakistan be brought to India, we must also agree that the trials already held in India or in Pakistan of the exchanged prisoners must be held to be valid.

As to Pandit Bhargava's point that a foreign judgment is not effective, I quite agree. A judgment of Pakistan will not be admissible in India and similarly a judgment in India will not be admissible in Pakistan unless certain specific conditions are satisfied. It is on account of this state of the law that the present proviso tries to fill the gap. Unless there are reciprocal guarantees to accept as valid the judgments of the other Dominion the exchange of under-trial prisoners would be meaningless. That part of the proposed amendment seems to be good. If there is a trial in India or in Pakistan that should be respected by the other Dominion. The introduction of the terms as suggested by Pandit Bhargava namely, that the trial must be legal, would lead to complications. If there has been a trial it must be accepted as legal. These are transitional provisions to be exercised only once and for a short period only and these provisions will soon be spent. But the trouble to my mind is that a man who has committed an offence in India is partly tried and then he is transferred to Pakistan. What about the evidence that has already been taken. Will that be taken cognisance of by the Pakistan Court? Similarly if a man is partly

[Mr. Naziruddin Ahmad] tried in Pakistan, can the evidence already taken, the charge-sheet and the framing of charges etc., can these be taken judicial notice of in Indian Courts? I think both the Dominions should make provision to accept that part of the proceedings which have already taken place as legal.

There are the questions of inconvenience which must be of necessity ignored in an international transaction like this. The real difficulty is the provision that a man who has been transferred from Pakistan can be tried in India by a Court having jurisdiction. That is the trial will be legal if the Court has jurisdiction. That begs the very question. The question is whether a man having been retransferred to India can be tried in a Court in India and whether the Court will have jurisdiction.

Mr. Speaker: We are not referring to prisoners from Pakistan. This clause refers to prisoners from India who are sent to Pakistan and who then return to India. I think the Honourable Minister might consider that the proviso does create difficulties, as pointed out by Pandit Thakur Das Bhargava. One of the main causes of the difficulty seems to be the want of confidence in the attitude of Pakistan towards a trial. That seems to be the chief point. In view of past events it is doubted as to whether any persons will really be tried with a desire to see that justice is done or there might to a sham trial and an acquittal. That seems to be the crux of the whole question.

There are also other incidental difficulties about evidence. In big trials for offences like murder, there cannot be evidence on commission for a satisfactory solution of the question as to whether the offence was committed or not. I was suggesting something different. Instead of having this proviso, the matter may be left to executive action. The Government is not bound to prosecute every man that returns to this country. If the Government is satisfied that, a particular person has escaped and come back here or has returned otherwise, it may prosecute him, if they are satisfied that he has not had any trial at all. Or they may not try him, if they find that there has been a good trial. The effect of the proviso will be that the Government is legally barred from having any trial even in cases where people have been let off after sham trials.

Shri Prabhu Dayal Himatsingka (West Bengal: General): That would be an encouragement to them to return.

Mr. Speaker: That is quite another matter.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, my difficulty is that we are passing this legislation in pursuance of an agreement entered into with a sister dominion and I should not like the House to take up the attitude that it suspects that trials in the other Dominion might be sham trials and therefore we should have the right to try a man twice over for the same offence. That is what it amounts to. If we reserve a discretion to the executive government, then we shall have to go back upon the understandings we have arrived at with the other Dominion. The other Dominion has passed a law practically in the same terms, as we are proposing to do here, and if we are going to suggest that we can treat their trials and judgments as mere scraps of paper and that we will revive trials against persons who have been tried in the other Dominion, I think it would be difficult for us to carry out the understanding that we have arrived at after a good deal of negotiation and after the establishment of a certain amount of good feeling in solving a rather difficult problem. And therefore it seems to me that both on grounds of principle as between two independent states and as the result of negotiations which have come to fruition, we ought to recognise and accept trials in the other Dominion as having been *bona fide* and we shall have to respect such trials. After all, you have got to remember that the man who contravenes the provisions of sub-section (1) of section 8 com-

mits an offence by the very fact of that contravention and we have got the right to arrest him, prosecute him and sentence him to imprisonment not exceeding three years. We are only considering the further fact whether, if he had been an under-trial prisoner and had come back before the first trial in the other Dominion was over, he should not be allowed to escape the punishment which on a possible conviction he might have received for the offence which he originally committed in this Dominion. If the trial had been continued on the other side and had been brought to a legal conclusion we ought to accept that legal conclusion, however unsatisfactory it may be as regards the merits of the trial which was held or the verdict that was come to by the court in the other Dominion. I feel, Sir that this is a point of principle. This is a point of carrying out understandings with the other Dominion and I would earnestly entreat the House to let the proviso remain as it is.

Shri T. T. Krishnamachari (Madras: General): In view of the fact that the Honourable Minister feels strongly on this matter, may I ask whether there is any use in adding a sub-clause which will whittle down the rigor of sub-clause (1) of clause 8. If there is any lacuna in the clause, apparently this lacuna exists in the corresponding Act of Pakistan also. As such this need not be moved at all. I do not suppose that they have tried to remedy this lacuna.

Mr. Speaker: The substance of his speech is that this is now a question more or less of carrying out the agreement honourably and in a truthful spirit. Then I think there is no question of discussing this matter any further.

Pandit Thakur Das Bhargava: The point may perhaps be met if the word "properly" is added before the word "tried".

Mr. Speaker: "Tried" means properly tried.

Shri K. Santhanam: The sub-clause may be dropped. If the terms are identical in both the Acts as is the contention, we need not add this. They have passed an Ordinance which is identical with this Bill.

Pandit Thakur Das Bhargava: Where is that Act. Let us see that.

Shri K. Santhanam: The Honourable Minister has a copy.

Shri M. Ananthasayanam Ayyangar: In between the suggestions—to do away with the amendment itself and to drop the proviso—I think the amendment may be accepted in the circumstances. To give up what in substance is the amendment of Pandit Bhargava will mean that even though there was no trial, at least there must be a farce of a trial resulting in a discharge, acquittal or conviction—in which case again the jurisdiction of our courts will be barred. If however the amendment itself is taken out it will mean that as soon as they cross the border they will say "*Chalo, chodo*"; the men will come back here and the only punishment can be imprisonment for three years. It may be a case of murder. Under these circumstances let us do justice to both. Let us stand by the agreement to which our friends have been parties, though I know—and we have seen—that it is very often a case of one-way traffic only. There is no chance of the non-Muslims who have come from Pakistan going back to Pakistan. They would prefer to be in jail. Whether the provisions are stringent or loose does not make anything to them. But we stand by the honour of our people and of our Government. As it has entered into an agreement let us stand by it. I am in support of the amendment with the Proviso as has been moved by the mover of the amendment. I want it including the Proviso. The clause will then be much better than it would be without the amendment.

Mr. Speaker: The question is placed on a different footing altogether in view of what the Honourable Minister has stated. I shall put the amendment to the House.

[Mr. Speaker]

The question is:

"That after sub-clause (2) of Clause 8 of the Bill, the following be added as sub-clause (3):

'(3) If at the time of his transfer to Pakistan, the person contravening the provisions of sub-section (1) was undergoing trial in any court in India for any offence, he shall, without prejudice to the provisions of sub-section (2), be liable to be tried for such offence by the same or any other court having jurisdiction:

Provided that if such person has before his return to India, been tried for the offence by a court of competent jurisdiction in Pakistan and convicted or acquitted of the offence, he shall not be liable to be tried again for the same offence by any court in India.'

The motion was adopted.

Mr. Speaker: The question is:

"That clause 8, as amended, stand part of the Bill."

The motion was adopted.

Clause 8, as amended, was added to the Bill.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I beg to move:

"That in sub-clause (2) of clause 9 of the Bill, for the word 'place', the word 'prison' be substituted."

Mr. Speaker: Amendment moved:

"That in sub-clause (2) of clause 9 of the Bill, for the word 'place', the word 'prison' be substituted."

Shri K. Santhanam: I have two questions to ask of the Honourable Minister. What will be the nationality or domicile of these prisoners—because this will be necessary in matters connected with exchange of property. Will they be Indian nationals or persons of Indian domicile as soon as they are received in India by an Indian officer? Otherwise—if they continue to be Pakistan nationals—their properties will not come under the Exchange of Property agreements, and there will be the other consequences of Pakistan nationals being in our presence.

The next point on which I want information is whether they will have the right of criminal appeal and revision to Indian courts.

The Honourable Shri N. Gopalaswami Ayyangar: As regards the first point, these prisoners who come over to India from Pakistan will, as regards their properties in Pakistan, be in exactly the same position as non-prisoner refugees who have come over from the other Dominion. The property in the other Dominion is evacuee property—the properties left behind by prisoners will be evacuee properties.

With regard to the other point I have already explained that the East Punjab Act which will govern the disposal of the cases of these repatriated prisoners, will give them all the rights of appeal, revision and even the right to apply to the Provincial Government concerned for commutation, revision and reduction of punishments—which any ordinary prisoner in our own Dominion will have. That Act will govern their cases and therefore there is no curtailment of the rights of prisoners after they come here.

Mr. Speaker: The question is:

"That in sub-clause (2) of clause 9 of the Bill, for the word 'place', the word 'prison' be substituted."

The motion was adopted.

Shri V. S. Sarwate (Indore State): When prisoners having unexpired periods of sentences are transferred and received here, what will be the position. Would they be staying in prison here or would they be let loose?

The Honourable Shri N. Gopalaswami Ayyangar: Ordinarily the unexpired portion of their sentences will be executed by the prison authorities in this country unless the Provincial Government intervenes and remits the balance of the sentences and releases them.

Mr. Speaker: The question is:

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clause 10 was added to the Bill.

The Honourable Shri N. Gopalaswami Ayyangar: I move:

"That sub-clause (3) of clause 1 of the Bill, be omitted."

This has been occasioned by the fact that as part of an arrangement which was entered into later on with Pakistan we have agreed to transfer all Muslim government employees who had opted for Pakistan but who have been detained in prisons here because of their having committed offences. These gentlemen are to be found all over the country and therefore it has become necessary for us to extend the Ordinance which is now in force, to the whole of India. The Act has therefore to apply to the whole of India. That is why sub-clause (3) which refers to bringing the Act into force has been proposed to be omitted.

Mr. Speaker: The question is:

"That sub-clause (3) of clause 1 of the Bill, be omitted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in sub-clause (1) of clause 1 of the Bill, for the words 'Exchange of Prisoners Act', the words 'Indo-Pakistan Exchange of Prisoners Act' be substituted."

Sir, this is only the substitution of a name.

Shri T. T. Krishnamachari: For what purpose?

Mr. Naziruddin Ahmad: I shall explain the purpose at once. The name to be given to the Act is "The Exchange of Prisoners Act". But there is an exchange of prisoners between the two Dominions which are for all practical purposes two independent countries. In order to indicate the international character of this exchange of prisoners, it is necessary to indicate it in the name. "Indo-Pakistan" Exchange of Prisoners Act will indicate it very precisely. The name of an Act should give some indication of the purpose and scope of an Act. That is why I think it is a better name and one which would give a clear indication of the scope and the international character of the exchange.

The Honourable Shri N. Gopalaswami Ayyangar: I think the addition of the words is altogether unnecessary. I would prefer to retain the title as proposed in the Bill.

Mr. Naziruddin Ahmad: Sir, then my amendment need not be put.

Mr. Speaker: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That for the long title of the Bill, the following be substituted:
'A Bill to give effect to an agreement between India and Pakistan for the exchange of certain classes of prisoners.'"

Sir, the long title in the Bill is really too long. I want to make the title short, but long enough to express the entire idea. You would be pleased to see, Sir, that the title is "A Bill to provide in pursuance of agreement with Pakistan for the exchange of prisoners for the transfer of certain prisoners from India to Pakistan and the reception in India of certain prisoners from Pakistan". All this can be shortly expressed by the expression: "A Bill to give effect to an agreement between India and Pakistan for the exchange of certain classes of prisoners". If we mention the word agreement, all the other necessary and incidental matters will be implied.

An Honourable Member: What about reception?

Mr. Naziruddin Ahmad: Reception follows if there is an exchange of prisoners by an agreement. It is not necessary that in the long title all the provisions of the Bill should be fully stated. If we say "give effect to an agreement" that agreement is embodied, and its effect is embodied, in the Bill. So, I say this is short but long enough to express the whole idea.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, of course I do not myself claim the authorship of this particular Preamble, but I see that the draftsmen who were responsible for it are fairly justified in giving this long title for the following reasons.

In the first place, there are other Acts. There is, for instance, in East Punjab the East Punjab Exchange of Prisoners Act, which originally provided both for transfer and reception on the one hand and for dealing with repatriated prisoners on the other—the two together went into that Act.

In the second place, to say that we are giving effect to an agreement in the Preamble may not be perfectly accurate for this reason that what we do say in this enactment is not the mere giving effect to the actual arrangements entered into—it is really to make provision for carrying into effect the arrangements that have been entered into. In doing so, it is quite possible that we have put into this Bill certain ancillary or consequential things which have not got actually embodied in the agreement itself. Not that I say that the arguments I have been advancing are altogether conclusive, but I should say that there is not enough argument on the other side to tinker with something which the draftsman has done in the usual course of his routine.

Mr. Speaker: Shall I put the amendment to the House?

Mr. Naziruddin Ahmad: No, Sir,

Mr. Speaker: The question is:

"That the Title and the Preamble stand part of the Bill."

The motion was adopted.

The Title and the Preamble were added to the Bill.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

RESERVE BANK (TRANSFER TO PUBLIC OWNERSHIP) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce):
Sir, I beg to move:

"That the Bill to bring the share capital of the Reserve Bank of India into public ownership and to make consequential amendments in the Reserve Bank of India Act, 1934, be taken into consideration."

Circumstances have ordained that I should have the privilege of placing this motion before this honourable House. It is in the fitness of things that the first piece of legislation to bring about our ideas of nationalisation should relate to an institution which is really the pivot of the financial system of the country and on which to a very large extent depends the economic well-being of society.

Sir, the demand for nationalisation of the Reserve Bank is older than the Bank itself. I am one of those who, as Members of the Central Assembly of those days, have been advocating state-ownership of the Central Bank of India ever since 1927 when the idea of a Central Bank was first mooted. It took several years for the Government of the day to arrive at a compromise with regard to this matter, and it was in 1933 that the constitution of a shareholders' Bank was placed on the Statute Book. It was a compromise measure, a compromise to which some of our leaders of the day were parties, and yet in the year 1933 we, a small band of what I described on that occasion to be a united minority, persisted in our attitude of opposition to the shareholders' Bank. I remember to have spoken in 1933 from a seat not very distant from the one that I am occupying today, leading a forlorn hope and fighting the idea of a shareholders' Bank. I apologise to this House for striking a personal note (*Shri M. Ananthasayanam Ayyangar*: "No harm") but I would not be human if I were not to be affected by the memory of those days and the fact that it has fallen to my lot to pilot this Bill in the sovereign Parliament of India today. (Hear, hear).

Sir, when the Reserve Bank of India was set up there were eleven other State-owned Central Banks in the different parts of the world. Later, that is to say, after 1935, Canada, Denmark, New Zealand and Paraguay converted their Central banks from shareholders' bank into State-owned banks. Since the Second World War the process has been further accelerated and we have State Banks in Brazil, Rumania, Netherlands, Hungary, Bulgaria, Czechoslovakia, Norway and France, and to this list has been added the United Kingdom as the Bank of England was nationalised in the year 1945. The process is still continuing. We are therefore proceeding on perfectly sound lines today in adopting the measure which I have the honour to present to this House.

Sir, the demand for nationalisation naturally died down with the setting up of the Reserve Bank in 1935, and it was only about two years back when the Bill for the control of banking institutions, popularly known as the "Banking Bill" which is yet to be placed on the Statute Book, was under consideration, the demand for the nationalisation of the Reserve Bank was revived in a minute appended to the report of the Select Committee. Later, in the Central Legislative Assembly, a Resolution was moved in February 1947 asking for the nationalisation of the Reserve Bank and shortly after that, in the Budget speech of the then Finance Member the Government announced their decision to nationalise the Bank. On the 4th of February 1948, in reply to a question in this House, my predecessor made the announcement that the Government proposed to take steps to nationalise the Reserve Bank after

[Shri K. C. Neogy]

the 30th of September 1948 when it would cease to be the common banker for India and Pakistan. Pakistan having meanwhile set up its own Central bank with effect from the 1st July 1948 we are in a position to carry out that promise earlier than was anticipated. It is now intended that the new regime should come into being with effect from the 1st of January 1949, and as this will be the last opportunity which we will have in putting this measure through the legislature, I have to seek the indulgence of this House at the fag end of this session to take this Bill into consideration.

Sir, I do not think I need dwell upon any detailed provisions of the Bill. The Bill is a very simple one. It merely seeks to substitute State-ownership for the shareholders' interests in the Bill and certain consequential amendments which are of a minimum character that would be required to be embodied in this Bill, subject to one or two other minor items, which have been incidentally brought up for consideration.

The House will observe that in clause 3 this transfer of the Bank's shares is provided for and there, incidentally, provision is made for the payment of compensation. Here I should like to pause and remind the House that the compensation provided for in this clause follows the assurance which was given by my predecessor on behalf of Government in the last session of the Assembly.

The only other provision which requires the attention of the House, to my mind, is that to be found in the Schedule, which contains the consequential amendments. I would, first of all, draw the attention of the House to the proposed substitution of a new clause for clause 7 of the present Act, which relates to management. This is really the most important provision of the Act as it indicates the character of the change that will take place in the management of the Bank and its relations with the Government of India. The clause reads as follows:

"The Central Government may from time to time give such directions to the Bank as it may, after consultation with the Governor of the Bank, consider necessary in the public interest. Subject to any such directions, the general superintendence and direction of the affairs and business of the Bank shall be entrusted to a Central Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Bank "etc.

Now, Sir, this provision closely follows the corresponding provision in the Bank of England Act of 1946.

May I, Sir, in this connection quote from the statement which the British Chancellor of the Exchequer made in support of a clause to this effect in the Bank of England Bill? This is what he said:

"In one aspect, this Bill only legalises the actual situation. The relations between the Bank of England and the Treasury have long been close, confidential—even intimate—and so they must continue. But this relationship has, until now, been factual rather than legal, and His Majesty's Government feel and the British people feel that the time has now come when these two parties—the old man of the Treasury and the old lady of Threadneedle Street—should be legally married. We should not like to think that there was any danger of their living in sin."

So, here again there has been the closest relationship between the Reserve Bank, particularly the Governor of the Reserve Bank and the Government of India, in the Finance Ministry. What we are seeking to do is merely to give a legal basis to that close and confidential relationship that has always subsisted between the Governor of the Reserve Bank and the Government of India.

Sir, I do not think that I need trouble the House with the other amendments, except to point out that in Section 17 I propose the substitution of the words "foreign exchange" for the word "sterling". A similar amendment also arises in subsequent sections, particularly Section 33. This is, in a way,

incidental to our membership of the International Monetary Fund and also to the amendment which has already been carried out to Sections 40 and 41 of the Reserve Bank of India Act. As a matter of fact, there is no reason why we should be confined to sterling securities for the purposes of maintaining assets of the Reserve Bank. The intention is that the Reserve Bank would be in a position to hold securities of any country which is a member of the International Monetary Fund and not be confined merely to sterling securities.

Sir, these are the principal provisions of the Bill, and I do hope that the House will find the Bill acceptable on the whole and that we will be able to dispose of this motion in a short time.

Sir, I am sorry that I shall have to move a few amendments myself. As a matter of fact, the idea was at one time to refer the Bill to a Select Committee. But for very many reasons, we have to trouble the House to take the Bill into consideration straightaway, and when the clauses come up I will have to propose a few amendments, which again I can assure the House are not of any substantial character.

Mr. Speaker: Motion moved:

"That the Bill to bring the share capital of the Reserve Bank of India into public ownership and to make consequential amendments in the Reserve Bank of India Act, 1934, be taken into consideration."

Before we proceed with this, I have just to intervene in respect of a matter which we discussed to some extent in the morning regarding extending the time of the sitting of the House.

I now have with me a list of Government business which must be put through and I have also taken into consideration the progress we are making on the Bills. I think we can meet all points of view, including mine, if we suspend the Question Hour for tomorrow and the day after.

Shri H. V. Kamath (C.P. and Berar: General): No, Sir.

Mr. Speaker: That will give us one hour more and tomorrow being private day, non-official Resolutions will be put down immediately after the election of the Deputy Speaker and other formal business. We shall stop the private business at four instead of at five. That gives full time to the private business and any important Resolutions may be discussed. Then we sit up to 5, breaking for half an hour up to 5-30 and continue for one hour more, till 6-30. If that is adjusted, I think, we shall get the longer time that is necessary.

Some Honourable Members: Yes, yes.

Mr. Speaker: I find some members are nodding against the suspension of the Question Hour. I may point out to them that, I look upon that hour as a most important hour, and perhaps a lively one. But honourable members will see that, out of the large number of questions that are put in, very few questions are effectively gone through and a larger number of questions go in as un-starred questions. I have always carried the feeling that for the supplementaries, we are not having the fullest benefit of the hour, because the supplementaries are so long and sometimes even ten minutes are taken and sometimes I have had to remind that ten minutes have passed. It is, therefore, that I am suggesting suspension to meet all points of view; it is not possible to meet every point of view fully and this is what I propose to do. Let us not have any discussion over that. I do not propose to have any. This is what I have decided and I find the House is substantially agreed.

सेठ गोविन्द दास : सभापति जी, मैं श्री नियोगी जी के इस बिल का स्वागत करता हूँ।

जिस तरह से नियोगी जी को बहुत सी पुरानी बातें इस बिल को पेश करते हुए याद आ गईं उसी तरह से मुझे भी बहुत सी पुरानी बातें याद आ रही हैं। सबसे पहिले यह विचार सन् १९२६ ई० में आया था कि इम्पीरियल बैंक के सिवा हमको एक रिजर्व बैंक की जरूरत है। उस समय मैं कौंसिल आफ स्टेट का मेम्बर था। रुपये की क्या कीमत हो—१६ पैसे या १८ पैसे, हमारे देश में भी सोने की करन्सी हो जाय और इसके साथ रिजर्व बैंक यह तीनों बातें सर बेसिल ब्लैकट (Sir Basil Blackett) ने उस समय केंद्रीय असेम्बली के सामने उपस्थित की थीं। उस समय यह प्रश्न भी उठा कि यह बैंक शेयर होल्डरों (Shareholder's Bank) का हो या राष्ट्रीय। जहां तक मुझे याद पड़ता है, सर बेसिल ब्लैकट की राय इस बैंक को शेयर होल्डर बैंक बनाने की नहीं थी। यद्यपि उनका स्तीफा इस प्रश्न पर नहीं हुआ परन्तु उस समय यह चर्चा थी कि उनका स्तीफा का प्रधान कारण यही है कि वह इस बैंक को राष्ट्रीय बैंक बनाना चाहते थे जो ब्रिटिश गवर्नमेंट को स्वीकार नहीं था। इसके बाद यह सवाल बहुत दिनों के लिए मुलतवी हो गया और सर जार्ज सुंटर के समय यह बैंक बनाया गया। उस समय भी जहां तक सरकारी सदस्यों का सम्बन्ध था, वहां यही राय थी कि यह बैंक राष्ट्रीय हो। उस समय भी हमारे आज के माननीय मंत्री श्री० नियोगी जी भी इसी राय के थे कि यह बैंक सरकारी बैंक ही बनाया जाय। लेकिन वह बात नहीं मानी गई। जिस तरह से हमारी हर बात ठुकरा दी जाती थी उसी तरह से यह बात भी हमारी ठुकरा दी गयी और यह बैंक शेयर होल्डर बैंक बना दिया गया।

आज स्वतंत्रता प्राप्ति के एक वर्ष बाद हम इस बैंक को राष्ट्रीय बैंक बना रहे हैं। जैसा कि अर्थ-मंत्री जी ने कहा कि जहां तक हमारा आर्थिक प्रश्न का सम्बन्ध है वहां तक हमारे आर्थिक प्रश्न संतोषजनक रूप से हल नहीं हो सकते जब तक कि यह बैंक सरकारी बैंक नहीं बना दिया जाता है। लेकिन इसके साथ मैं यह भी कहना चाहता हूँ कि राष्ट्रीयकरण की जो भावना इस देश में है उसका यह आरम्भ मात्र ही है। आगे चलकर इस दिशा में और भी बहुत कुछ करना है।

जहां तक रिजर्व बैंक का सम्बन्ध है अभी जो बिल हमारे सामने पेश है उसमें सिर्फ उसे राष्ट्रीय ही बनाने की बात की गई है लेकिन उसके राष्ट्रीय बनने के बाद बहुत से दूसरे सवाल उपस्थित होंगे। इन सब सवालों को हल करने के लिए हमें और भी कई बिल इस असेम्बली के सामने पेश करने होंगे। एक प्रश्न स्टर्लिंग बैलन्सेज (Sterling Balances) का है। अभी हमारे स्टर्लिंग बैलन्सेज हमारे यहां नहीं हैं। वह विलायत में हैं। स्टर्लिंग बैलन्सेज का सवाल बहुत दिनों से उठा है और रिजर्व बैंक के राष्ट्रीयकरण के बाद यह सवाल सामान्य रूप से उपस्थित होता है कि हमारे स्टर्लिंग बैलन्सेज कहां रहें। यदि हम अपने देश को स्वराज्य और पूर्ण स्वराज्य में देखना चाहते हैं तो हमारे रिजर्व बैंक को ब्रिटिश गवर्नमेंट के

मातहत चीज नहीं रखा जा सकता। वह भी पूर्ण स्वाधीन बैंक होना चाहिये जिस तरह स्वाधीन देशों में एस बैंक होते हैं।

इस बिल में इस प्रश्न का हल किया गया है कि शेयर होल्डरों को उनके शेयरों का कितना रूपया दिया जाय। १०० रुपये के शेयर का रूपया १०० रूपया ही दिया जा सकता तो मुझे विशेष हर्ष होता क्योंकि यदि हम रिजर्व बैंक के पुराने इतिहास को देखें तो हमको मालूम होगा कि ज्यादातर रिजर्व बैंक के शेयरों (Shares) का भाव १०३, १०४, और १०५ रहा है। एक समय वह, १५० के ऊपर चला गया था लेकिन बहुत थोड़े दिनों के लिए, लेकिन आज वह फिर घटकर ११३ हो गया है। इस सम्बन्ध में जो निर्णय किया गया है उसका मैं समर्थन करता हूँ क्योंकि उस दिन के हमारे अर्थ मंत्री श्री० चैट्टी साहब ने कहा था कि एक वर्ष तक हर महीने की पहिली तारीख को शेयरों का जो भाव रहा है उसके अनुपात से उसकी औसत मिलाकर शेयर होल्डरों को रूपया देना चाहिये और उसके अनुसार ११७ या ११८ के लगभग आता है। मैं समझता हूँ कि सरकार की ओर से जो बात कह दी गई है उसी पर कायम रहना चाहिये। जनता को इस बात पर विश्वास रहा है कि सरकार ने जो कह दिया और जो नीति घोषित कर दी उस पर वह स्थिर रहती है। मैं इस बात को पसन्द करता कि १०० रूपया के शेयर का १०० रूपया ही दिया जाय खासकर इसलिए कि उसका भाव बहुत ऊंचा हमेशा नहीं रहा और हमारे शेयर होल्डरों को बराबर व्याज भी मिलता गया परन्तु सरकार की तरफ से चैट्टी साहब की घोषणा के कारण सरकार ने शेयरों की कीमत जो देनी निश्चय की है मैं समझता हूँ वह उचित है।

अब रिजर्व बैंक के राष्ट्रीयकरण के बाद दूसरे अनेक आर्थिक मामलों का सवाल उठता है और मैं यह कहना चाहता हूँ कि इन सवालों में इम्पीरियल बैंक का सवाल बहुत बड़ा सवाल है। इस सम्बन्ध में भी नीति स्पष्ट हो चुकी है कि हमको इम्पीरियल बैंक का राष्ट्रीयकरण करना होगा। जब तक इम्पीरियल बैंक का राष्ट्रीयकरण नहीं हो जाता तब तक हम रिजर्व बैंक के राष्ट्रीयकरण करने का पूरा लाभ नहीं उठा सकते हैं।

जहां तक इम्पीरियल बैंक का सम्बन्ध है मुझे जो कुछ कहना है वह यह है कि इम्पीरियल बैंक सदा सरकार का लाडला पुत्र रहा है। मालूम नहीं क्यों ऐसा हुआ लेकिन शुरू से हमने यह देखा कि रिजर्व बैंक की स्थापना के पहिले और आज भी वही हाल है। हमको जितने भी शिड्यूल बैंक्स (Scheduled Banks) हैं सबको एक नज़र से देखना होगा और सरकार का जो रूपया इम्पीरियल बैंक में जमा रहता है वह सब शिड्यूल बैंकों में समान रूप से रखना होगा। आज जो बैंक शिड्यूल हैं वह नाम मात्र के शिड्यूल हैं। उनको शिड्यूल मान लेने से उन्हें कोई बड़ा लाभ नहीं है। उनको शिड्यूल बैंक मानकर सरकार उन्हें जो सबसे बड़ा लाभ पहुंचा सकती है वह यह है कि इम्पीरियल बैंक को लाडला पुत्र मानना छोड़ कर दूसरे शिड्यूल बैंकों को उमी नज़र से देख और रिजर्व बैंक का ऐजेंट इम्पीरियल बैंक ही न रहे जाय। यह बात मैंने इम्पीरियल बैंक के

[सेठ गोविन्द दास]

विषय में इस समय इस लिये अर्ज कर दी कि रिज़र्व बैंक और इम्पीरियल बैंक का आपस में बड़ा घनिष्ठ सम्बन्ध है, और रिज़र्व बैंक के राष्ट्रीयकरण के बाद इम्पीरियल बैंक का राष्ट्रीयकरण बहुत जल्द होना है। मुझे आशा है कि अर्थ मंत्री इस बात पर विचार करेंगे।

जैसा मैंने आरम्भ में कहा कि मुझे बड़ा हर्ष हो रहा है कि रिज़र्व बैंक का राष्ट्रीयकरण हो रहा है और इस नीति को स्वराज्य के बाद आज हम अपना रहे हैं।

[At this stage, Mr. Speaker vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava (one of the Panel of Chairmen)]

मैं आशा करता हूँ कि जो बिल पेश हुआ है उसका सारे देश में स्वागत किया जायेगा और हमारे राष्ट्रीयकरण की जो नीति आरम्भ हो रही है वह दिन पर दिन बढ़ती जायेगी।

मैं माननीय अर्थ-मंत्री जी के इस बिल का जो उन्होंने इस भवन के सामने रखा है, हर्ष से समर्थन करता हूँ।

(English translation of the above speech.)

Seth Govind Das (C.P. and Berar: General): Mr. Speaker, I welcome this Bill brought by Mr. Neogy. Just as Mr. Neogy has recollected many past events while presenting this Bill, similarly I am also-recalling many such old things. The proposal to set up a Reserve Bank in addition to the Imperial Bank was first of all mooted in the year 1926. At that time I was a Member of the Council of State. What should be the value of our Rupee in terms of Sterling 16d. or 18d.; whether our country should also have gold currency and lastly whether a Reserve Bank should be set up—all these three things were brought before the Assembly by Sir Basil Blackett, the then Finance Member. At that time a question arose whether this should be a shareholders' Bank or State Bank. So far as I can recollect, Sir Basil Blackett did not favour the idea of making this a Shareholders' Bank. Although he did not tender his resignation for this very reason, yet it was rumoured at that time that the main cause of his resignation was that he wanted to make this Bank a national concern which was not approved by the British Government. After this, this question was deferred for a pretty long time, and this Bank was set up during the time of Sir George Schuster. It was then the unanimous opinion of non-official members that this Bank should be a national concern. At that time my honourable friend Mr. Neogy who is acting as the Finance Minister today was also of the opinion that this Bank should be a State Bank. This view also was not accepted, just as all our suggestions were turned down, this too met the same fate and this Bank was constituted as a Shareholders' Bank.

Today after one year of our having achieved independence, we are going to nationalize this Bank. As the Honourable the Finance Minister has stated so far as our economic problems are concerned, these cannot be satisfactorily tackled until and unless this Bank is nationalized. Along with this I would also like to say that this is only a step towards the feeling of nationalization that prevails in the country, and in future we have still got to do a lot in this direction.

So far as the Reserve Bank is concerned, the Bill which has just been brought before us only seeks to make it a State-owned institution. After its nationalization, many questions will arise. We will have to bring forward many other Bills on the floor of this House to solve these problems. One of the questions relates to Sterling Balances. At present our Sterling Balances are not held by us in this country. These are lying in the United Kingdom. The question of Sterling Balances has been engaging attention since long and after

the nationalization of the Reserve Bank, this question would naturally arise as to what happened to our Sterling Balances? If we desire our country to attain full freedom, we should not keep our Reserve Bank subordinate to the British Government. This Bank should be a sovereign body just as is the case with the banks in other free countries.

This Bill seeks to provide a solution of the problem as to the amount of compensation that should be paid to the shareholders for the acquisition of the shares held by them. It would have given me a genuine pleasure if a share worth Rs. 100 could be acquired at par, because if we trace the past history of the Reserve Bank, then it would be observed that the selling price of its shares had remained more or less at Rs. 103, Rs. 104 and Rs. 105 per share. Sometime it shot upto Rs. 150 and more and this price ruled for a few days only—but today it has again come down to Rs. 113. I support the decision arrived at in regard to this matter because the then Finance Minister, Mr. Chetty had stated that compensation should be paid to the share-holders at an average rate calculated on the basis of the price of a share prevailing on the first day of each month during the preceding one year and according to these calculations it came to approximately Rs. 117 or Rs. 118. I feel we should stick to the commitment already made by the Government. The people have all along held the belief that the Government adheres to the statement made or the policy declared by it. So far as I am concerned, I would have appreciated if a share of Rs. 100 is acquired at par especially in view of the fact that its price never remained very high and moreover our share-holders had been regularly in receipt of dividend accrued thereon. The rate which the Government have decided to pay for a share in view of the declaration made by Mr. Chetty on its behalf is quite reasonable.

Now after the nationalization of the Reserve Bank, we are confronted with many other economic problems, and I would like to say that of these problems the Imperial Bank is a major problem. The policy of nationalizing the Imperial Bank has already been elucidated and unless the Imperial Bank is not nationalized, we can not derive full benefit from the nationalization of the Reserve Bank.

The Imperial Bank has all along continued to be the pet child of the Government but I do not know the reasons for this. We find from its very inception that even before and after the formation of the Reserve Bank, the conditions are the same. We will have to treat all the scheduled banks similarly and the Government's money that is deposited in the Imperial Bank will have to be equally shared between all the Scheduled Banks. The present-day scheduled banks exist in name only. They do not derive any appreciable benefit for being 'scheduled banks'. The greatest benefit that the Government can bestow upon these banks consequent on their inclusion in the Schedule is that it should no longer treat the Imperial Bank as its pet child, and on the contrary assist all the scheduled banks in the country equally, and the Imperial Bank should not be allowed to function as the sole agent of the Reserve Bank. I have made this suggestion in regard to the Imperial Bank at this stage, as the Imperial Bank and the Reserve Bank are very closely associated with each other, and after the nationalization of the Reserve Bank the Imperial Bank should also be nationalized without any delay. I hope the Honourable the Finance Minister will consider this suggestion.

As stated at the outset, I am feeling great pleasure that the Reserve Bank is being nationalized and we are adopting this policy today after the attainment of independence.

[Seth Govind Das]

[At this stage, Mr. Speaker vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava (one of the Panel of Chairmen).]

I hope that the Bill which has been presented will be welcomed throughout the length and breadth of the country and our policy of nationalization, a beginning in respect of which has just been made, will soon be adopted in other directions as well.

I heartily support this Bill which has been brought before this House by the Honourable Minister.

Mr. Hossain Imam (Bihar: Muslim): Mr. Chairman, Sir, I welcome this measure. It gives me great pleasure that after 15 years when, as a member of the Select Committee to which this Bill was referred, I along with eight others had signed a minute of dissent demanding a State Bank, it has been fulfilled. It is a sad thing that out of 14 members of the Upper House and the same number of members of the Lower House the Legislative Assembly, today, in this House there are only two members present: I from the Upper House and Mr. B. Das from the Legislative Assembly. Out of the 28 members who sat in the Select Committee, only two are left in this House. In the case of members also I do not think there are more than half a dozen of the old Legislative Assembly and Council of State who were present when that Bill was passed.

While I welcome this measure, I feel that while the marriage has been celebrated between the Reserve Bank and the Government of India, this illegal connection with the Sterling has been allowed to exist in the shape of sections 40 and 41, linking the Rupee to Sterling at a specific ratio. While everywhere the provision of Sterling has been avoided and foreign exchange has been substituted, that material section which affected the value of the Rupee has been left as it was. I do not, Sir, mean to say that there has been any disregard by the Government. What I wish to point out is that for the objective for which this Bill has been brought, that is, nationalisation, it is quite sufficient as it has been brought. But that does not end the affairs of the Reserve Bank and the country. What the country wants is a ratio which would be in the best interests of the country. I should like to remind the House of the reasons for which we adopted the 1s. 6d. ratio. It was then stated that we are not asking for any specific ratio, but we are accepting whatever was the then prevailing rate as a temporary measure. That temporary measure, Sir, has lasted for 15 years; that temporary measure has lasted for two years since the National Government has been in power. I think it is time that a final decision was taken on the subject, what is the ratio which we wish to have with the sterling and with the other countries. We have on the one side the example of Australia which has appreciated its currency.

Shri M. Ananthasayanam Ayyangar (Madras: General): Newzealand.

Mr. Hossain Imam: Newzealand also has appreciated its currency. I have got no specific idea to place before the Government. What I wish is that a temporary measure cannot last for 15 years. We must have some permanent measure, whatever may be in the best interests of the country. I am, Sir, one of those who believe in consultation and in examination. The matter should be examined from the point of view of the industrialists, from the point of view of the consumers and from the point of view of trade and commerce. Taking everything into consideration, we must come to a final decision on what should be the rate of exchange.

Similarly, Sir, I regret that the artificial valuation of gold which was provided for in the Reserve Bank Bill, in section 33, I think it was, should have been continued. The valuation of gold is purely artificial. That too does

not come under the purview of this Bill. This Act is for the specific purpose of nationalisation. I would therefore suggest that while it is quite all right, that the Bill is not being referred to a Select Committee now, I think it is necessary that a comprehensive Bill should be brought forward by the Government on the subject of the Nationalised Reserve Bank, that should be circulated, and referred to a Select Committee and finally decided in the course of a year or so. It is very necessary that, to maintain the dignity which India has acquired in the councils of the world, we must try to increase the production and trade of India. That can only happen if we have all the circumstances necessary for this. Banking plays a very important part and the need for a sound banking system of practice and law is so great that it is most essential that within a measurable time Government should find time to bring forward a comprehensive Bill to regulate all these things.

Shri B. Das: (Orissa: General): The House gave a mandate to the Finance Minister to nationalize the Reserve Bank. The interpretation of the Finance Ministry had been, as my honourable friend, Mr. Neogy read out, to bring the share capital of the Reserve Bank into public ownership. My honourable friend, Mr. Hossain Imam has pointed out that the House is not satisfied with the Bill. What the Government should do, what the Minister of Finance should do, is to appoint a Committee of this House and outside experts to see that the Reserve Bank becomes a real National Bank and not the hand-maiden of the Ministry. My honourable friend, Mr. Neogy, reminded us that you Mr. Chairman and I were the two of the Lieutenants in that small Democratic Party whose leader was Mr. Neogy that fought in this House against all the reactionaries that co-operated with the Simon Commission and the Round Table Conference and all those who wanted to obey the mandates of Whitehall. If we then had to accept this Reserve Bank Act, we had no alternative. We found that even the 1935 Act which was then framed, would not be framed without our considering and establishing the Reserve Bank: and that is how it came into existence.

My honourable friend, Mr. Neogy said that the Finance Ministry and the Reserve Bank of India should be married as the British Treasury and the Bank of England have been. I pity the Finance Ministry and I pity the Reserve Bank. The Reserve Bank had been the slave,—the maid of the old lady of Broad Needle Street—the Bank of England throughout the British Rule. It still remains misused maid-servant. Can Act No. 2 of Sterling Balances 600 millions in the Bank of England be operated and transferred elsewhere. I wish to hear it from Mr. Neogy that if he has the power today to take out that account from Bank of England and put it into the international monetary fund bank. Can he do it? Certainly not. The Reserve Bank is still subordinate to the Bank of England. If it is not, I do hope my honourable friend will direct the Bank of England to transfer those 600 million sterling to the international monetary fund bank in the United States of America. Sir, you may remember as I am now quoting a passage from our old friend, Mr. Vidya Sagar Pandya, when the Joint Select Committee Report was being discussed in the Legislature. He gave out a doggerel about Schuster and India. It runs:

"So, of Schuster and Ind
Men may say without vapor,
That he found it of gold,
And left it of paper."

Sir George Schuster spirited away £150 millions of India's gold during his guardianship of the finances of India. What has happened thereafter? Everything has been spirited away except the £40 millions of gold that is lying

[Shri B. Das.]

fortunately in India. Sir George Schuster was a Jew and Sir Jeremy Raisman was another Jew. He looted the silver coins of India, the poor man's gold. Silver rupees, eight anna bits and four anna bits were all collected to meet the cost of the battle fronts of the victims of the United Kingdom. Hundreds of crores of rupees went away in this way. That is not the first occasion when a foreign Finance Member looted India's silver coin. Previous Finance Members on several occasions looted the silver currency reserve and used it as the Finance Member's pocket money. That money has yet to be accounted for. The poor man has no money of any value but the paper of Schuster and the nickle rupees occasionally circulated in the market do exist.

The Reserve Bank rightly functions like the slave of the Bank of England and the British Raj. The silver rupee was demonetised. The Indian coins Act was tampered with. The Reserve Bank having been in the past the absolute slave of the British Raj and the Bank of England, nothing of worth was left to us. Consequently I am not rejoicing that I am going to have a State Bank. I support it to the extent that I am for it as my friend Seth Govind Das, my honourable friend Mr. Neogy and my friend Mr. Hossain Inam has said in turn. At least we have the first genesis of a State Bank. But what was the complaint of the British Raj then? That "politicians" should not interfere with the Reserve Bank and yet it grew to be the slave of the Bank of England. It could only function as the slave or "one political party"—the British Raj, and it did function well in that capacity and I bear testimony to that. It was faithful and loyal to the Bank of England and the British Raj!

Now the question before the House is, how are we going to make this Reserve Bank into a National Bank. My honourable friend, Seth Govind Das has pointed out that the Imperial Bank of India is Enemy No. 2 of India. There were two enemies before August 15, 1947—the British Civil Service Enemy No. 1 and the Imperial Bank of India Enemy No. 2. If the Imperial Bank would have helped India, India's industries and trade would not have been in the sorry plight that it is in today. It helped every other. Tom, Dick and Harry and every Britisher that came to India with £50 in his pocket and had £50,000 credited to him in the Imperial Bank. I may remind the House that the Imperial Bank was the combination of the three banks—the Banks of Madras, Bengal and Bombay, which were completely controlled by European traders and business men and it existed for them. Unfortunately in 1934 we joined the political dictators in the Indian Government and did not want to recognise the other Scheduled Banks. So the Imperial Bank was asked to have one hundred new Branches and to be the Treasurer of the British Raj and also of the Reserve Bank and continues to be the Bankers of the Central and Provincial Governments. Some of the members of the House must have read the speech of the old pattern Chairman of the Imperial Bank of India last month. What did he say? "We have done our best for Indianisation of officials of the Imperial Bank of whom Ninety-six are Indians and sixty-six are Europeans". Since I became a member of the Central Legislature in 1924, I have agitated that the Imperial Bank should be Indianised and now we find after it has become the custodian of tax payers' money, the representative of the Reserve Bank from 1934, that it still has got 66 European personnel. The Chairman says that the Imperial Bank is going to have another Deputy Governor and that he will be an Indian. Who wants a Deputy Governor of the Imperial Bank? The Imperial Bank should be nationalised. Every European on its staff should be sent away and the Governor must be appointed from the selected Indian personnel of the Reserve Bank.

As my honourable friends have already pointed out this is not a nationalisation measure. If it was so that particular clause—Section 45 on agency of

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Imperial Bank should have been examined. There may be one or two European employees, in one or two Scheduled banks in India today. Perhaps in the Bank of India there is a European manager; other banks are all managed by Indians. With all these Indian trained personnel in banking why should the Imperial Bank employ so many Britishers who have been carrying on the same tradition as the Bank of Madras, the Bank of Bengal and the Bank of Bombay since 1903.

I wish my honourable friend Mr. Neogy, though he is only the acting Finance Minister, who understands the feelings of this House and the nation, had said something about implication of section 54, regarding the agricultural credit department. You, Mr. Chairman, will remember how we spent days and days in arguing with the British rulers that they should do something through the Reserve Bank for agricultural credit. Nothing has been done. Only one young officer was appointed who is now occupying a very high place in the Reserve Bank. He was appointed to understand the subject of agricultural credit.

If this is a national or a state bank, no such bank should function only to subsidise the present Government in its policy of inflation by employing large number of staff in its secretariat and giving them high salaries month to month. That is not the function of a national Reserve Bank. Nor is it the only function of the Reserve Bank to supply the ways and means for expenditure of a Finance Minister. These are incidental matters. The Reserve Bank must raise the national prosperity and the national income. It has not been able to do it. It has been in the past a slave of the Bank of England. Mr. Neogy may give jewellery and ornaments and dress up this down trodden slave girl to be the national bank of India but it must acquire the free habits and vitality required of it. I do hope that the bank will function in the interest of India and at least 50 per cent. of its attention and opportunities will be devoted to the agricultural industry of India, so that the masses will prosper and not the few capitalists or industrialists or even the Government or the Ministry here and there. Those are mere normal administrative matters.

What is to be done? The House of course must pass this measure. That is the first step but the first step is not the only step. The Honourable Finance Minister must declare that he will immediately appoint a committee to go into the question as to how the Reserve Bank should be nationalised and I want from him also a statement as to when the Imperial Bank is going to be nationalised. The Chairman of the Bank said that the Imperial Bank has been doing great work in the past for the English masters, that it has been doing work for Hyderabad and Pakistan and therefore it should not be nationalised. We do not agree. If it is not nationalised, will Government pass an ordinance today to take out all our resources and transfer them to other national banks, so that these enemies of India or rather the remnants of the enemies of India, the fifth columnist Englishmen that still control the Imperial Bank do not remain in India and work against the prosperity and national economy of India.

Sir, I will conclude by saying that Sir Basil Blackett who was a real friend of India wanted a state bank but vested interests were aligned against him and he had to resign and go away. It was the late Finance Minister, my very old friend Sjt. Shammukham Chetty who drafted this Bill and gave the assurance on the floor of this House that he would nationalise the Reserve Bank. On account of certain circumstances which the House is well aware of, he had to go and nobody regrets it more than I that he is not here as the Finance Minister. However, I congratulate my old, old friend Mr. Neogy, the second national Finance Minister, to whose lot it has fallen to bring in this

[Shri B. Das]

piece of legislation as a first step towards the nationalisation of the Reserve Bank as the State Bank. I do hope that he will put the ceiling on this nationalisation policy in Banking and nationalise the Imperial Bank or do away with all associations with the Imperial Bank and also see that the Reserve Bank is freed from its slavery of the Bank of England and function as a national bank, of which we will be proud throughout our life as also the future generations of this country.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I support the motion moved by my honourable friend the Finance Minister and in doing so I wish to draw his attention to certain facts. The Reserve Bank is the currency authority of this country. It also holds certain minimum deposits on behalf of the scheduled banks. It has certain statutory duties to perform. It also exercises certain rights of superintendence and giving instructions to various banks and as you must have noticed in the Bill that was going to be introduced for regulating banks, further powers are intended to be given to the Reserve Bank, so that it can influence and guide the other banks for the benefit of the country and also exercise a certain amount of control in regulating the investments for the good of the country and for the safety of the depositors and other persons interested in the bank. The Reserve Bank in spite of the fact that it was a share-holders' bank (it has ceased to be a share-holders' bank now) its policy was also guided by the Government as regards the profit; barring the 4 per cent. that was being given to the shareholders the excess over the 4 per cent. was going to the coffers of the State. Therefore not much difference will be made so far as the actual income is concerned but the present-day spirit needs that there should be a change and the word 'nationalisation' has a charm and that is why this is being done. I welcome this measure and I would invite the attention of the Honourable the Finance Minister to certain facts. Certain concerns like the railways and telephones in the big cities like Calcutta, Bombay and Madras have been nationalised and we all well know that after that the management has deteriorated. One thing that should be borne in mind is that the administration and the management should be such that the profits that were being earned by those concerns before they were nationalised should not be lost. After all the idea behind nationalisation is that instead of the profits going to the few—instead of their going to the shareholders—they should be made available for the good of the nation, for the State. If instead of the profits being continued to be earned by these concerns, which are going to be nationalised, the management becomes such that instead of making profits it begins to lose, I do not see how simply the transfer of ownership from private individuals to the State will benefit either the State or the country or anyone in the country. Therefore the one thing that Government should bear in mind is that the administration and the policy should be kept stable. Steps should be taken that with every change of government the policy of the Bank may not change. Suppose the present Government changes and another Government comes; with every change of government if the policy of the Bank also changes, the country is bound to go down hill, and God alone knows what the financial condition of the country might be. Therefore, steps should be taken so that the administration and the policy might be stable. And it must be such that it is used for the benefit of the country.

The only change sought by the present Bill is that the shareholders will go out and the Government become the shareholders. That necessarily will mean that there will be no election of Directors but the Government will be entitled to nominate Directors. In that connection also Government should see that the banks whose deposits will be in the Reserve Bank and who will have to deal with the Reserve Bank—the Reserve Bank will have to deal with

these Banks—have some representation in the Directorate. There must be some representation from either the Bankers Institutions of India or some institution which represents bankers and banks, and Federation of Commerce Chambers on the Directorate for giving expert advice. With these words I support the Bill and I welcome the measure.

Shri T. A. Ramalingam Chettiar (Madras: General): Mr. Chairman, Sir, I am glad the Government is taking charge of all the shares of the Reserve Bank. But by that alone it will not become national, in the sense that it will be useful or beneficial to the nation. If the Bank is going to be managed as it has been managed hitherto, the mere fact that the shares have been acquired by Government will make no change whatever, so far as the economy of the country is concerned. Unfortunately, the Reserve Bank has come in for a lot of criticism with reference to the way in which its affairs have been managed. For one thing it has been of no help whatever to the agricultural interests even though it was intended that those interests ought to be served, and there was a separate provision made that there should be an Agricultural Department attached to the Reserve Bank. The only way in which agriculture was helped was through the co-operative societies, and ever since the Reserve Bank was started there has been a tussle and a sort of continuing quarrel between the co-operative societies and the Reserve Bank with reference to almost every sort of help that can be expected in the interests of agriculture. Well, Sir, even after a lot of criticism was levelled against it and Government itself gave help to the agricultural interests, the little help that they can render may be exemplified by the sort of help that they have actually given even in this year of great demand, and also in spite of all the burden that co-operative societies have undertaken for procurement and sale of agricultural produce. The rules that have been framed with reference to this matter have enabled the Reserve Bank to give only Rs. 15 lakhs to one bank during the last year. And in my own Province, when we are advancing something like Rs. 20 crores for these purposes, all that the Reserve Bank could do was to give only Rs. 30 or 40 lakhs. That is the sort of help they are giving. And the conditions they impose for the help they are rendering are something impossible to fulfil—it is not that there is no security or anything like that, but the other conditions which are imposed are so impossible to fulfil that the agricultural interests can get no sort of help from the Reserve Bank as it is conducted at the present moment.

With reference to the land mortgage banks also which were started in some of the Provinces, we had a continuing quarrel—not because the Reserve Bank was going to help us but because the Reserve Bank happened to be the advisers of the Provincial Government. They were so much out of touch with the requirements of the land mortgage banks and the requirements of the agriculturists that at every stage they were giving trouble and imposing conditions which made the working of the land mortgage banks very difficult indeed. I do hope that after the Government takes over the Reserve Bank the same sort of policy will not be continued. And I hope that the Government will see to it that this sort of policy that practically ignores the interests of the agricultural occupation—which is the biggest occupation in the country—will not be continued hereafter. It is with that view that I have tabled an amendment, namely that at least some representation may be given in the Central Board for co-operative societies and other interests. I do not know whether the Honourable Minister is going to accept that, but I can only say that in the interests of agriculture it is absolutely necessary that some representation ought to be given on the Central Board for the agricultural interests whether it be through the co-operative societies or otherwise.

[Shri T. A. Ramalingam Chettiar]

Again, the provisions of the Reserve Bank Act require modification in several respects. Especially sections 17 and 18 which govern the business for which help can be given by the Reserve Bank, require to be amended in the interests of the country and the interests of the small traders and agriculturists. At every turn, whenever any help is asked from the Reserve Bank, they always say under section 17 or 18 they are not in a position to help. That is the answer which always comes in. It is not as if I want any business principles should be avoided or that they should lend money without security or that they should take any risks. But the procedure that is followed and the way in which things are done ought to be liberalised. Unless they are liberalised, nothing can be done.

For instance recently, after a lot of agitation had been carried on all over India and several resolutions had been passed at the Registrar's Conference and in other places, the Reserve Bank agreed to lend some help to the agricultural interests through co-operative societies. The result within the last two years has been this: They promised to give to my Province of Madras—which is supposed to be advanced in co-operation—about Rs. 40 lakhs subject to conditions most of which it is not possible to fulfil. It is not a question of our not being able to get the money. As a matter of fact I was advising the co-operative societies in Madras not to go to the Reserve Bank at all because the way in which they were dealing with us was most unsympathetic. Without their help we can get on. But it is only for the purpose of creating some sort of connection between the Reserve Bank and ourselves that we took about Rs. 50 lakhs this year.

That is the sort of thing that has been going on. I do want the Honourable Minister in charge of Finance to look into the actual working of this Bank and also to the provisions of the Act and the Rules which are framed under it and see that the present state of affairs do not continue and the Bank will be what it is intended to be—a National Bank, working in the interests of agriculturists and other people in the country and to the benefit of the country as a whole.

Shri T. T. Krishnamachari (Madras: General): Mr. Chairman, Sir, I rise to support the motion before the House. In doing so, I would like to tell the House that this move was pressed upon the Government by the members of my Party not as a measure which in itself would produce the expected millenium, but as a step which is primarily necessary before the Imperial Bank could be nationalised. Therefore, Sir, this innocuous measure before us represents only a very little portion of what we have in mind in order to advance the monetary interests that have to be served in this country.

Sir, I heard with considerable interest the speech of my friend from Coimbatore, Mr. Chettiyar. His experience in co-operative banking entitles him to a great deal of respect. I am sorry to see that he was condemning the Reserve Bank management outright. I am no advocate of those in charge of the Reserve Bank today, but I would not be fair to the present Governor of the Reserve Bank if I did not enter a caveat against the statements of my honourable friend Mr. Chettiyar. Sir, that the Reserve Bank Act was imperfect was realised by everybody. As the House seems to be in a mood to become reminiscient, I would also follow suit and say that in 1938 during a time of a banking crisis, in Madras when I had the pleasure or privilege of meeting Sir James Taylor the then Governor, I was able to extract from him an admission that the Reserve Bank as it then stood was not better than the amalgamation of the Currency Office of the Government of India and the public debt office of the Imperial Bank of India.

Sir, a number of things have to be done before a Central Bank, apart from

its other duties in regard to controlling note issue and determining the monetary policy of the Government, could effectively function. One of the things that was necessary was that there should be agricultural warehouses all over the country, supported by a proper Public Warehouses Act which would enable warehouse receipts to be negotiated as Bills and enable Banks lend thereon. I am sure my honourable friend Mr. Chettiyar realises that the present Governor, the moment he took charge, had prepared a draft Bill and circulated it to various institutions interested in public warehousing, but nothing has been done about it for the reason that we had a foreign Government all along and even that foreign Government was so pre-occupied with war effort that they had no time for anything else.

But, to go back to where I began. We were not very particular that the Reserve Bank should be immediately nationalised because we were fully aware that the control exercised by the Government of India over the Reserve Bank was adequate and complete. But the primary object was that we should have a State Bank which could cover the entire country which obviously a Reserve Bank cannot, which would do the functions of the Reserve Bank which my honourable friend Mr. Chettiyar wants, for the agriculturists. We felt there was no institution better fitted for that purpose than the Imperial Bank of India provided we made it a State Bank, which would enter the commercial field as also help the agriculturists and also act as an agent of the Reserve Bank all over the country besides providing increased banking amenities to the people, which only a State Bank can do irrespective of the one *sine qua non* whether a particular Branch will be paying or not. Sir, it is with that idea in view that we in the Party wanted that the Reserve Bank should be nationalised and the Imperial Bank should be nationalised simultaneously.

Sir, I cannot blame my honourable friend Mr. K. C. Neogy who is doing the thankless work of a stop-gap for the time being in piloting this Bill. When the Bill is passed, it is one good work done. But it is not half, not even a quarter, not even a tenth of the work that has to be done. Why the Government had not followed up their assurance given on the floor of this House on the 4th February last and taken on hand the work of converting the Imperial Bank of India into a nationalised Bank I do not know, but I would like to utter this word of warning to my honourable friend the present Finance Minister and his successor to be, that this country would not accept any excuses from the Government if the Government do not bring forward a measure to nationalise the Imperial Bank before the next Session of this Assembly. Sir, I would anticipate some of the excuses that might be put forward though I am sure my honourable friend would not put them forward. They are: that the Imperial Bank happens to be an institution with its Branches in Pakistan, with its Branches in Burma and in Ceylon. It has got one Branch in Ceylon, one Branch is functioning in Burma and 12 in Pakistan—few of them are functioning and they are not wanted in that country now. It is therefore surprising that eminent industrialists should come forward with a protest against any attempt to nationalise this eminently foreign institution, the Imperial Bank of India. I do hope, Sir, that the Government will realise that while we are thankful that this Bill has been brought forward we do not feel that it adequately meets the situation. It is only a preliminary, a necessary preliminary, to the nationalisation of the Imperial Bank. If the Imperial Bank is nationalised, I think the bulk of the charges that people like my honourable friend Mr. Chettiyar level against the inaction on the part of the Reserve Bank will then disappear; the Imperial Bank could take up that role and even manage

[Shri T. T. Krishnamachari]

all the agricultural warehouses which are necessary to increase banking facilities and so on. So, while I welcome this measure I want to repeat that we want Government to produce before this House a Bill to nationalise the Imperial Bank of India before long.

One or two matters in regard to this particular Bill which would require amendment, I would deal with at the appropriate time, but I would have the House to understand this particular fact that we are merely altering one aspect of the Reserve Bank now, viz., that we shall have the share capital transferred to Government, the Directors should be Government nominees. But in doing so, I would like to draw the attention of the Government to the practice that is being followed in regard to the Bank of England. I had an opportunity of meeting some of the Directors of the Bank of England during my recent visit to that country. The Government, though an absolute socialist Government, has tried to keep the contour of the Bank very much intact. They have introduced a number of new Directors, new blood so to say, but the older element amongst the Directors that is anxious to help the Government and help the economy of the country is kept intact, and that would be a policy which would be worthwhile following so long as the Government get complete co-operation from this class of Directors. Of course, if the co-operation is not forthcoming, there will be no object in insisting on experienced people of the older type being kept only being as nominated Directors.

One amendment to which I would like to refer now is this. In the English Act there is no condition attached—excepting in regard to other occupations, the Directors might have, like being Members of Parliament and all that—in regard to the tenure of office as Directors. The House will realise that in a country like England where there is a plethora of talent, they have not sought to put any limitation in regard to the tenure of office of these Directors. Limiting the term of office of any particular person in authority is a democratic method of ensuring that no man gets a grip over a particular institution, but need we carry it into the Reserve Bank of India, and do we have in this country enough of talent in order to throw away one or two useful people who would probably help the Government in carrying on the work as Adviser to the Reserve Bank of India? I do not know why that clause has been put which limits the tenure of office of the Directors to one of two terms. After all, the choice in regard to a particular person and the continuance of that person as a Director is entirely vested in the hands of the Finance Minister of India, whoever he may be, and if a person is not found suitable and if other persons are available, a change could undoubtedly be made, but for that contingency, I do not see why we should put in the Statute a sort of provision which will tie the hands of the Government and thereby prevent them from making the very best use of the best talent available in this country. It is one of the important amendments which I thought I would bring to the notice of the House at the appropriate time. Barring that, I see that the provisions need not be interfered with at the moment, though there are very many provisions which would probably need amendment, revision and complete recasting later on when we have leisure and we have also brought the Imperial Bank of India in line with the Reserve Bank and we have a proper banking Statute which will enable us to take a comprehensive picture of the entire banking situation in the country and its needs. At the moment, I feel that the Bill as it is should suffice.

चौधरी रणवीर सिंह : माननीय अध्यक्ष महोदय, मैं इस बिल का स्वागत करते हुए माननीय मंत्री से यह प्रश्न निवेदन करना चाहता हूँ कि भारत देश एक कृषि प्रधान देश है और जब बैंक का राष्ट्रीयकरण करने के पश्चात् भी यदि कृषि को बढ़ावा नहीं दिया गया, खेती की उन्नति के लिये

नीति इस्तेमाल नहीं की गई तो मैं तो यही कहूँगा कि वह बैंक राष्ट्रीय बैंक कहलाने का मुस्तहक नहीं रहेगा। खेती का बढ़ावा या कृषि को बढ़ावा किस तरह से दिया जा सकता है, इस सिलसिले में मैं अपने दो तीन नम्र निवेदन करना चाहता हूँ। कल परसों का ही जिक्र है कि हमारे ईस्ट पंजाब के प्रधान मंत्री, डाक्टर गोपीचन्द साहब, यहाँ आये हुए थे। उनकी बातचीत के दौरान मैं उन्होंने हमें बताया कि सेंटर (Centre) के प्रधान मंत्री की तरफ से या किसी और मंत्री की तरफ से कोई पत्र उनके पास भेजा गया है जिसके अन्दर यह जाहिर किया गया है कि अगर पंजाब के अन्दर जमींदारी की अबालिश (abolish) करना है, तो इसके लिये वह रुपया खुद तलाश करें। आप जानते हैं कि ईस्ट पंजाब का सूबा एक गरीब सूबा है। वह इस जमींदारी सिस्टम को अबालिश करने का इरादा तो दूर रहा, आने खर्च चलाने के लिये भी रुपया हासिल नहीं कर सकता। खेती को बढ़ावा किस तरह दिया जा सकता है इस सम्बन्ध में मेरा सब से पहला नम्र निवेदन यही है कि नेशनलाइजेशन आफ लैंड (nationalization of land) के लिये यह राष्ट्रीय बैंक ज्यादा से ज्यादा रुपया दे।

मेरा दूसरा नम्र निवेदन यह है कि जहाँ कहीं खेती मैकेनाइज्ड (mechanized) हो सकती हो वहाँ खेती को मैकेनाइज्ड (mechanized) करने के लिये ज्यादा से ज्यादा रुपया दिये जाने की नीति बनाई जाय और इस काम के लिये ज्यादा से ज्यादा रुपया दिया जाय।

इस सिलसिले में मेरा तीसरा निवेदन यह है कि अभी कुछ चन्द दिन पहले ही इस हाउस में एक बड़ी गर्म और बड़ी जोरदार बहस अनाज की महंगाई और दूसरी चीजों की महंगाई के बारे में हुई थी। मैं इस सिलसिले में यह नम्र निवेदन करना चाहता हूँ कि आग चने का ही मामला लीजिये। चना हिसार जिले में, जो यहाँ से १०० मील है, पांच रुपया मन पर बिका। किसान को वहाँ उसके लिये ज्यादा से ज्यादा पांच रुपया मन मिला होगा और मद्रास के अन्दर उसी वक्त वह ५० रुपये मन बिक रहा था। इसी तरह से दिल्ली से रोहतक मुश्किल से ४४ मील है। रोहतक में गेहूँ के लिये किसान को मुश्किल से १३ या १४ रुपया मन मिले। आज वही गेहूँ दिल्ली में २०, २२ और २३ रुपया मन पर भी मुश्किल से मिलता है। इस सिलसिले में मैं यह समझता हूँ कि यह बैंक इस तरह से मददगार हो सकता है कि जो कोऑपरेटिव दुकानें हों उनको वह ज्यादा से ज्यादा रुपया दे ताकि जो मिडिल मैन हैं जिनकी वजह से देश के अन्दर एक किस्म का हाहाकार मचा हुआ है, वह हट जाय। लोगों का ख्याल है कि किसान लूट रहे हैं। लेकिन जैसा मैंने आपको अभी बताया किसानों को तो उतना रुपया भी नहीं मिलता जितना कि वह आज अनाज पैदा करने पर खर्च करते हैं। इसलिये कोऑपरेटिव शाप्स (Co-operative Shops) को ज्यादा से ज्यादा बढ़ाने के लिये नीति बनाई जाय और इनको बढ़ावा दिया जाय ताकि किसानों को उनसे पूरा पूरा लाभ मिल सके और देश को भी लाभ मिल सके।

एक मेरा नम्र निवेदन यह है कि यह बैंक इस किस्म की नीति जल्दी से जल्दी बनावे कि कोऑपरेटिव मैकेनाइज्ड फार्मिंग (Co-operative mechanised farming) को बढ़ावा दिया जा सके।

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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) [2ND SEPT. 1948]

Dr. B. Pattabhi Sitaramayya: On a point of order, Sir. In order to save time, will it not be proper strictly to limit the discussion to the nationalisation aspect? These are extraneous points, which of course are very useful, but they may come in their own time.

Mr. Naziruddin Ahmad: Particularly because this is an amending Bill and its scope is very limited.

चौधरी रणवीर सिंह Certainly. मेरी बड़ी इच्छा थी कि मैं कुछ कहता, लेकिन कायदे और कानून की वजह से मैं उस सिलसिले में ज्यादा बात नहीं कहते हुए एक और चीज की तरफ भी आपका ध्यान दिलाना चाहता हूँ। वह यह है कि नेशनलाइजेशन (nationalization) होने के बाद आप कोऑपरेटिव इंडस्ट्रीज (Co-operative Industries) को ज्यादा से ज्यादा बढ़ावा दें।

अब मैं हाउस का ज्यादा समय नहीं लेना चाहता और इस बिल का स्वागत करते हुए भाषण को समाप्त करता हूँ।

(English translation of the above speech.)

Ch. Ranbir Singh (East Punjab: General): Mr. Chairman, while welcoming this Bill, I would like to make a respectful submission to the Honourable Minister that India is predominantly an agricultural country, and even if after the nationalisation of this Bank, no policy is implemented for the development of Agriculture, I venture to say that this Bank does not deserve to be called a State Bank. Respectfully, I would like to make one or two suggestions in regard to the manner in which agriculture can be developed. It is only a few days ago when the East Punjab Premier, Dr. Gopichand Bhargava was here. During the course of a talk, he told us that a letter had been received by him either from the Honourable the Prime Minister or any other Minister at the Centre stating that if it was desired to abolish the Zamindari system in the Punjab, then it was upto the Provincial Government to provide money for this purpose. You are aware of the fact that the East Punjab is a poor province. What to say of finding money for the abolition of this Zamindari system, it cannot even get adequate funds to meet its expenses? As regards the manner in which agriculture can be developed, my first submission is that this Bank should assist in advancing the largest possible amount of money for the nationalisation of land. Secondly, plans should be formulated for giving money to the maximum extent possible for undertaking mechanized cultivation at places where this is feasible.

Thirdly, I may submit that only a few days ago, a heated and lively discussion took place in this House in regard to the soaring prices of foodgrains and other commodities. In this connection I would request you to take the case of gram which may sold in our district which is situated at a distance of 100 miles from this place at Rs. 5 per maund. There the cultivator might have received for this commodity Rs. 5 per maund at the most, but at the same time it was being sold in Madras at Rs. 50 per maund. Similar is the case with Rohtak which is situated at a distance of about 44 miles from Delhi. In Rohtak, the cultivator was hardly paid Rs. 13 or 14 per maund for his wheat. Today this commodity is not readily available in Delhi even at a price of Rs. 20, 22 or 23 per maund. I feel that this Bank can only prove useful if it helps the Co-operative shops by giving them the largest possible amount of money to enable them to provide relief to the middle-classes

in whose behalf there is so much hue and cry in the country. People think that the cultivators are robbing, but just as I have informed you the peasants are not even able to realize the same amount they have to spend on the production of the foodgrains. Plans should therefore be drawn up for the expansion of the Co-operative shops to the largest extent possible so that the peasants as well as the country may be able to derive the maximum benefit out of these.

Another submission which I have to make is that this Bank should forthwith adopt a policy for the development of Co-operative mechanized farming.

Dr. B. Pattabhi Sitaramayya (Madras: General): On a point of order, Sir. In order to save time, will it not be proper strictly to limit the discussion to the nationalisation aspect? These are extraneous points, which of course are very useful, but they may come in their own time.

Mr. Naziruddin Ahmad (West Bengal: General): Particularly because this is an amending Bill and its scope is very limited.

Ch. Ranbir Singh: Certainly. I wanted to say something more but having regard to the rules and regulations and without further discussing this matter, I would like to stress that after the nationalization, you should encourage the co-operative industries as far as possible. I do not now want to take any more time of the House, and while welcoming this Bill, resume my seat.

Prof. Shibban Lal Saksena (U.P.: General): Sir, I join the chorus of congratulations which have been showered on my honourable friend, the Minister for Finance. Today we are laying the foundation of the nationalisation of industries for which we have fought on so many occasions in this House. I hope our new Finance Minister will not follow the policy of mixed economy, but he will try to go forward and nationalise all the industries and particularly the key industries one by one now that he has begun with the nationalisation of the Reserve Bank. My friends have given the history of the nationalisation of this Bank from 1927 onwards and the Honourable Minister himself was pleased to give us an idea of the labour which he devoted for the dawning of this day which has at last dawned today. Today shall go down as a red letter day in the history of this country when this most important institution in the country is being nationalised. I have read the speeches and the proceedings of the House of Commons when the Bank of England was nationalised and I have seen what a controversy it raised and yet with what courage the Labour Government got it through and now I am sure our industries, such as coal and steel and other key industries will also be nationalised very soon. I therefore think that this Bill is a precursor of all nationalisation that is going to follow, particularly of the main key industries. I also think that the other banks and particularly the Imperial Bank should also be nationalised. Recently in a gathering of distinguished industrialist, grave apprehension was expressed at the prospect of the nationalisation of the Imperial Bank. I am sure our Government which had the courage to nationalise the Reserve Bank will also take measures to nationalise the Imperial Bank immediately after and will not be deterred by the cries of industrialists who want everything to go in the old, old way. Today probably we are faced with the greatest crisis in our country on account of the economic situation and inflation. I hope this nationalisation and all that it connotes will help us in tiding over that crisis. I am sure that once this Bank is nationalised, the hands of the Executive will be very much strengthened in carrying through other measures. I do not want to take much time of the House and I do not want to discuss the clauses of the Bill, but I do feel that the compensation could have been less and I agree with the amendment that my honourable friend, Prof. Shah has given that the shares should be compensated at a lesser price than has been offered. I also think in the interest of curbing inflation, when we want that money should be frozen, we

[Prof. Shibban Lal Saksena]

should not give such a heavy compensation as we have offered to give. It is now for many years that the shareholders have enjoyed large dividends and we do not want that at the time of nationalising the concern we should give them such huge compensation. Sir, I think that after nationalisation of the Reserve Bank, we shall soon go for nationalising the Imperial Bank also, because the Honourable Mr. Chetty did give us a promise that the Imperial Bank will also be nationalised. At the fag end of the session, we cannot have the nationalisation of the Imperial Bank Bill discussed here, still I hope in the Budget Session that shall be the first measure that we shall pass. I hope the Honourable the Finance Minister will have the credit of piloting that Bill also in the House and he will earn the gratitude of this country for having placed such a measure on the Statute Book. I heartily commend this Bill and I support it.

Shri K. Santhanam (Madras: General): I do not want to go into the details of the Bill. But there is one point to which I attach great importance. The present Bill is a Bill for nationalisation, but even more than nationalisation the question of relieving the currency from the domination of Sterling and consequently with the Bank of England and this is a matter of far greater importance. To some extent this has been achieved by our membership of the International Monetary Bank and the consequent release from the obligation to give sterling for rupees and *Vice versa*. Still there are many traces in the Reserve Bank Act of India which preserve the old domination of sterling and continues it even though we have achieved political freedom. I think one of the most offensive clauses is Section 33(2) which provides "all the total amount of the assets in the Issue Department of the Reserve Bank, not less than 2/5th shall consist of gold coin, gold bullion or sterling securities" and there is a proviso which says "provided that the amount of gold coin, and gold bullion have stood where they were before". We have gone through the second World War and we all know how owing to the operation of this provision and the other provision regarding compulsory exchange of sterling into rupees, our entire reserve in the Issue Department has become sterling. We cannot get rid of it quickly nor do I want to get rid of it anyhow, but I think it is altogether wrong for a national bank of India to say that we shall in all cases keep 2/5th of our reserves in foreign exchange. The Bank of England does not keep a single rupee as its reserve, nor does it keep a single dollar as its reserve. It is content to live on its own integrity and keep only securities of its own Government and of its own nationals as the reserve. That is also the case with every other self-respecting national bank, but why is our Reserve Bank compelled to do it? I do not mind it keeping it voluntarily because of national necessities, but being statutorily compelled to keep 2/5th of its reserve in gold bullion or foreign exchange and in practice it will mean foreign exchange and which further will become.....

The Honourable Shri K. C. Neogy: It will perhaps help the House if I point out that this particular point is sought to be made in an amendment which I propose in this very Bill.

The amendment is that sterling securities should be substituted by foreign securities.

Shri K. Santhanam: My objection is to foreign exchange also because in the same way as we are today the slave of sterling, we will become the slave of foreign exchange. Supposing you give 2/5th in foreign exchange, there may be de-valuation; they may freeze every foreign exchange. I would like the Honourable the Finance Minister to point out any other bank which says that part of the reserves of their national bank shall be in foreign exchange. I do not mind if you increase the gold, if you add silver and whatever will be in your country will be under your control, but I do not want to put a national institution the control of which will be a foreign agency. I say this is wrong.

I suggest that the Finance Minister should take the earliest step to get rid of these obligations. This is a most non-national, an anti-national obligation to which I want to draw the attention of the House. I do not want to take more time and I hope this particular objection of the section will be removed as early as possible.

Mr. Chairman: I want to put the motion before the House before we adjourn.

The Honourable Shri K. C. Neogy: At this hour, I do not propose to detain the House for very many minutes. Most of the criticisms, if I may say so without offence, are somewhat irrelevant to the Bill before the House. The Bill is strictly limited to the object of bringing the share capital of the Reserve Bank of India into public ownership and to make consequential amendments in that connection. I quite admit that the Reserve Bank Act deserves to be subjected to a comprehensive scrutiny with a view to a comprehensive amendment thereof, from many points of view.

A good deal of criticism has been made of the failure of the Government so far to bring forward any proposal for the nationalisation of the Imperial Bank of India. I know what importance the House attaches to that particular question. All I can say is that the matter is engaging the active attention of the Government. My predecessor in a statement which he made some time ago, I think it was on 4th March 1948, said "The Government accept the policy of nationalisation of the Imperial Bank of India. But as the Bank has branches outside India, the Government propose to examine carefully the various questions that would arise in connection with nationalisation of the Bank before the policy is implemented". I have nothing to add to that statement. As a matter of fact, the proposition is so complicated that I am afraid it will take some little time for the Government to be able to come forward with any concrete proposals.

Shri T. T. Krishnamachari: May I ask whether the Honourable Minister will give an assurance that he will straightaway appoint an officer on special duty for the purpose of devising measures to nationalise the Imperial Bank?

The Honourable Shri K. C. Neogy: I do not know, there may be some officer whose main attention is engaged on this question. Whatever it is, I am prepared to give an assurance that every possible step would be taken for the purpose of accelerating the process of the consideration of this question.

Seth Govind Das: If the Honourable Minister gives way, I shall ask only one question. Is it expected that by the next session of the Assembly, something concrete would be done in this respect and some Bill would be brought forward in this House? This assurance was given by the then Finance Minister in March 1948.

Dr. B. Pattabhi Sitaramayya: May I raise a point of order, Sir? This question is irrelevant to the question of the nationalisation of the Reserve Bank. I am sorry the Honourable Minister himself has fallen into the trap set for him and to prolong the discussion on this aspect would be mere waste of time.

Mr. Chairman: That is not a point of order. The Honourable Minister may proceed.

The Honourable Shri K. C. Neogy: I am not in a position to give a categorical assurance as desired by my honourable friend. As far as I can see, no assurance of any kind was given by my predecessor as to the time that would be taken for the purpose of bringing forward such a measure. I entirely agree that this is irrelevant to the present issue; but I felt that the House, at least some of the members who have spoken, would be extremely unhappy unless some assurance was given on this particular point. I was rather surprised to find my honourable friend Mr. Hossain Imam making a statement as regards the subservience of the Rupee to the Sterling. As a matter of fact,

[Shri K. C. Neogy].

sections 40 and 41 of the Reserve Bank Act were suitably amended some time ago in 1947 and the particular subservience that he has in mind has been abolished. It is not obligatory on the part of the Reserve Bank either to sell or buy sterling as required under the old Sections.

My honourable friend Mr. Himatsingka very rightly stressed one aspect of the matter. He wanted to be assured that the administration would not deteriorate as a result of nationalisation. I can give him that assurance without any qualification. I may tell you that although the frame-work of the administrative authority is being changed, we would see to it that the Reserve Bank of India continues to function as a fully autonomous body and that the counsels of the different interests which find representation at the present moment through election on the management, would still be available to it, although the institution is being nationalised.

My honourable friend Mr. T. T. Krishnamachari also perhaps had that in mind when he said that the contour of the Bank should be kept in tact. I have no hesitation in giving that assurance to him as well, and further, that business principles would, as far as possible, govern the administration of this Bank subject to the instructions which the Government may have to give to it in pursuance of any general policy.

Now, I do not think that my honourable friend Mr. Santhanam should have been so exercised over that particular clause that requires the holding of foreign securities as part of the assets of the Bank. Apart from other reasons, as a result of our membership of the International Monetary Fund, we are expected to maintain foreign securities to an extent. That creates confidence. Now, the question whether a minimum should be prescribed in this behalf is another proposition.

Shri K. Santhanam: May I know whether there is any specific provision in the International Monetary Fund to that effect?

The Honourable Shri K. C. Neogy: Not at all; but it is expected of us, so as to strengthen our reserves. As regards the minimum proportion, that is a different matter altogether. I should like to have some time to consider this point. I may say at the moment it is, not merely that this minimum is maintained, but that it is sometimes very nearly 90 per cent. of the assets of the Bank that are maintained in the securities mentioned in this particular clause.

Shri T. T. Krishnamachari: It was 90 per cent.; it is not so now; it is cut down by 280 crores.

The Honourable Shri K. C. Neogy: The minimum fixed is two-fifths. As a matter of fact, it represents much more of the assets today. If anything turns upon this particular minimum being maintained, it will have to be examined.

Last of all, I want to repeat that this is a measure which is limited, very strictly limited, to the issue of nationalisation. I can assure the House that the Government would at the earliest possible moment take up this particular Act for the purpose of a complete revision so that any suitable measure that may be necessary for the purpose of carrying out the further amendments and the further improvements either in the working of the Bank or otherwise may be undertaken by way of legislation. That is all I have to say.

Mr. Chairman: The question is:

"That the Bill to bring the share capital of the Reserve Bank of India into public ownership and to make consequential amendments in the Reserve Bank of India Act, 1934, be taken into consideration."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday the 3rd September 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

[PART II PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS.]

Friday, 3rd September, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I).

11.30 A.M.

MOTION FOR ADJOURNMENT

Mr. Speaker: I have received notice of an adjournment motion from Shri Deshbandhu Gupta. Is the honourable member moving it?

Shri Deshbandhu Gupta (Delhi): No., Sir. As the Honourable the Home Minister is willing to make a statement tomorrow in reply to a short notice question I do not propose to move it.

ELECTION OF DEPUTY SPEAKER

Mr. Speaker: The next item on the agenda is the election of the Deputy Speaker.

In accordance with the provisions of sub-rule (3) of Rule 8 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business, I have to announce to the honourable members that nomination paper duly filled in has been received on behalf of Shri M. Ananthasayanam Ayyangar for the office of Deputy Speaker. The names of the proposer and the seconder are as follows:

Proposer—Shri Satyanarayan Sinha.

Secunder—Shri T. T. Krishnamachari.

As no nomination paper has been received on behalf of any other member I declare Shri M. Ananthasayanam Ayyangar duly elected.

I take this opportunity of congratulating the House as also Mr. Ayyangar on his election as Deputy Speaker. While I convey to Mr. Ayyangar my felicitations, I think he will permit me to share them for my good luck in having a colleague like him. Mr. Ayyangar is perhaps known more closely to many honourable members of this House than I myself can claim. I first came in contact with him in January 1946, when I was elected President of the late Central Legislative Assembly. Ever since that time, I have felt closer and closer to him, and I have had more and more regard for his abilities, studious habits, judicial temperament and, above all, his moderation combined with firmness. He has been imbued with a spirit of Congress principles and has suffered for the achievement of Congress ideals. His services to the country cover a wide field. Besides being an office-bearer in various Congress organisations, he has served as a lawyer, as a legislator, as a *satyagrahi*, and—many may perhaps not know,—as a journalist also. I am happy that the Assembly has elected him as Deputy Speaker and given me a colleague who will always be available to me for consultation and advice, in my task as Speaker of the Assembly.

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): Sir, I may be permitted to add a few words to what you have

[Pandit Jawaharlal Nehru]

said in regard to the election of our friend and colleague Mr. Ayyangar to the Deputy Speakership. All those who are members of this House—and I hope most people outside—realise the extreme importance of the Speaker of this House. He is the repository of the wisdom and the dignity of this House. It is exceedingly important that the Speaker should fulfil those qualifications and should guard not only the freedom of this House but all the other qualities that this House as a corporate entity possesses as representing the people of India. A great deal of the success of this House has been due to the way in which you, Sir, occupied the Chair and conducted the proceedings. It is now right and fitting that the House should elect a Deputy Speaker who will fill in a worthy manner that place when you happen to be absent and should carry on that great tradition which we have been fortunate in inheriting from you. It is rather difficult perhaps to talk in terms of comparisons, but I think I am right in saying that none of us can bring that knowledge of parliamentary procedure, that—as you said—combination of firmness and moderation, as our colleague Mr. Ayyangar can. I may say that from the point of view of electing him to this high office none of us had any doubts. But a certain doubt did creep into our minds as to whether this election might put some kind of a barrier between him and us. That doubt arose because he has become such a pillar of strength to us in our debates and in the work of this House that many of us hesitated slightly before we took the final decision. But two facts weighed with us. One was the obviousness of the choice. It immediately came to mind that this is an obvious choice for this high office; and the second was that it is after all no barrier to the close association which members of this House are going to have with him, quite apart from his functioning as Deputy Speaker, even in the debates and other activities of this House. Therefore that slight hesitation that weighed in our mind was removed, and we welcome him with great satisfaction and pleasure.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I am extremely thankful to you and the Prime Minister for having spoken such kind words about me. In 1925 when I was chosen as a member of the Legislative Assembly representing the Congress in five districts, I was considered to be a dark horse. Everybody said in my constituency that they had not known me and it was the strength of the Congress that pushed me through. Even now I may be a dark horse to many. Whatever words you have spoken and whatever words have come from the mouth of the Honourable the Prime Minister I have to justify in the future. I may still be a dark horse for both of you and others. I assure you, Sir, that I shall do my best to keep up the traditions of this House.

I have always been outside this House. I was trained to talk and talk and do nothing else. Inside this House I continued that tradition. Then I was in the last bench on your left and progressively by talking more and more I came to the first bench. Today, Sir, and hereafter, I have to learn another virtue—the virtue of silence. Hitherto I thought that speech alone was effective, but after I saw you—I have seen you for the past two years—I have learnt that looks and the facial expression are more effective. Sir, I may be quite all right and equal to the occasion, but I shall make every sincere effort to put a seal on my lips except when I may have something to say on points of order and calling out to members, Order, order! I shall try to deserve the confidence you have reposed in me. I am glad to learn that all my friends are willing to put me there but I assure you, Sir, that I value this very much more than any other office which is the gift of others. I thank you once again.

REQUEST FOR ALLOTMENT OF TIME FOR DEBATE ON HYDERABAD AND KASHMIR

Shri H. V. Kamath (C. P. and Berar: General): Before we proceed to the other business, may I remind the Honourable the Leader of the House about the hope that he expressed on Tuesday last. I am reading from the statement that he made.

Mr. Speaker: He may raise those points afterwards.

Shri H. V. Kamath: To-morrow being the last day. . . .

Mr. Speaker: He may put his points after the formal business is put through and the resolution is taken up.

But I may mention one thing for the information of honourable members, namely, that in case they want to raise any point, it is desirable that they should contact the Speaker in his Chamber before the House commences its business, apprise him of the point they want to raise and then, of course, they should ask for permission.

Shri H. V. Kamath: Very well, Sir.

COMMITTEE TO EXAMINE RULES OF PROCEDURE AND CONDUCT OF BUSINESS OF THE HOUSE

Mr. Speaker: As stated in the House by me on the 31st. August, 1948, when the Rules for regulating the procedure and the conduct of business were adopted by this House, I appoint a Committee under my Chairmanship consisting of the following:

- (1) The Honourable Minister of Law.
- (2) The Deputy Speaker.
- (3) Shri K. Santhanam.
- (4) Shri Khandubhai K. Desai.
- (5) Shri Satyanarayan Sinha.
- (6) Dr. P. S. Deshmukh.
- (7) Mr. Naziruddin Ahmad.
- (8) Shrimati G. Durgabai.
- (9) Shri Ajit Prasad Jain.

The Committee will examine the rules as adopted and will suggest, for consideration of the House, such amendments as it thinks proper after taking into consideration suggestions from members, if any.

Members wishing to suggest amendments to the rules may kindly communicate the same to the Secretary of the Constituent Assembly (Legislative) upto 1st November, 1948.

The Committee will hold its meeting in my Chamber sometime about 3rd week of January, 1949, shortly before the Budget Session on a date to be notified later, and its recommendations will come for the consideration of the House, during the course of the next Budget Session.

PRESENTATION OF REPLICA OF ASHOKA PILLAR

Mr. Speaker: I have a pleasant announcement to make to the honourable members of this House. Sardar Sant Singh's name, though known to some of the members, is perhaps a new one to many members. He was a member of the old Legislature from 1930 onwards till the new elections in 1945. He

was a staunch supporter of the Congress. In memory of his long association with this House, it was his desire that he should present to the House a replica of the Ashoka Pillar. The gift is singularly appropriate, as we have adopted the Ashoka Wheel on our National Flag and the Four Lions with the base and Wheel as our symbol.

The honourable members will see the presentation replica on the Secretary's table in the House. It is a nice little piece.

I have considered it proper to respect the sentiments of Sardar Sant Singh and accept, on behalf of the House, the present he has made out of respect and love that he has for this Legislature. I am sure, the House will join me in conveying our thanks to Sardar Sant Singh for the present.

Shri H. V. Kamath (C. P. and Berar: General): On a point of information, Sir, was this manufactured in the Gun Carriage Factory, Jubbulpore?

Mr. Speaker: I do not know anything about it.

REQUEST FOR ALLOTMENT OF TIME FOR DEBATE ON HYDERABAD AND KASHMIR

Shri H. V. Kamath (C P. and Berar: General): Sir, may I by your leave remind the Honourable the Leader of the House of the hope he expressed on Tuesday last, the 31st August? I am reading from the statement he made last my memory should betray me.

"That before the House adjourns. . . ."

Mr. Speaker: What is it that he is reading from?

Shri H. V. Kamath: Sir, I have compared it with the official typescript, and it is correct.

"That before the House adjourns, whatever Government may have to say with regard to Hyderabad and Kashmir will be laid before the House."

As tomorrow is the last day of the Session, I crave your indulgence to remind him of it today.

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): The honourable member is perfectly right in reminding me of a statement that I made the other day. It was Government's intention and my desire that we should make a statement in regard to Kashmir and Hyderabad. I hope, still, to say something about it but I want to be very frank to the House that we have been put in a slight difficulty because certain delicate negotiations are proceeding in regard to Kashmir. The United Nations Commission is here, and in fact we had put it to them whether we should make public certain facts and they have requested us for the present not to do so. So we are put in a slightly difficult position. It would be improper for us to ignore their requests. Nevertheless, I hope to make some statement, not perhaps as full as I would have liked it to be, but some statement before the House adjourns.

Shri H. V. Kamath: On Hyderabad also?

The Honourable Pandit Jawaharlal Nehru: As I said, some statement I hope to make in regard to both the matters.

STATEMENT RE INFLATIONARY SITUATION

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): Sir, before the debate on the resolution is resumed, I should like, with your permission, to make a statement. Certain untoward developments have taken place as a result of speculation regarding the action which Government might take in the monetary sphere to deal with the inflationary situation. There has been, in certain places, a rush for the conversion of hundred rupee notes at the banks into notes of smaller denominations. Hectic purchases of gold have been taking place with the result that gold prices have reached new high levels. All this seems to be due to entirely unfounded rumours regarding the possibility of Government taking drastic deflationary action. Though certain rather vague suggestions in this respect have been made in the many and divergent views which Government have received, I wish to make it clear that Government have no intention whatsoever of demonetizing hundred rupee notes or refusing to pay the full value of any notes. It will take a little time before Government reach a decision regarding the anti-inflationary measures to be adopted for dealing with the present economic situation. I have no hesitation however in making an immediate declaration that Government will not entertain any proposals for devaluing currency. In particular, I should like to make a definite announcement—

(i) that Government will not demonetize 100 rupee notes, nor pay only a part of the value of any currency note; and

(ii) that they have no intention to freeze any part of any Bank deposits.

It is most unfortunate that wild rumours have found credence with the public, and it is of the utmost importance that public apprehensions in this respect should be allayed immediately. I hope this assurance given by me on behalf of the Government will have a reassuring effect. I would like the widest publicity to be given to this statement and I appeal for the co-operation of the House and the public in restoring confidence.

PAPERS LAID ON THE TABLE

INSTRUMENT OF ACCESSION SIGNED BY SIEMS OF THE KHASI HILL STATES

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I beg to lay on the table a copy of the Instrument of Accession signed by the Siems of the Khasi Hill States and accepted by the Governor General in accordance with sub-section (6) of section 6 of the Government of India Act, 1935, as adapted.

INSTRUCTION OF ACCESSION OF (the Khasi Hill States mentioned in the statement attached).

We the rulers of the Khasi States specified below,

Having agreed to the establishment of a Federation of which all the said Khasi States are members;

And being desirous of acceding to the Dominion of India individually as Rulers of the said Khasi States and collectively as members of the said Federation;

Do hereby declare that we accede to the Dominion of India with the intent that the Governor General of India, the Dominion Legislature, the Federal Court and any other Dominion authority shall, by virtue of this our Instrument of Accession, but subject always to the terms thereof, and for purposes only of the Dominion, exercise in relation to the said Khasi States such functions as may be vested in them by or under the Government of India Act, 1935, as for the time being in force in the Dominion of India (which Act as so in force is hereinafter referred to as "the Act").

2. WE hereby assume the obligation of ensuring that due effect is given to the provisions of the Act within the said Khasi States so far as they are applicable therein by virtue of this our Instrument of Accession.

3. SUBJECT to the provisions of the annexed Agreement (which shall be regarded as part of this our Instrument of Accession) we accept that the Dominion Legislature may make laws for the said Khasi States in respect of any matter.

(Signed by the Siems of the Khasi Hill States on the dates shown in the statement attached.)

I do hereby accept this Instrument of Accession.

Dated this seventeenth day of August Nineteen hundred and forty-eight.

C. RAJAGOPALACHARI,
Governor General of India.

AGREEMENT

1. The Federation of Khasi States, hereinafter referred to as "the Federation", agrees that all existing administrative arrangements between the Dominion of India and the Province of Assam on the one hand and the Khasi States on the other hand shall, with the exceptions noted below, continue in force until new or modified arrangements have been arrived at between the respective authorities concerned.

2. The exceptions referred to above will be as follows :—

Judicial Powers—

- The Federation will set up a competent Court of the Federation to exercise the judicial functions formerly vested in the Political Officer.
- In matters of customary law there will be no appeal from the Court of the Federation. In other cases, as at present, an appeal will lie to the Governor until a High Court of Assam is established when such appeal will lie to the Assam High Court.
- The judicial authority now exercised by State Courts in respect of Khasis will be maintained.
- In regard to all non-Khasis the judicial arrangements now existing will continue for the present except that the judicial powers of the Political Officer will be vested in the Court of the Federation when its competence is recognised. Where non-Khasis have voluntarily agreed to submit to the jurisdiction of a State Court that Court will continue to be the original trying court.
- Where State Courts comply with certain conditions to be laid down they may be vested with First, Second or Third Class Powers as defined in the Criminal Procedure Code and their jurisdiction would then include both Khasis and non-Khasis. The appointment of magistrates to the States' Courts and to the Court of Federation will be subject to the approval of the Governor in regard to their judicial competence. The Chief Justice of the Assam High Court, when established, will assume this power now vested in the Governor.

Administrative Powers—

With the exception of the following three subjects all the remaining administrative functions would be common with the Central or Provincial Government under the terms of the standstill arrangement outlined in paragraph 1 above.

Exceptions.—(1) *Excise*—Subject to agreement with the Provincial Government regarding the fixing of duty, etc.

(2) *Forests*—The Chief Conservator would act in an advisory capacity to the Federation in regard to the management and control of the Forests.

(3) Land and water rights and the revenue derived therefrom.

3. *Revenue.*—The member States of the Federation have agreed that the balance of the Khasi States Deposit Account should be handed over to the Federation and that future payments to this Deposit Account should also be made over to the Federation until fresh arrangements have been reached in regard to the contributions to be paid to the Federation by individual States.

4. *Khasi Territory in the Province.*—The Federation request that all possible help should be given to facilitate the unification of all Khasi territory.

All Khasi villages which desired to rejoin States of which they had formerly formed a part should be allowed to do so.

Other Khasi territory in the Province should, if they desired, be allowed to join the Federation as units.

5. *Legislation.*—In matters of legislation concerning subjects of common interest passed by the Assam Legislature there should be some machinery either by representation in that Legislature or otherwise set up whereby the legislation, where necessary, can be adopted or modified to suit the conditions and circumstances existing in the Khasi Hills.

STATEMENT

Showing the List of Khasi Hill States which have signed the Instrument of Accession, the date of execution of the Instrument and the date of its acceptance by Governor-General.

Serial No.	Name of the State	Date of execution of the Instrument of Accession	Date of acceptance by the Governor-General
1	Khyrium State	15-12-47	17-8-48
2	Myliem State	15-12-47	17-8-48
3	Cherra State	15-12-47	17-8-48
4	Nongstein State	19-3-48	17-8-48
5	Rambrai State	17-3-48	17-8-48
6	Myriam State		17-8-48
7	Nebasaphphah State	11-1-48	17-8-48
8	Nongspung State		17-8-48
9	Nongkhlaw State	15-12-47	17-8-48
10	Bhowal State	15-12-47	17-8-48
11	Jirang State	15-12-47	17-8-48
12	Makaram State	15-12-47	17-8-48
13	Mawsynram State	15-12-47	17-8-48
14	Langrin State	15-12-47	17-8-48
15	Mawrang State	15-12-47	17-8-48
16	Malai Shmait State	15-12-47	17-8-48
17	Mawphlang State	15-12-47	17-8-48
18	Shiding State	15-12-47	17-8-48
19	Lyniang State	15-12-47	17-8-48
20	Shelloc n Federacy	10-3-48	17-8-48
21	Mawlong State	15-12-47	17-8-48
22	Nonglwa State	15-12-47	17-8-48
23	Pansaungut State	15-12-47	17-8-48
24	Mawdon State	15-12-47	17-8-48
25	Dwara Nongtyumon State	15-12-47	17-8-48

REGULATIONS OF INDUSTRIAL FINANCE CORPORATION OF INDIA

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce):
Sir, I lay on the table a copy of the Regulations of the Industrial Finance Corporation of India made under sub-section (3) of section 43 of the Industrial Finance Corporation Act, 1948.

INDUSTRIAL FINANCE CORPORATION OF INDIA

[INCORPORATED UNDER THE INDUSTRIAL FINANCE CORPORATION ACT 1948 (XV OF 1948)]
GENERAL REGULATIONS

INDUSTRIAL FINANCE CORPORATION OF INDIA

Regulations

In pursuance of the Industrial Finance Corporation Act, 1948, the Board of the Corporation, after consultation with the Reserve Bank of India and with the previous sanction of the Central Government has made the following regulations :—

CHAPTER I

Introductory

1. *Definitions.*—In these regulations, unless there is anything repugnant in the subject or context :—

- "the Act" means the Industrial Finance Corporation Act, 1948;
- other terms have the meaning assigned to them in the Act.

CHAPTER II

Shares of the Corporation

2. *Shares movable property.*—The shares of the Corporation shall be movable property.

3. *Membership of the Corporation.*—(i) Membership of the Corporation shall be limited to the Central Government, the Reserve Bank, Scheduled Banks, Insurance Companies, investment trusts and other like financial institutions and Co-operative banks.

(ii) The decision of the Board on any question whether any company, corporation or association is an investment trust or other like financial institution within the meaning of sub-section (3) of section 4 of the Act shall be final.

4. *Conditions of first allotment of shares.*—(i) Subject to the provisions of the Act and these Regulations the shares of the Corporation shall be under the control of the Directors.

(ii) The first allotment of shares shall be made in accordance with the provision of section 4 of the Act to applicants who are qualified to be registered as shareholders of the Corporation.

(iii) The Board may make allotments to the applicants for shares either in full, or in part depending on the number of applicants from the class of shareholders concerned. In so far as it is practicable, the Board shall make full allotment in respect of applications for small numbers of shares so that there may be as many shareholders of that class as possible.

(iv) The decision of the Board as to whether in a particular application for shares of the Corporation there shall be full, partial or no allotment shall be final.

(v) For the purpose of making the first allotment, there shall be a committee of the Board consisting of the Chairman, the Managing Director and one Director who shall be appointed in this behalf by the Chairman. The Committee so constituted shall exercise all the powers of the Board in making the allotment of the shares.

5. *Share Register.*—(i) The Corporation shall maintain at its head office a register of shareholders qualified by the Act to be registered therein and shall enter therein the following particulars :

- (a) the name and address at which each shareholder has his principal place of business.
- (b) under which of the categories of sub-sections (2) and (3) of section 4 of the Act the shareholder is qualified to be so registered.
- (c) the date on which each person is so entered as a shareholder, the manner in which he acquired his share or shares and except in the case of first allotment, the name of the previous holder.
- (d) the date on which any person ceases to be a shareholder, and the name of the person to whom and the ledger to which the share or shares are transferred.

(ii) In the share register, a separate ledger shall be maintained in respect of each of the categories of shareholders referred to in section 4 of the Act namely the Central Government, the Reserve Bank, the Scheduled Banks, Insurance Companies, investment trusts and other like financial institutions and co-operative banks.

6. *No joint holding of shares.*—The corporation shall not recognise the joint holding of shares.

7. *Inspection of Share Register.*—(i) The share register prescribed by regulation 5 except when closed under the provisions of these regulations shall be open to the inspection of any shareholder gratis at the head office of the Corporation during business hours subject to such reasonable restrictions as the Corporation may impose, but so that not less than two hours in each day may be allowed for inspection.

(ii) A shareholder shall not have the right himself to make a copy of any entry in any such register, but may, except when the register is closed require a copy of any such register or of any part thereof on pre-payment therefor at the rate of 8 annas for every hundred words or fractional part thereof required to be copied.

8. *Closure of Share Register.*—The Board may, by giving notice by advertisement, close the share register for such periods (not exceeding six weeks at any one time) as shall in its opinion be necessary.

9. *Share Certificate.*—(i) Every share certificate shall be issued under the common seal of the Corporation.

(ii) Every share certificate shall specify the number and denoting numbers of the share or shares in respect of which it is issued.

10. *Every shareholder entitled to one free share certificate.*—(i) The Central Government and the Reserve Bank shall each be entitled, free of charge, to one certificate for all the shares registered in their name.

(ii) Every shareholder other than the Central Government and the Reserve Bank shall be entitled, free of charge, to one certificate for each 5 shares registered in his name. If any shareholder shall require more than one certificate for each 5 shares held by him he shall pay for each additional certificate the sum of Re. 1. Shareholders holding less than 5 shares shall be entitled, free of charge, to one share certificate and if they require more than one certificate shall pay for each additional certificate the sum of Re. 1.

11. *Renewal of share certificate.*—(i) If any share certificate is worn out or defaced or tendered for sub-division then upon production thereof to the head office of the Corporation it may order the same to be cancelled and issue a new certificate or certificates in lieu thereof and if any share certificate is alleged to be lost or destroyed then upon production or such evidence of the loss or destruction thereof as the Board may consider satisfactory and upon such indemnity with or without security as the Board may require a new certificate in lieu thereof shall be given to the party entitled to such lost or destroyed certificate and in case of loss or destruction the person availing himself of the provisions of this regulation shall also pay to the Corporation all expenses incident to the investigation of evidence of loss or destruction and the preparation of the requisite form of indemnity as aforesaid.

(ii) For every certificate issued under this regulation there shall be paid to the Corporation a sum of Re. 1.

12. *Transfer of shares.*—(i) Subject to the restrictions contained in the Act and in these regulations, shares shall be transferable, but every transfer must be in writing in the following form and executed by persons duly authorised to do so on behalf of the shareholder concerned.

We A.B. (name and address) in consideration of the sum of rupees..... hereby transfer to us by C.D. (name and address) (hereinafter called "the transferee") do hereby transfer to the transferee the share (or shares) numbered..... in the Industrial Finance Corporation of India to hold unto the transferee and their assigns, subject to the several conditions on which we hold the same at the time of the execution hereof and we, the transferee, do hereby agree to take the said share (or shares) subject to the conditions aforesaid and we the transferee request that we be registered in respect of the said share (or shares) in the registers of the Corporation.

As witness our hands.....day of.....

Transferor

(address)

Transferee

(address)

(ii) The instrument of transfer of any share shall be submitted to the Board of the Corporation and shall be signed by the transferor and the transferee and the transferor shall be deemed to remain the holder of such share until the name of the transferee is entered in the register. Each signature to such transfer shall be duly attested by the signature of one credible witness who shall add his address and occupation.

13. *Power to refuse recognition of transfer.*—(i) The Board may decline to recognise any instrument of transfer unless,

- (a) a sum not exceeding rupees ten is paid to the Corporation in respect thereof which sum shall not in any event be refunded;
- (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates and such other evidence as the Corporation may reasonably require to show the right of the transferor to make the transfer.

(ii) Upon receipt by the Board of an instrument of transfer with a request to register the transferee, the Board shall make such enquiries as may be considered necessary to satisfy itself that the proposed transferee is qualified under the Act and these regulations to be registered as a shareholder.

14. *Corporation's lien on shares.*—The Corporation shall have a first and paramount lien upon all shares registered in the name of each shareholder and upon the proceeds of sale thereof for his debts, liabilities and engagements solely or jointly with any other person to or with the Corporation whether the period for the payment, fulfilment or discharge thereof shall have actually arrived or not, and such lien shall extend to all dividends from time to time declared in respect of such shares. Unless otherwise agreed the registration of a transfer of shares shall operate as a waiver of the Corporation's lien if any on such shares.

15. *Disqualified shareholders.*—(i) It shall be the duty of any person registered as a shareholder forthwith upon ceasing to be qualified to be so registered to give intimation thereof to the Board.

(ii) The Board may at any time cause such enquiries to be made as it shall see fit for the purpose of ascertaining whether any person registered as a shareholder has ceased to be so qualified and upon being satisfied that any such person has ceased to be qualified to be so registered shall inform him, that he is not entitled to be a shareholder of the Corporation. He will not be further entitled to the payment of any dividend on any such share nor to exercise any of the rights of a shareholder otherwise than for the purpose of the sale of such share and the Corporation shall make an entry in the register to that effect.

(iii) If the Board shall ascertain that a person who is not qualified to be a shareholder of the Corporation is registered by inadvertence or otherwise as a shareholder of the Corporation it shall inform the shareholder that he is not entitled to the payment of any dividend on any such share nor to exercise any of the rights of a shareholder otherwise than for the purpose of the sale of such share and shall make an entry in the register to that effect. A determination of the Board under this regulation as to whether a person is qualified to be a shareholder or not shall be conclusive.

CHAPTER III

Meetings of shareholders

16. *Annual General Meeting.*—The annual general meeting of the Corporation shall be held at a place in India where there is an office of the Corporation and unless otherwise determined by the Board shall be held in Delhi. Each annual general meeting shall be held within two months from the date on which the annual accounts of the Corporation are closed.

17. *Special General Meetings.*—(i) The Board may convene a special general meeting at such time and place as may be decided by the Board.

(ii) When it is necessary to hold a meeting (other than the annual general meeting) for the purpose of holding an election such meeting shall be convened by the Managing Director.

18. *Notice convening a General Meeting.*—A notice convening a general meeting signed by the Managing Director or the Secretary of the Corporation shall be published in the *Gazette of India* and in such other manner as the Board may direct at least 30 days before the meeting.

19. *Business at General Meetings.*—(i) At the annual general meeting the following business shall be transacted :

- (a) the balance sheet of the Corporation and the Profit and Loss Account for the year ending the previous 30th June, together with a report by the Board on the working of the Corporation throughout the year and the auditors' report on the said balance sheet and accounts shall be read and considered;
- (b) the election of Directors under the Act, if any.

No other business shall be transacted or discussed except with the consent of the Chairman unless not less than five weeks notice is given of the same by not less than ten shareholders qualified to vote at such meeting. Such notice shall take the form of a definite resolution to be put to the meeting and shall be included in the notice convening the meeting.

(ii) Except with the consent of the Chairman, no business shall be transacted or discussed at any special general meeting except the business for which the meeting has been specifically convened.

20. *Quorum at General Meetings.*—No business shall be transacted at any meeting of the shareholders, whether the annual general meeting or other general meeting, unless a quorum of 10 shareholders entitled to vote at such meeting in person or by proxy or by duly authorised representative is present at the commencement of such business, and if within fifteen minutes from the time appointed for the meeting a quorum is not present, the meeting, if it is not an annual general meeting, may be dissolved by the Chairman; in any other case or if the meeting is not so dissolved it shall stand adjourned to the same day in the following week at the same time and place, and if at such adjourned meeting a quorum is not present, the shareholders who are present shall form a quorum provided that no annual general meeting may be adjourned to a later date than two months after the 30th June and if adjournment would have this effect, the annual general meeting shall not be adjourned but the business of the meeting shall be commenced one hour from the time appointed for the meeting and those shareholders who are present in person or by proxy or by duly authorised representative shall form a quorum.

21. *Chairman at General Meetings.*—(i) The Chairman of the Board or in his absence a Director (other than the Managing Director) authorised by the Chairman in writing in this

behalf shall be the Chairman at all general meetings and in default of such authorisation, the meeting may elect any other Director to be the Chairman of the meeting.

(ii) The Chairman shall regulate the procedure at all general meetings and in particular shall have full power to decide the order in which shareholders can address the meeting, to fix a time limit for speeches, to apply the closure when in his opinion any matter has been sufficiently discussed and to adjourn the meeting.

22. *Voting at General Meetings.*—(i) A declaration by the Chairman of a general meeting that a resolution has been carried or rejected thereat upon a show of hands by those shareholders who are entitled to vote shall be conclusive and an entry to that effect in the book of proceedings of the Corporation shall be sufficient evidence of that fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution, unless immediately on such declaration a poll be demanded in writing by five persons present and entitled to vote at such meeting.

(ii) If a poll be demanded, it shall be taken either at once or at such time and place and either by open voting or by ballot as the Chairman may direct and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. At such poll a vote shall be given by a shareholder entitled to vote either personally or by proxy or by duly authorised representative and the shareholders shall exercise the voting rights referred to in clause (i) of Regulation 24.

(iii) The decision of the Chairman of the meeting as to the qualification of any person to vote, and also in the case of a poll, as to the number of votes any person is competent to exercise shall be final.

23. *Minutes of General Meetings.*—(i) The Corporation shall cause minutes of all proceedings of general meetings to be entered in books kept for that purpose.

(ii) Any such minute, if purporting to be signed by the Chairman of the meeting at which the proceedings were had, or by the Chairman of the next succeeding meeting, shall be evidence of the proceedings.

(iii) Until the contrary is proved, every general meeting in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly called and held, and all proceedings had thereat to have been duly had.

CHAPTER IV

Voting

24. *Shareholders entitled to vote and their voting rights.*—(i) Each shareholder who has been registered as a shareholder for a period of not less than six months prior to the date of a General Meeting shall at such Meeting, have one vote for each share held by him for the whole of such period.

(ii) Every shareholder entitled to vote as aforesaid who (being an individual) is present in person or by proxy or (being the Central Government or a company) is present by proxy or by a duly authorised representative shall have one vote on a show of hands and in case of a poll shall have one vote for each share held by him for the whole period of six months prior to the date of such meeting.

25. *Voting by Government.*—(i) The Central Government may, by an order in writing, authorise any of its officers to act as its representative at any meeting of the Corporation and the officer so authorised shall be entitled to exercise the same powers on behalf of the Central Government as if he were an individual shareholder of the Corporation. The officer so authorised shall not be deemed to be a proxy.

(ii) A copy of any order made under clause (i) hereof shall be deposited at the Head Office of the Corporation before the time fixed for the meeting.

(iii) An order made under clause (i) hereof may subsequently be revoked by the Central Government by depositing a notice of revocation at the Head Office of the Corporation before the time fixed for the meeting, and the due revocation of an order shall in no way prohibit the issue of another order by the Central Government and the deposit of a copy thereof at the Head Office of the Corporation within the time limited by clause (ii) hereof.

26. *Voting by duly authorised representative precludes voting by proxy.*—No shareholder, being a corporation, shall vote by proxy so long as a resolution of its directors under the next succeeding regulation authorising any of its officials or any other person to act as its duly authorised representative at any general meeting, shall be in force.

27. *Voting by duly authorised representative.*—(i) A company may, by resolution of its Directors authorise any of its officials or any other person to act as its representative at any meeting of the Corporation and the person so authorised shall be entitled to exercise the same powers, on behalf of the company which he represents, as if he were an individual shareholder of the Corporation. The authorisation so given may be in favour of two representatives in the alternative. A person acting in terms of an authorisation given under this

clause shall not be deemed to be a proxy. For the purposes of this regulation a company shall mean a public limited company and shall include the Reserve Bank, a scheduled bank and a co-operative bank. A representative appointed under this regulation is in these regulations referred to as a "duly authorised representative".

(ii) No person may attend or vote at any meeting of the Corporation as a duly authorised representative unless a copy of the resolution appointing him as a duly authorised representative certified to be a true copy by the Chairman of the meeting at which it was passed shall have been deposited at the Head Office of the Corporation not less than 4 clear days before the date fixed for the meeting. An appointment of a duly authorised representative shall, after the deposit of a certified copy of the resolution as aforesaid, be irrevocable for the meeting for which it is made and shall revoke any proxy previously deposited for such same shareholder.

(iii) No person may be appointed a duly authorised representative or a proxy who is an officer or an employee of the Corporation.

23. *Proxies.*—(i) No instrument of proxy shall be valid unless in the case of a Corporation or a Co-operative Bank it is executed under its common seal or signed by its attorney duly authorised in writing.

(ii) No proxy shall be valid unless it is made out specifically for the purpose of voting at the meeting at which it is to be used.

(iii) No proxy shall be valid unless it is duly stamped and unless it, together with the power of attorney or other authority (if any) under which it is signed, or a notarially certified copy of that power or authority is deposited at the head office of the Corporation not less than 4 clear days before the date fixed for the meeting.

(iv) No instrument of proxy shall be valid unless it is in the following form and dated:

Industrial Finance Corporation of India

We.....of.....being a shareholder of the Industrial Finance Corporation of India holding shares Nos..... hereby appoint.....of.....(or failing him.....of.....) as our proxy to vote for us and on our behalf at a meeting of the shareholders of the Corporation to be held aton the..... day of.....and at any adjournment thereof.

Dated this.....day of.....

(v) An instrument of proxy deposited in terms of this regulation shall be irrevocable after the last day for the deposit of proxies unless on or before such day there shall have been deposited at the head office of the Corporation a notice in writing under the hand or common seal of the grantor specifically stating:—

(a) the name of the person in whose favour the instrument was granted; and

(b) that such instrument is revoked, or unless the same shall be invalid under clause (vi) hereof. In the case of an instrument of proxy granted in favour of two grantees in the alternative, it shall not be necessary to mention in a notice of revocation the name of the second or alternative grantee provided that the notice is otherwise sufficient to identify beyond doubt the instrument of proxy which it is intended to revoke.

(vi) If two or more instruments of proxy in respect of the same shares shall be deposited and if on or before the last day for deposit of proxies all but one of such instruments of proxy shall not have been duly revoked in accordance with the procedure prescribed in clause (v) hereof all such instruments of proxy shall be deemed invalid.

(vii) The due revocation of an instrument of proxy shall in no way prohibit the deposit of another valid instrument of proxy within the time limited by clause (iii) hereof.

(viii) Notwithstanding anything to the contrary in these regulations, the grantor of an instrument of proxy which has become irrevocable under this regulation shall not be entitled to the election of a Director, any person interested being a candidate or shareholder entitled to vote in person at the meeting or election to which such instrument relates.

29. *Election disputes.*—(i) If any doubt or dispute shall arise as to the qualification or disqualification of a person deemed or declared to be elected or otherwise as to the validity to vote at such election may within 7 days of the date of the declaration of the result of such election give intimation in writing thereof to the Chairman of the Board of the Corpo-

ration and shall in so doing give full particulars of the grounds upon which he doubts or disputes the validity of such election. The Chairman shall forthwith refer such doubt or dispute for the decision of a committee consisting of himself, the Managing Director and one Director elected pursuant to any of clauses (c), (d) and (e) of section 10 of the Act, such elected Director being appointed by the Chairman in this behalf.

(ii) Such committee shall make such enquiry as it deems necessary and, if it finds that the election was a valid election, it shall confirm the declared result of the election or, if it finds that the election was not a valid election it shall make such order and give such directions including the holding of a fresh election as shall in the circumstances appear just to the Committee.

(iii) An order and direction of such committee in pursuance of these regulations shall be final and conclusive.

CHAPTER V

Election of Directors

30. *Determination by lot of Directors to retire.*—The determination by lot prescribed by the first proviso to sub-section (2) of section 11 of the Act shall be made at a meeting of the Board to be held not later than three months before the expiry of the period prescribed in the said proviso and the result shall be declared immediately thereafter.

31. *Issue of Notice of election.*—Where at any general meeting an election is to be held, notice of the number of vacancies and of seats to be filled shall be included in the notice convening the meeting.

32. *List of each class of shareholders.*—(i) For the purpose of an election of Directors under any of clauses (c), (d) and (e) of section 10 of the Act, a separate list of shareholders of each class shall be prepared at least four weeks before the date of the meeting at which the election is to be held and the shareholders of each class shall vote in the election of Directors representing their class only.

(ii) Each such list shall be available for purchase at a price of 8 annas for each copy on application at the head office of the Corporation.

33. *Nomination of candidates for Directorship.*—(i) No candidate for election as a Director of the Board shall be validly nominated unless,—

(a) he is, on the last date for receipt of nominations, not disqualified to be a Director under section 12 of the Act;

(b) he is nominated by a shareholder of the class of shareholders in respect of which the election is to be held;

(c) the nomination is in writing signed by a duly constituted attorney of the shareholder, provided that a nomination may be made by a resolution of the Directors of the shareholding institution and where it is so made a copy of the resolution certified to be a true copy by the Chairman of the meeting at which it was passed shall be despatched to the head office of the Corporation and such copy shall be deemed to be a nomination.

(ii) No nomination shall be valid unless it is received in the head office of the Corporation not less than 14 clear days before the date fixed for the election.

34. *Publication of list of candidates for Directorship.*—On the first working day following the last date fixed for the receipt of nomination papers, the Managing Director shall take the same into consideration. He shall after such enquiry, if any, as he thinks necessary, accept or reject the nomination of each candidate. The decision of the Managing Director that a nomination is valid or invalid shall be subject to the result of any reference under regulation 29 be final. If the number of valid nominations is equal to or less than the vacancies to be filled the candidates validly nominated shall be deemed to be elected at the meeting convened for the purpose and their names and addresses shall be published as so elected. If the number of valid nominations exceeds the number of vacancies the Managing Director shall cause to be published the names and addresses of candidates validly nominated in the *Gazette of India* and at least three newspapers in India.

CHAPTER VI

Meetings of the Board and the Executive Committee

35. *Meetings of the Board.*—(i) A meeting of the Board shall be held at least once a quarter in each year and shall be convened by the Managing Director.

(ii) Any three Directors may require the Managing Director to convene a meeting of the Board at any time and the Managing Director shall, on receipt of the requisition, convene a meeting of the Board giving sufficient notice, provided that the date of the meeting so convened shall not be later than 15 days from the date of the receipt of the requisition.

CHAPTER VII

General

(iii) Meetings of the Board shall ordinarily be held in Delhi provided that a meeting may be held at such other place where there is an office of the Corporation if the Board so think fit.

(iv) Ordinarily not less than one clear month's notice shall be given of each meeting of the Board and such notice shall be sent to every Director to his registered address. Should it be found necessary to convene an emergency meeting, sufficient notice shall be given to every Director who is at the time in India to enable him to attend.

(v) No business other than that for which the meeting was convened shall be discussed at a meeting of the Board, except with the consent of the Chairman and a majority of the Directors present unless one clear week's notice has been given of the same in writing to the Chairman.

(vi) A copy of the proceedings of each Board meeting shall be circulated as soon as possible thereafter for the information of the Directors and shall be signed by the Chairman at that or the next succeeding meeting.

36. *Meetings of the Executive Committee.*—(i) The Executive Committee shall ordinarily meet at least once a month at the Head Office of the Corporation to attend to the current business of the Corporation. Sufficient notice shall be given to the Directors of the Committee to enable them to attend the meeting.

(ii) The provisions of the Act and save as otherwise provided in these regulations, these regulations shall apply to the meetings of the Executive Committee as if they were meetings of the Board.

37. *Disclosure of interest of a Director in any industrial concern.*—Every Director who is directly or indirectly concerned or interested in any contract, loan or arrangement entered into by or on behalf of the Corporation with any industrial concern shall disclose the nature of his interest in the concern to the Board or Executive Committee as the case may be and shall not be present at any meeting of the Board or Executive Committee when any such contract, loan or arrangement is discussed unless his presence is required by the other Directors for the purpose of eliciting information. Where any Director is so required to be present, he shall not vote on any such contract, loan or arrangement and, if he does so, his vote shall be invalid and shall not be counted.

38. *Fees for Directors' Meetings.*—(i) Each Director (other than the Managing Director and other than a salaried officer of Government) shall receive a fee of Rs. 100 for each meeting of the Board and a fee of Rs. 50 for each meeting of the Executive Committee attended by him.

(ii) In addition, each such Director shall be reimbursed his travelling expenses, if any, on such scale as may be prescribed by the Board from time to time.

39. *Resignation by a Director.*—A Director nominated or appointed by the Central Government or a Director nominated by the Central Board of the Reserve Bank of India may resign his office to the Central Government and a Director who is elected pursuant to any of sub-clauses (c), (d) and (e) of section 10 of the Act may resign his office to the Board and on the acceptance of the resignation the office shall become vacant.

40. *Appointment of ad hoc Committees.*—(i) The Board may appoint *ad hoc* committees for technical and other advice so as to assist the Corporation in the efficient discharge of its functions.

(ii) The Managing Director shall be Chairman of each *ad hoc* Committee appointed by the Board. If the Managing Director is for any reason unable to attend a meeting of an *ad hoc* Committee a person authorised by him in this behalf in writing shall preside at that meeting and in default of such authorisation the Committee may elect a Chairman to preside at that meeting.

(iii) A person who is a member of an *ad hoc* Committee who is directly or indirectly interested in any contract, loan or arrangement which comes before such *ad hoc* Committee shall disclose the nature of his interest to the Board and to such *ad hoc* Committee and shall not be present at any meeting of the *ad hoc* Committee when such contract, loan or arrangement is discussed, unless his presence is required by the other members of the Committee for the purpose of eliciting information. Where any member is so required to be present, he shall not vote on any such contract, loan or arrangement and, if he does so, his vote shall be invalid and shall not be counted.

(iv) Each member of an *ad hoc* Committee shall before entering upon his duties be required to sign a declaration of fidelity and secrecy to the effect set out in the form set out in the Schedule to the Act.

41. *Board to inform Central Government regarding disqualifications.*—The Board shall forthwith inform the Central Government if it comes to the notice of the Board that any Director has become subject to any disqualification under the Act.

42. *Acts of Directors valid notwithstanding subsequent discovery of disqualifications.*—All acts done at any meeting of the Board or the Executive Committee or an *ad hoc* Committee or by any person acting as Director of the Board or member of the Executive Committee or of an *ad hoc* Committee shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such persons or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and duly qualified.

43. *Delegation to the Managing Director.*—The Managing Director or in his absence an officer of the Corporation duly nominated by him in this behalf shall have full power to transact all the usual business of the Corporation which may be transacted by the Executive Committee, if in the opinion of such officer action cannot be deferred until the next Executive Committee meeting, provided that such action shall be reported to the next such meeting.

44. *Manner and form in which contracts binding on the Corporation may be executed.*—Contracts on behalf of the Corporation may be made as follows:

(a) Any contract which, if made between private persons, would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Corporation in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(b) Any contract which, if made between private persons, would by law be valid although made by parol only and not reduced to writing may be made by parol on behalf of the Corporation by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

45. *Accounts receipts and documents of the Corporation by whom to be signed.*—The Managing Director, and such other officers of the Corporation as the Board may authorise in this behalf by notification in the *Gazette of India*, are hereby severally empowered for and on behalf of the Corporation to endorse and transfer promissory notes, stock receipts, stock debentures, shares, securities and documents of title to goods standing in the name of or held by the Corporation, and to draw, accept and endorse bills of exchange and other instruments in the current and authorised business of the Corporation and to sign all other accounts, receipts, and documents connected with such business.

46. *Plaints, etc., by whom to be signed.*—Plaints, written statements, affidavits and all other documents connected with legal proceedings may be signed and verified on behalf of the Corporation by any officer empowered by or under regulation 45 to sign documents for and on behalf of the Corporation.

47. *Common seal of the Corporation.*—(i) The common seal of the Corporation shall not be affixed to any instrument except pursuant to a resolution of the Board and except in the presence of at least two Directors (including the Managing Director), who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness. Unless so signed as aforesaid such instrument shall be of no validity.

(ii) The common seal of the Corporation shall be affixed to the share certificates issued by the Corporation and may be used for such other purposes as may be approved by the Board.

48. *Service of notice to shareholders.*—(i) Unless otherwise provided in the Corporation's regulations a notice may be given by the Corporation to a shareholder by sending it by post to his registered address.

(ii) Any notice required to be given by the Corporation to the shareholders or any of them and not expressly provided for by the Corporation's regulations shall be sufficiently given if given by advertisement in at least three newspapers circulating in India.

(iii) Any notice if served by post shall be deemed to have been served on the third day following that on which it was posted and in proving such service it shall be sufficient to prove that the notice was properly addressed and posted.

(iv) The signature to any notice to be given by the Corporation may be written or printed.

49. *Accounts.*—The Board shall cause accounts to be kept of the assets and liabilities, receipts and expenditure of the Corporation, and shall have due regard to the obligations in this connection imposed on the Corporation by the Act.

50. *Annual statement of accounts.*—The Board shall cause the books of the Corporation to be balanced on the last working day of the month of June in each year and the annual accounts shall be set out as follows :—

- (a) a balance sheet in the form set out in schedule 'A' annexed hereto;
- (b) a profit and loss account for the year in the form set out in schedule 'B' annexed hereto.

51. *Returns.*—The statement to be made under clause (1) of section 35 of the Act shall be in the form set out in schedule 'C' annexed hereto and the statements to be made under clause (3) of the same section shall be in the forms set out in schedules A and B.

52. *Payment of dividend.*—(i) Dividends shall be declared by the Board and paid as soon as conveniently may be after the closing of the annual accounts.

(ii) No dividend shall carry interest as against the Corporation.

(iii) Any dividend may be paid by cheque or warrant sent to the registered address of the shareholder entitled thereto and every cheque or warrant so sent shall be made payable to the order of the shareholder to whom it is sent.

(iv) The Corporation shall not make payment of a dividend to any person not entitled thereto under the Act or these regulations but shall retain the same and make payment thereof to the person who next becomes registered in respect of the share on which such dividend is payable.

SCHEDULE "A"

INDUSTRIAL FINANCE CORPORATION OF INDIA

Balance Sheet as at 30th June.....

Capital and Liabilities		Property and Assets	
	Rs. A. P.		Rs. A. P.
1. CAPITAL—		1. Cash in hand and with Bankers .	
Authorised		2. Investments—Government Securities .	
Issued and paid up		3. Loans and advances	
2. Reserve Fund		4. Debentures	
3. Bonds and Debentures		5. Guarantees and underwriting agreements <i>per contra.</i>	
4. Fixed Deposits		6. Other assets	
5. Contingent liabilities under guarantees and underwriting agreements <i>per contra.</i>			
6. Other liabilities			
7. Profit and loss account			

SCHEDULE "B"
INDUSTRIAL FINANCE CORPORATION
Profit and Loss Account for the year ended 30th June.....

	Rs. A. P.	Rs. A. P.	Rs. A. P.
Establishment			
Directors' fees and expenses			
Auditors' fees			
Rent, Taxes, Insurance, Lighting, etc.			
Law Charges			
Postage, Telegraph and Telephone Charges			
Stationery, Printing, etc.			
Depreciation and Repairs to Corporation's property.			
Contribution to Staff and Superannuation Funds.			
Miscellaneous expenses			
Net profit carried to Balance Sheet			
		Interest, Discount, Commission, etc.	

SCHEDULE "C"

INDUSTRIAL FINANCE CORPORATION OF INDIA

Statement of Assets and Liabilities as at

LIABILITIES

Rs. A. P.

1. CAPITAL—

Authorised

Issued and paid up

2. Reserve Fund

3. Bonds and Debentures

4. Fixed Deposits

5. Contingent liabilities under guarantees and underwriting agreements *per contra*.

6. Other liabilities

TOTAL

ASSETS

1. Cash in hand and with Bankers

2. Investments—Government Securities

3. Loans and advances

4. Debentures

5. Guarantees and underwriting agreements *per contra*

6. Other assets

TOTAL

Published by the order of the Board of Directors of the Industrial Finance Corporation of India

NEW DELHI :
4th August 1948.RAM NATH,
Managing Director.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF STATES

The Honourable Sardar Vallabhbhai Patel (Minister for Home Information and Broadcasting and the States): Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of States vice Sir S. V. Ramamurti resigned from the Assembly."

Mr. Speaker: Motion moved:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of States vice Sir S. V. Ramamurti resigned from the Assembly."

Prof. N. G. Ranga (Madras: General): Sir, may I know how often or how many times has this Committee met since it was last constituted and what were the various important subjects that were placed before it?

The Honourable Sardar Vallabhbhai Patel: I am not in a position to give the figures required by the honourable member. I shall obtain the information and pass it on to him.

Dr. B. Pattabhi Sitaramayya (Madras: General): I may say that the Standing Committee for States met once, on the 31st March this year.

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of States vice Sir S. V. Ramamurti resigned from the Assembly."

The motion was adopted.

ELECTION TO CENTRAL ADVISORY BOARD OF ARCHAEOLOGY

آنریبل مولانا ابوالکلام آزاد: جناب! میں تحریک کرتا ہوں:

وہ کہ اسمبلی اس طریقہ پر جیسی کہ رائے آنریبل سپیکر دے ایک ممبر کو چلنے کی کارروائی انجام دے۔ یہ ممبر سنٹرل ایڈوائزری بورڈ آف آرکیالاجی ان انڈیا میں اس جگہ پر ممبر کی حیثیت سے کام کریگا جو کہ حاجی عبدالستار حاجی الحاق سیٹھ کے استیفی دینے سے خالی ہوگئی ہے۔

The Honourable Maulana Abul Kalam Azad (Minister for Education): Sir I move.

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve on the Central Advisory Board of Archaeology in India constituted by the Government of India vice Haji Abdus Sattar Haji Ishaq Seth resigned."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve on the Central Advisory Board of Archaeology in India constituted by the Government of India vice Haji Abdus Sattar Haji Ishaq Seth resigned."

The motion was adopted.

ELECTION TO CENTRAL ADVISORY BOARD OF EDUCATION

آنریبل مولانا ابوالکلام آزاد: جناب! میں تحریک کرتا ہوں:

وہ کہ اس اسمبلی کے ممبر اس طریقہ سے چجو کہ آنریبل سپیکر منظور کریں ایک ممبر کے چناؤ کی کارروائی انجام دیں۔ یہ چناؤ اس فرض سے ہوگا کہ سنٹرل ایڈوائزری بورڈ آف ایجوکیشن ان انڈیا میں ایک ممبر کی جگہ جو خالی ہوگئی ہے دو بھر دی جائے۔

The Honourable Maulana Abul Kalam Azad (Minister for Education): Sir, I move:

"That the members of this Assembly do proceed to elect, in such manner as may be approved by the Honourable the Speaker, one person from among their own number to be a member of the Central Advisory Board of Education in India with effect from the date of election."

Mr. Speaker: The question is:

"That the members of this Assembly do proceed to elect, in such manner as may be approved by the Honourable the Speaker, one person from among their own number to be a member of the Central Advisory Board of Education in India with effect from the date of election."

The motion was adopted.

ELECTION TO COURT OF UNIVERSITY OF DELHI

آنریبل مولانا ابوالکلام آزاد: جناب! میں تحریک کرتا ہوں:

وہ کہ دہلی یونیورسٹی ایکٹ ۱۹۲۲ ع اور دہلی یونیورسٹی امینڈمنٹ ایکٹ ۱۹۳۳ ع (۲۴ آف ۱۹۳۳ ع) کے ماتحت یہ اسمبلی اس طریقہ سے جو کہ آنریبل سپیکر منظور کرے ایک ممبر کے چناؤ کی کارروائی انجام دے۔ یہ ممبر دہلی یونیورسٹی کورٹ کی اس جگہ کے لئے چنا جائیگا جو کہ چودھری نہال سنگھ کی کانسٹی ٹیوٹنٹ اسمبلی کی ممبری کے ختم ہونے سے خالی ہوگئی ہے۔

The Honourable Maulana Abul Kalam Azad (Minister for Education): Sir, I move:

"That in pursuance of clause (XIV) of sub-section (1) of Section 18 of Delhi University Act, 1922 (VIII of 1922) as amended by the Delhi University (Amendment Act of 1943 (XXIV of 1943), read with clause (5) of Statute 2 of the Statutes of the University set out in the Schedule to that Act, the members of this Assembly do proceed to elect, in such manner as may be approved by the Honourable the Speaker, one person from among their own number to be a member of the Court of the University of Delhi vice Chaudhri N'hal Singh, whose seat in the Constituent Assembly has been declared vacant."

Mr. Speaker: The question is:

"That in pursuance of clause (XIV) of sub-section (1) of Section 18 of Delhi University Act, 1922 (VIII of 1922) as amended by the Delhi University (Amendment Act of 1943 (XXIV of 1943), read with clause (5) of Statute 2 of the Statutes of the University set out in the Schedule to that Act, the members of this Assembly do proceed to elect in such manner as may be approved by the Honourable the Speaker, one person from among their own number to be a member of the Court of the University of Delhi vice Chaudhri Nihal Singh, whose seat in the Constituent Assembly has been declared vacant."

The motion was adopted.

Mr. Speaker: I have to inform honourable members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely:

	Date for nomination	Date for election
Standing Committee for the Ministry of States.		
Central Advisory Board of Archaeology.	3-9-48.	4-9-48.
Central Advisory Board of Education.		
Court of the University of Delhi.		

The nominations for these Committees will be received in the Notice Office upto 4 p.m. on the date mentioned for the purpose. The elections, which will be conducted by means of the single transferable vote, will be held in the Assistant Secretary's Room (No. 21) in the Council House between the hours 10-30 a.m. and 1 p.m.

ELECTIONS TO STANDING COMMITTEES FOR MINISTRIES OF COMMERCE AND RELIEF AND REHABILITATION

Mr. Speaker: I have also to inform the Assembly that upto the time fixed for receiving nominations for the Standing Committees for the Ministries of

[Shri T. T. Krishnamachari]

in the past, notably a Professor Schumpeter who has described the modern capitalist as a decadent specimen who is neither here nor there. I personally as a member of the Congress Party welcome any offer of co-operation and the fact that these people have resiled from a stand that they took in November 1947, I think, augurs well for the future of the country.

Sir, it would not be possible for me in the limited time at my disposal to deal with the various points raised in these memoranda. But I would say this, that one particular matter on which the Economists and the industrialists disagreed, namely, taxation, would probably merit some examination. The industrialists want that capital gains tax should be removed and why, I don't know. I cannot understand how the incidence of capital gains tax which comes into operation only when there is a transfer of capital from one person to another can possibly have any additional inflationary effect. I see the economists pleading for going back to the position as it obtained in 1947 in regard to rate of Super-tax, Sir, I have examined the position. In the case of a person who has got an income of one lakh of rupees the gain that he gets by the revised scale of taxation is Rs. 3,000 and in the case of a person whose income is Rs. 30 lakhs, the gain that he gets by the revised scale of taxation as recently laid down is Rs. 20,000. How an addition of Rs. 3,000 in the case of an income of a lakh of rupees and Rs. 20,000 in the case of an income of Rs. 30 lakhs could possibly add to the inflationary trends in this country passes my understanding.

I therefore feel that there is no case made for steepening up the position of taxation in this country which, in all conscience, stands fairly high in comparison with the tax structure in any other country in the world. Actually, Sir, if we feel that something has to be done in order to mop up the extra purchasing power in the hands of those who are well to do, I would rather that we adopt the somewhat inequitable, somewhat unscientific but nevertheless salutary measure of a capital levy, which is made once for all, which will have no repercussions on the market for any length of time as once it is collected would leave the economic in peace. I thought the economists would make that suggestion; but they have not done so. The position of the tax structure in this country undoubtedly needs revision as it is true that the present taxation does not allow any surplus for investment in the case of the higher income group. Notwithstanding a theory to the contrary by Professor Pigou. I think it is generally recognised that a tax structure which leaves very little surplus at the top will mean very little incentive for investment. It is rather a case for the Government having to take courage in their hands and if they feel, if they want, that private enterprise in industry should remain, they should alter the tax structure rather than go back to the position in 1947.

I would like to refer to one or two other factors in this connection. There has been a general recommendation in regard to the stopping of all expenditure on capital schemes. I understand that the Honourable the Prime Minister has issued instructions to all departments that they should not go ahead with any programme that they have on hand which will involve capital expenditure.

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Unless considered essential.

Shri T. T. Krishnamachari: There is a proviso, "unless considered essential." Any way, that is perfectly right, if there is no suspension of that type of capital expenditure that we have in view for the next five or seven years which would not be wholly inflationary, except in so far as the amount spent on labour or perhaps on construction of accommodation is concerned if actually we can get capital goods from abroad to start industries, that would help production. On the one hand we have the sterling reserves, limited as they are, available to us. I shall close in a few minutes, Sir. On the other hand, we have an opportunity of getting some assistance in the United States even if it were indirectly. For instance, I am aware the Government of India have been exploring the possibilities of getting assistance from the International

Monetary Organisation and probably also from private Banking interests in the United States. I think some plans have been formulated. What we have to do is to go ahead with these schemes and see how far we can get foreign loans for the purpose of carrying on these capital ventures that we have in view. Again, Sir, it is rather difficult to see how the expansion of telephones can be inflationary. The equipment will, by and large, be obtained from foreign countries and very little extra labour will be imported into the scheme. It would not be inflationary. At the same time, I agree that there has to be a slight reversal of the Government policy in regard to building construction. While on the one hand, I think the policy at present is that private building should not be encouraged in order to allow the Government to meet its own needs, I think that that policy will have to be reversed. If we have to mop up the surplus purchasing power in the hands of the people, what we should do is to encourage private building for the time being and to put a check on the Government expenditure on building which is definitely inflationary. Any public works of that nature is definitely inflationary.

One more word about this particular matter which I would like to say, before closing, is this: The economists and perhaps the industrialists have referred to certain social aspects of Government undertakings, for instance, prohibition. That is a controversial issue. Actually, from a purely detached point of view, prohibition is inflationary in the sense that it puts more purchasing power in the hands of those people who are not in the habit of saving and who do not actually have the means of saving. It also prevents some flow of money into the coffers of Government in the shape of excise duties and in the shape of Income-tax that will be obtained from the *Abkari* contractors. But that is a matter in which the feelings of the people are deeply involved.

Another question which more or less related to it is the problem of the liquidation of *Zamindaris*. A recommendation has been made that the question of *Zamindari* liquidation should be postponed. If you would give me a couple of minutes, Sir, I would elaborate on this point.

Mr. Speaker: The rule is very clear on the point. The rule says, no speech on a resolution, except with the permission of the Speaker, shall exceed fifteen minutes in duration. The honourable member is really asking my permission. I have given him twenty minutes by now. I find a large list of members who are so anxious to speak. So, I would request the honourable member to curtail; in fact I wanted to suggest in the beginning that in view of the large number of members who are anxious to speak, the time limit should be ten minutes. I do not know what the members are going to speak in ten minutes. I wish we must have a smaller number of speakers making better speeches rather a larger number making no speeches. But that is a matter left to the wishes of the members.

Shri T. T. Krishnamachari: This question of *Zamindari* liquidation is intricately connected with the land economy in our country. That is also connected with the question of prices of food crops. The money that the Government of India have spent since 1943 on the Grow More Food Campaign has been actually thrown into the drain. We have not produced a single blade of corn for all these crores of Rupees that we have spent. It has only added to the inflationary trends that existed. The whole question of food production is intimately connected with land ownership. The man who actually tills the land has no incentive whatever to produce more. I was myself a representative of a predominantly land owners constituency and I have in the past tried my best to get an increased prices for their produce. But, I have always felt that the man actually working on the land got nothing out of it. The Provinces are dealing with one aspect of land ownership, which must in its train bring other reforms; that is the question of the abolition of *Zamindaris*.

[Shri T. T. Krishnamachari]

The fact that the mere idea of pumping money into the hands of the *Zamindars* is inflationary, should not encourage the Government to postpone this. The Government can certainly devise ways and means by which the money that is paid to the *Zamindars* would be immobilised in the shape of non-negotiable bonds, at any rate for the time being, for the next five or six years. I do feel that the crux of the entire problem of producing more food without which we can never stabilise the prices is that our land economy has got to be completely re-organised. In that view, I would like to say that the Government should not, however inconvenient it may be, however much technical advice may be against it, do anything to impede this small measure of reform which would be the precursor of many other repress in the land economy to come.

Before I sit down, I would like to utter a word of warning. All these recommendations are made more or less within the four walls of a room without the people realising that any suggestion made by responsible people has got grave consequences. One such effect of this kind of talk, the Honourable the Prime Minister has indicated this morning. I know, Sir, the position is not so grave as some people think. I would like to say to this House and to the public outside that as a member of the party which is in power, I feel that this Government is competent, completely competent to face any issue that might arise which might threaten to jeopardise the economy of this country. Things are not very bad. Things are much worse in France; the situation in China is terribly bad; the position is the same in most of the European countries; the Latin American countries are in the grip of grave inflation; still they survive. So far as we are concerned, in this country, we have a Government which commands the complete support and loyalty of the people. We have a Prime Minister who is perhaps one of the biggest statesmen in the world who is willing to take big risks. I would therefore, as a member of the Congress Party, like to assure the House and the public that the position is not so serious; the position can be rectified; there is no room for panic; and the Government, wise as it is, will not take any steps to unduly affect any particular interest, at any rate, for the next three or four years to come. The question of long-range policy of altering the economic system is a matter which will have full publicity and perhaps will have to secure the *imprimatur* of the electorate. In the meantime, placed as we are, I think there is absolutely no room for any panic of any sort. Government should give the assurance that while taking these measures they will do nothing which will press unduly on any particular section of the public. Such an assurance will prepare the country for the few measures of regimentation that Government will undoubtedly have to undertake to help to save the distress that now exists in our economy.

Shrimati Renuka Ray (West Bengal: General): Sir, since the House last discussed this Resolution we are well aware that Government have consulted various groups and are considering all possible remedies in regard to the inflation coupled with falling Standards of Production that is taking place in this country and is getting more serious every day. It is undoubtedly true that every day's delay means a day lost and we must do all that is possible to check inflation so that we may not be faced with the same situation as China. At the same time, I agree with my honourable friend Mr. Krishnamachari that there is no reason for the tremendous panic in the public mind that seems to be prevailing; and I would also humbly submit that there is no reason for panic also so far as Government are concerned. It is very distressing to learn that the economists have suggested—and this suggestion has been put forward by others also—that measures should be taken to curtail expenditure on development plans, particularly in such matters as nation-building projects such as education and health, or rather "social services"

is the word that has been used. I submit that this would be a suicidal policy. The very foundation of our progress and prosperity will depend on these services being brought in; and today even if we are faced with an economic crisis I would say that the last thing we should do is to curtail any expenditure in regard to these essential services. I do not say that economies in different departments should not be effected wherever it is non-essential expenditure, even in regard to those departments which deal with nation-building services. But at the same time priorities should be fixed; and whatever happens let there be no curtailment of expenditure on development schemes and nation-building projects.

I will now turn to this question of inflation and the consideration of certain ways and means by which it can be checked. I will not go into any details as to the causes of inflation which started during the last war, for those are well known. The compelling force of circumstances made the previous Government to bring in a measure of control and regulation of prices and distribution of certain essential commodities. This scheme was brought in, however, in a very half-hearted way, and compared to the same measures taken in the United Kingdom we were far behind them. We are all aware of the fact that a good deal of black-marketing and corruption has resulted and that the administrative machinery was not in many ways adequate to meet that and deal with controls satisfactorily. As a result when the National Government came in it was decided to introduce decontrol gradually or partially. I was one of those who held even then that this was a mistaken policy, and today I think the effects of decontrol are only too apparent. The greatly enhanced prices prevailing today as compared with even the black market prices which were prevalent in this country just before decontrol came in are an eloquent testimony to the fact that decontrol has had very grave repercussions on our economy. I would not say that decontrol is the cause of inflation but certainly it has aggravated the inflationary tendency beyond all question; and I suggest that the first measure that Government must undertake would be to reimpose the system of controls and try to improve the machinery of administration and bring in measures for stringent punishment of offenders. I feel that Government can only go ahead with this if they can get public co-operation fully. It is no use for us today—we who have rights as free citizens—not also to bear our responsibilities; and if we ask Government to provide adequate machinery to see that the system of controls is satisfactorily worked and that there is no black-marketing and corruption, let me also say that it is the duty of each one of us as citizens to help Government in this matter. It is not even enough to say that I do not buy in the black market or that I am not a black-marketeer. If we come to know of any one who is going in for blackmarket operations it is the duty of each one of us to come forward whatever may be the cost and the harassment, and to give such information to Government. It is only in this way that we can expect the National Government to be able to achieve success.

Sir, I have not much time at my disposal but in regard to the withdrawal of idle hoards of surplus currency a large number of suggestions have been made by economists and by industrialists in this matter. I want to say that the system of compulsory savings and the scheme that my honourable friend Mr. Khandubhai Desai has put forward is one which I think would be a very salutary one. It is true that a certain measure of inequality will result even if we fix the minimum level—say of Rs. 500 as it has been suggested—over which incomes will be liable to a proportion of deferred payments. But at a time like this I think the country and the people, if they are properly apprised of the situation, will be willing to abide by such a decision, and make the requisite sacrifice.

[Shrimati Renuka Ray.]

I will not go into other details except to say that the raising of the rate of interest is of course an obvious method of deflation but it has its repercussions, and may have very bad repercussions if it is managed in a manner that leads to very sudden deflation. Therefore I suggest that Government might attract small savings and get them for productive use by raising the rate of interest on Government bonds and National Savings Certificates and making them non-negotiable for a period of three to five years. I think this is a very important measure and I hope Government will consider this adequately and put it into operation immediately.

I will not go into details about the measures that ought to be adopted in order to bring forth money that has hitherto evaded taxation. The House has discussed it at length and I am sure Government will do whatever is possible. But here again the co-operation of the public is necessary for Government to achieve any measure of success. There are other methods such as the levying of a steeply graded death duty and increasing the rate of business profits tax, which I hope Government will bring in.

There is just one other point that I should like to stress. I hope Government will undertake the control of the important export of all commodities and set up a corporation on the lines of the U. K. C. C. This will be a means by which they will be able to adjust to the needs of the production drive, and by fixing the rate of the margin of profits, extra money will go into the hands of Government and will be withdrawn from ordinary circulation.

Sir, I have not much time left. I want to end on the same note that I made a little while ago that it is very essential that there should be public co-operation with Government. Sir, I must point out that there is in this country a definite trend amongst certain groups of capitalists—I do not include all private industry or private enterprise—to corner the Government and force it with different posers. For instance, their poser is that if you do not stop the working of this Tax Investigation Commission, which is trying to get the money that has evaded taxation, then there will be no money for production. Another poser is that unless you do away with excess profits tax and the like, money will not be forthcoming for production. I would ask Government and the country to take due note of the fact that in such a national crisis this element in the population—these people who have vested interests—are unwilling to come forward—even now they are unwilling to combine with the rest of the country in helping Government to overcome this crisis. I would say to the public that if you want that the Government shall not be cornered by this group of industrialists or capitalists, then it is your duty—and the duty of each one of us—to help the Government to counteract, and to help in all such measures to stop corruption and blackmarketing in this country, and to prevent real power from being concentrated in the hands of a small group of big business.

Pandit Hriday Nath Kunzru (U.P.: General): Disagreeing with my honourable friend, Mr. Krishnamachari, I think that the position in which we find ourselves is serious, and unless we recognise that it is an extraordinary situation that we have to deal with, we shall not have the courage to take all those measures which are required to restore health to our economy.

Sir, Government sowed the wind in December last and we are now reaping the whirlwind. The policy of decontrol was adopted in disregard of all the known facts of every kind of economic life. A system which protected about 143 millions of people from a rise in the prices of foodstuffs was hastily and almost completely abandoned. We are today the victims of the unwisdom of the Government and their refusal to look facts in the face. And what has, Sir, since December last surprised me even more than the original policy of

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decontrol, are the efforts repeatedly made by the Honourable the Food Minister to infect people with his optimism regarding the food situation, an optimism which has no relation whatsoever to facts. Prices, Sir, have taken their course regardless of his wishes and assurances. They have mounted up to such high levels that unless immediate steps are taken to control the distribution of foodstuffs, we shall be faced with unprecedented labour unrest.

We have been provided by the Food Department with a memorandum which shows the gravity of the situation. In the United Provinces, Sir, wheat has arisen by more than 100 per cent. since it was decontrolled, and rice has risen by about 70 per cent. But the rise in the prices of rice in Bombay and the deficit districts of Madras has been much higher. In Madras it amounts to about 145 per cent. and in Bombay to about 200 per cent. The Honourable the Food Minister thought in March last when we discussed the food situation during the budget debate that there was no cause for alarm and that he had taken measures which enabled him to claim that no untoward results would follow the policy of decontrol. Sir, if rice and wheat alone had risen, we might have had the satisfaction of feeling that the prices of the coarser foodgrains—bajra and jowar—which are mainly used by the poorer sections of our people, had gone down. But as a matter of fact, the prices of these two foodgrains, too, have risen considerably in sympathy with the movement in the prices of wheat and rice. We thus find, Sir, that all classes of the population are suffering heavily on account of a tremendous rise in the price of foodstuffs. Government, Sir, were very fond of telling us that the prices, though they had gone up since the adoption of decontrol were still lower than the black-market prices. It was, if I may say so with all respect to them, a disingenuous argument. But the facts now in our possession show that in the United Provinces wheat prices are equal to if not higher than those which prevailed in the black-market in December last, and I think, Sir, that if an enquiry were made, it would be found that in most important wheat centres the position was the same.

One of the things that was claimed for the policy of decontrol, which was adopted in pursuance of the recommendations of the Purshottomdas Committee, was that the need for importing a large quantity of foodstuffs would be obviated. But today we find, Sir, that the position has deteriorated to such an extent that the industrialists themselves ask that there should be a liberal importation of the essential commodities including food.

What are we to do in this situation? I had intended to state to the House the rise that had taken place in the price of cloth also. But the reimposition of control over cloth and cotton makes it unnecessary for me to do so. I may, however, point out, that according to the report of the Central Board of the Reserve Bank of India, the prices of the coarser varieties went up by as much as 100 per cent. and of the finer varieties by between 200 and 250 per cent. What are we to do in this situation which is not merely serious but alarming and which calls for urgent and coordinated action? The economists and the industrialists whom the Government of India consulted have made a large number of recommendations. It is not possible for me to pronounce on the soundness of all these recommendations, but I find that there is a general similarity between the proposals put forward by the economists, the industrialists and the labour leaders. Since, Sir, I have only two minutes more I will not deal with this question at length but I will point out that all parties are generally agreed that foodstuffs and indeed the essential commodities should be rationed, that wages and salaries and profits should be frozen, that the inconvertible note issue should not be increased any further and that a campaign for national savings should be carried on. It is further recommended that every effort should be made to increase production. I was rather sorry to hear the Prime Minister in this connection when he said that the partial immobil-

[Pandit Hirday Nath Kunzru]

ation of bank deposits suggested by the Committee of economists has been rejected by the Government of India. I personally think that it was a very sound suggestion. However, in my opinion, the most important decision which the Government have to take is what steps they will take to implement the recommendations of the economists and the other parties and help to increase production. And in connection with the latter subject they will have to consider whether in the present circumstances private enterprise is to be given a free initiative or whether it has to be brought under control in the same way as is suggested in the case of the land-owners. I think that while free play should be given to private enterprise it should be controlled and effectively controlled.

If you will permit me, Sir, I should like to make two suggestions which so far as I can see find no place among the recommendations made by the representatives of the various interests consulted by Government. The first relates to the co-ordination of the economic policy throughout the country. My honourable friend the Prime Minister the other day suggested the creation of a Ministry of Economic Affairs. We have not got the material before us to decide whether the creation of such a Ministry at present is necessary or not. But even if such a ministry were created the need for supervision and guidance by the Prime Minister himself would continue. No overall and effective policy can possibly be followed unless it has the approval and the wholehearted backing of the Prime Minister. Now he has at the present time a very heavy burden to carry, because in addition to his responsibilities as the head of the Government he has to discharge the duties which he has taken upon himself in connection with the External Affairs Department. I venture to think that the duties of the Prime Minister at this juncture are so onerous and exacting and are of so vital a character that it is necessary in the public interest that the Prime Minister should divest himself of his responsibilities in connection with the conduct of the foreign policy. I respectfully suggest to him that he should take the matter into his serious consideration and devote all his time to the performance of his duties as the head of the Government and as its most important representative not merely before the Indian public but also before other countries.

My second suggestion is that as there is at present a plethora of economic advisers and statisticians in the various departments, it is necessary in order to coordinate the policy that a central economic organisation and a central statistical organisation should be created. I put a question on the subject in April last and I received a favourable reply from the Minister of Commerce but so far as I know nothing has been done in this direction. The uncoordinated information and advice which are at present being given by these officers to the Ministries I am sure stands in the way of a unified and well coordinated policy. I hope therefore that this suggestion which, I believe, is supported by the Economic Advisers themselves, will be implemented very soon by Government.

May I say once more before I sit down that the Government must now announce a definite policy regardless of whether it would be popular or not, though so far as I can see the policy of control will be as popular now as it was eight months ago. They should create an atmosphere in which there will be no further expectation of a rise in prices. The suggestions that have been made to them are many and complicated. But one thing they can do and that is to build up the arrangements that are required to control the prices of essential commodities and to control the distribution of some of the most important of them. This is the least step that they should take in connection with the present situation. They can take measures later on—for instance the freezing of wages and salaries and profits, which too is absolutely essential to the reorganisation of our national economy. But the very first step which they

must take is in my opinion to bring about control of price and distribution of foodstuffs and certain other essential commodities.

Sir, I am very grateful to you for having allowed me to exceed my time-limit.

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): Sir, on the last occasion when this Resolution was before this House I spoke for a while. So far as I remember, I was rather apologetic in the sense that I pointed out that at that moment Government would rather not make any clear and definite enunciation of policy. I am sorry that even today, after about two weeks or so, Government do not propose in the course of this debate, as the House will know and realize, to put forward any precise scheme which they wish to have adopted. But during these last few days—ten or twelve days—we have paid a great deal of attention to this matter, consulted various interests, and as a result of that the House is in possession of the various Memoranda on this subject which are before Government. Because, we do wish to take not only the House but the public of this country into our confidence as to what we are doing and what we are not doing. I hope that before long we shall present—not before this House, I am sorry to say, because the House will not be sitting then, but before the country—our conclusions and our decisions. It might have been possible to put forward one or two decisions even now, in the course of a day or two; but, as some of the Memoranda have pointed out, the subject should be seen as an integrated whole and not dealt with separately. That does not mean again that we must decide about every matter quickly and before we decide about one or two matters. Nevertheless there must be an integrated approach even though the decisions might be about a few matters now and a few later. Therefore we are put in this difficulty that when this very important matter is considered by the House neither I nor my colleagues can state definitely what Government is going to do about this very important problem.

Members will have seen from the abstracts presented to them that there is a fair unanimity in regard to certain matters and there is a wide variety and divergence of opinion in regard to others. In fact the approaches are completely different. So I seek the indulgence of the House not to say anything which may hinder Government's policy on these matters at this particular stage. May I, however, add that some inferences that have been drawn by my friend Mr. T. T. Krishnamachari and my friend Pandit Kunzru are not wholly justified. I have not stopped anything except that I have asked the various Government Departments not to indulge in any superfluous expenditure or to agree during this brief period in regard to any big schemes which might involve large expenditure. That is all that I have done. And I would like to point out to Pandit Kunzru not to attach any wider meaning to what I have said than what I have actually said. At the present moment I can say no more because we are considering these matters. I have used precise language and we stand by the language we have used. As for what other connected matters there may be, they will have to be considered by us, and we shall then give Government's decision in regard to them.

Pandit Kunzru referred to the position of the Prime Minister and the Foreign Minister being concentrated in one person. In answer to a supplementary question the other day I expressed my agreement with this principle that the Prime Minister in such a Government should not have any other portfolio, or any portfolio; he should be in essence a co-ordinating and supervising authority. That is perfectly true; and I have felt that. But the fact remains that we have had a certain difficulty in regard to this matter, and if I may say so with all respect to this House, this question of Foreign Affairs has become extremely complicated. Honourable members criticized me—and rightly—in regard to Delegations that were sent. And often enough those

[Pandit Jawaharlal Nehru]

Delegations are not ideal delegations. But the whole subject of Foreign Affairs is so extraordinarily difficult today that unless one almost specialises in it, not in a broad way—because all of us in a broad way do something about it—but in a particular way, it is very difficult to follow it—the things that happen from day to day, the things that appear in the newspapers, and the many things that happen behind the scenes. And whether it is in a Delegation or whether it is in any other place, for a considerable time the person who has to deal with the subject will be put in a difficulty for the simple reason that he is rather out of touch with those things and he has not considered them as they have been happening. Members may have certain definite opinions by which to approach these problems. Certainly. Yet even a casual word or sometimes a question that is put here is unfortunate in the results it produces. Yesterday I think an honourable member said something about what an Ambassador of ours had said elsewhere. Well if I may say so, the questions that are put here are far more embarrassing from the point of view of our foreign policy, and sometimes they might even lead to rather harmful results. Nevertheless we face those results. If it is very bad we ask the members not to press the question. All these difficulties arise, and it is not a question of having a pleasure trip abroad for anyone—though no doubt many people in some of our Delegations may look upon it as such sometimes—but of the hardest possible work. I am glad to say—and I wish to pay this public tribute to our Ambassadors, and I say so with full responsibility—that the Ambassadors who are functioning on our behalf have done their work extraordinarily well. The average has been very high and I say higher than most countries, higher than the best of countries. Naturally, to begin with, they had difficulties and they have to build up a tradition; but they have succeeded largely. However, my point was the moment I can leave the Foreign Ministership or, in the alternative, the Prime Ministership I shall gladly do so.

Shri H. V. Kamath (C.P. and Berar: General): On a point of clarification, Sir, are not casual statements made by our Ambassadors abroad more embarrassing to the Government than questions put in this House?

Mr. Speaker: Order, order.

The Honourable Pandit Jawaharlal Nehru: May I point out to the honourable member that even the casual statements are sometimes not casual but they are deliberate and at our instance?

Prof. Shibban Lal Saksena: *rose.*—

Mr. Speaker: Let there be no further questions on this.

Prof. Shibban Lal Saksena (U.P.: General): There are some amendments.

Mr. Speaker: They have already been moved.

Prof. Shibban Lal Saksena: I have an amendment in my name on this Resolution.

Mr. Speaker: Two amendments were moved last time. Are there any further amendments?

Prof. Shibban Lal Saksena: Yes.

Mr. Speaker: I was informed that it was agreed by the party of the honourable member that no further amendment was going to be moved. Is that correct?

Shri Satyanarayan Sinha: *indicated assent.*

Mr. Hussain Imam (Bihar: Muslim): Mr. Speaker, Sir, the inflation that today exists is neither as serious as has been painted by some honourable members, nor so easy as was pointed out by Mr. Krishnamachari. It has been a product of prolonged action and reaction and as such it is not a thing which

can be ended within a short time. It has taken deep root and will take a long time to eradicate.

But, Sir, I am glad to find that the economists have not only agreed among themselves to give us a unanimous opinion, but they have done something which is really remarkable. I feel that about 80 per cent. of their recommendations are unexceptionable both from the labour as well as from the capitalist point of view. They have steered a middle course—they have not stressed too much towards capital. While they have recommended that taxation should be increased in order to alienate capital, they have at the same time had the courage to say that labour's wages should be freezed and that bonuses should not be paid on the ordinary basis but on a production basis. I regard this as a very healthy sign and I hope that the Government, when it frames its final opinion and policy on this, will be guided by the opinions expressed by all sides.

I find that capital also has been very responsive. Their recommendations have been couched in moderate terms—they have not asked for the Moon, they have not wanted that taxation should be greatly reduced, that labour should be penalised; all those things which are usually done by partisans are absent.

The labour viewpoint has been put forward by some of their accredited leaders. I am particularly referring to the memorandum by Mr. Khandubhai Desai; it is a very helpful one and some of his suggestions are exceptionally good. For instance, his suggestion that Government should embark on import and export trade and establish some monopoly, is one well-worth considering. It is not an innovation. Other countries have done it in the past and are doing it at the present. It is only in the fitness of things that our Government should have full confidence in itself and feel that it can tackle the job which others are tackling, if not better, no worse than them. I do not like a spirit of defeatism by means of which the Government feels that industry and commerce is a field which is impossible for it to tackle. We have had, Sir, the experience of the one hundred crores business that we have been carrying on in the Food Department. The purchases that have been made abroad and their disposal in India is nothing to be ashamed of. I know that there has been a great deal of criticism on the handling of the food situation, but considering the magnitude of the affair which we were handling, I do not think that Government has not successfully come out of it. Leaving aside the question of graft and other things which are bound to crop up here and there in a Government organisation if there is not sufficient superintendence and control, baring that, the handling of the food imports has not been badly done by the Government. I therefore suggest that when the Government comes to a final decision, it will consider all the points and give certain things a priority.

What are the things which require to be tackled first and what are the things which could be dealt with as an intermediate step and a final step? I quite agree with the dictum of the honourable Pandit Kunzru that food control should be re-imposed as much as possible. That was a mistaken step when control was removed. Sir, I have a personal interest in this matter because as a member of the Food Grains Policy Committee, for the first time in my eighteen years of public service I differed with my non-official colleagues and sided with the officials. And I feel, Sir, that I did the right thing. I opposed de-control. I feel that it was more sentimental reasons which actuated the Government in removing the controls rather than logic and facts. The circumstances were such that it was thought best to remove the controls but even when the controls were removed it was stated on behalf of Government that if de-control does not bring about the desired results, Government would be prepared to re-impose it with all its vigour. Sir, I want the Government to honour its pledge.

[Mr. Hossain Imam]

In this connection, I should like that Government should give no less consideration to the three or four items which are in competition with food grains. I refer particularly to sugarcane prices. It was one of the most mistaken steps that was taken to increase the price from Rs. 1/2/- to Rs. 2/- per maund. It has resulted in diversion of a large part of land which was producing rice and paddy to sugarcane. I am afraid that there will be a glut of sugarcane this year; it has been brought about by Government's action in U.P. and Bihar. The Advisory Committee was responsible for fixing this price. I hope that the prices will be reduced to the 1947 level.

Secondly, Sir, there is jute. The jute prices are going high and unless an effort is made to control them it would be difficult. In the world market we have got serious competition from cotton and paper, and if the prices go on soaring, we will lose a large part of our foreign markets.

It is therefore essential that a parity with the food prices of December 1947, should be the order of the day and all the things which are in competition—sugarcane, jute, cotton and tobacco—should be brought down to the levels which were prevailing then. If necessary monopoly procurement should be started for these, or centralised purchase organisations from the jute mills and cotton mills should be compulsorily imposed. A centralised purchasing organisation, by means of removing the competition, will immediately bring down the prices and it is essential that for a more balanced economy we should have these things back at the prices which were prevailing in December 1947.

Freezing of wages is one of the most important items in the scheme of things which has the support not only of the economists and industrialists but many of the moderate labour leaders also. As a second line of defence, there must be a concerted effort by the Centre, the Provinces and the States to reduce Government commitments, and in that connection Dr. John Matthai's Department comes first. He has got the largest number of schemes for betterment and improvements. Of course, there are certain things which are essential which are needed for removing the bottlenecks. As far as those are concerned, you cannot even defer them for a day, but all the other parts of his which are purely of a kind of social improvement, he should I think defer for the present.

A suggestion has been made by all sides, namely, the introduction of bearer bonds for Government loans, so that some of the black market money may trickle into the coffers of the Government. I think it is a very necessary innovation and although it may be stigmatized by some as conniving at black marketing, nevertheless we must do that.

I am told, Sir, that income-tax assessments are greatly in arrears. If tightening is applied there and collections are made, if need be we may have again the same old Act which we had during the war of "Pay as you go", in that case, it would help us a good deal.

A new suggestion which I wish to make, which may scandalise some of my friends is this. During the days of rationing, I know that a system was introduced whereby rents were not realised in money but in kind. If the Government—Provincial Governments—would introduce this system of realising the rental in kind from the tenants and from the landlords at the stated Government price, it will help a great deal both to curb inflation and to bring about the necessary quantity of food grains which is required by the Government for this purpose. (An Honourable Member: "But there is no staff for collection.") The staff need not frighten anybody. If you will examine Soviet Russia, you will be simply thunder-struck by the number of staff which they employ there. What are the traders doing? Are they not employing staff? We are entering in the trade, so needless to say we must have staff and it is nothing if the Government which is a responsible Government cannot do that.

It can very easily tackle the job and do it better with the response of the people.

Shri Ajit Prasad Jain (U.P. General): They cannot create staff in a day.

Mr. Hossain Imam: Another thing which I should like to say in conclusion is this: This is more a psychological factor. The capitalists are frightened. They fear that the Government, in the nationalisation they visualise, will behave as they are behaving with the *zamindars* paying nominal compensation. A passing reference was made to this phase, not in so many words of course, but in a very guarded manner, by no less than a responsible person than J. R. D. Tata at the Annual General Meeting of the Tatas when he referred to the abolition of the *zamindari* in Bihar. They may invest today but within ten years it will be really confiscated, because the way in which compensation has been paid to *zamindars* is nothing but confiscation. That is their first fear, and secondly, they are frightened that a time may come when even the question of compensation may not arise, because ten years is too short a period and as is well known, in the initial stages industries are unable to pay their way, let alone earn profits. Therefore, Government should increase the duration of the interim period from ten years to at least fifteen years. An assurance must be given that no confiscating legislation will be passed by this House and that Government has every intention to deal fairly and squarely with the capitalists, provided they are fair to labour. Labour must have a fair deal. No one can deny the right and propriety of giving labour every amenity which it deserves, but as I said in the Factories Bill, labour must also behave. It must put in its best and production must increase. It is production bonuses which are required, not profit bonuses. Profit bonuses must be ended and production bonuses must be started. If these three or four steps are taken, I am confident that India will not only weather the storm but will come out with flying colours and that its reputation will become higher than it is today.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Shri Prabhudayal Himatsingka (West Bengal: General): Mr. Speaker, Sir, a number of speakers have given us their views on the great importance of the subject and we are all anxious to find out some solution. There are various causes which have led to the present difficulty and if we want to combat the same, we have to take steps to reduce the purchasing power of certain classes whose purchasing power has increased and also we have to make available in larger and larger quantities the things that they want. If there is an increase of money, that by itself will not be harmful, if we can supply the things to the community to the extent that they need. When the commodities that are required are in short supply and there is excess of money, then the trouble comes in. So we have to examine as to whose purchasing power has increased which needs, if possible, to be curtailed and reduced. Sir, you will find that the purchasing power of the manufacturers, industrialists, labour and agriculturists, has increased considerably. So far as the big people, the industrialists and manufacturers are concerned, they are very few and they cannot affect the purchase of the daily necessities of life. Then we have to see if and whether we should take steps to reduce the purchasing power of labour and agriculturists. It is an undeniable fact that during the war on account of the high prices of their produce commodities, the indebtedness of agriculture has been completely wiped out and on account of the high prices the agriculturists have got enough money in their hands; so also labour. The position was and we all know that most of them were being starved, that they have had not 2 square meals

[Mr. Prabhu Dayal Himatsingka] a day nor did they have sufficient quantity of cloth to put on before. Now that they have got some money, they are anxious to spend that money and as a result you will find, Sir, that they have taken to finer grains like Rice and Wheat rather than Jowar, Bajra and other things that they used to take before the War. Similarly, Sir, on account of the higher purchasing power, you will notice that in the villages if they can get finer cloth, they want finer cloth. These two factors, Sir, have raised the price of these commodities which were previously confined more or less to the towns. Now, Sir, if you want to reduce their purchasing power, we have to take steps to supply things at higher prices by Government imposing some sort of an excise duty or some other tax which will enable the Government to bring in some money. There are certain other ways, as for instance, raising the land revenue and also having some sort of voluntary method of saving and freezing wages at the present level and otherwise taking steps to reduce the purchasing power. If you examine these steps one by one, you will find that raising of land revenue at the present moment will be well nigh impossible. If Government try to take steps in that direction, I think, there will be a good deal of opposition and perhaps Government will find it impossible to take that step. But it should not be very difficult to freeze the wages at the present level, so that there may be no further increase of purchasing power in their hands. Certainly no one will suggest that the wages should be such as not to be sufficiently attractive or should not be commensurate with the amount of trouble that they undergo, but so far as I can judge the present level of wages are just, sufficient and reasonable and there is no room for their increase and if there be any further increase on account of any increased production or otherwise that should be in the shape of deferred payments, so that the same may be available to them at a later stage.

If we take steps to have some sort of saving programme by way of other compulsory methods or voluntary methods, that may help them to save something for their future use. That will require the active co-operation of the population to enable the people in the villages and other places to realize the benefit of such savings. In that connection, Sir, if the Government authorize some of the important banks of the country like the Central Bank of India or the Bank of India, only to mention some of them,—there are so many of them which can be authorized—to issue bearer bonds which will be payable after a maturity of 5 or 3 or 7 years, that might attract a lot of money which is exercising pressure towards inflation. At present the villagers and others find it a bit difficult to invest their money in the Post Office Savings Banks and other places on account of a number of difficult processes that they have to undergo. Sometimes the clerks create difficulty about signature and thumb impression and they have to spend some money. Therefore, they are not much attracted. The banks might be authorised to issue bearer bonds and the money that goes to the bank may be compulsorily invested in Government securities of short periods which will be non-negotiable. Therefore the money will come to the Government and they will also be able to get so much money available to them for their projects; at the same time the pressure on the market will also be reduced.

I will not be long and so far as making supplies available to consumers, there are two things—cloth and food-grains. As regards cloth if Government take steps to make it possible for the mills to work three shifts that will solve the problem to a certain extent and Government may also take steps to increase the production of *khadi* in the villages by organizing the same.

As regards food production, there are both long term and short term plans and if the Government makes it possible to supply seeds, manure and also make arrangements to bring more land under cultivation, that would also give us more food and that will take away some portion of the pressure. I do not want

to take up the time of the House any more though there is much that can be said, as I think, other speakers, will be anxious to speak.

Mr. Speaker: If Prof. Shibban Lal Saksena is anxious to move his amendment, he may do so. As regards the agreement, it is a matter between him and the party. He may simply move the amendment; he need not read the amendment. There is the amendment and it can be taken as read. He will speak on the amendment as set out in the order paper. I will not read it; he need not read it.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in the Resolution for all words occurring after the word 'forthwith', the following be substituted:

take steps to increase production and regulate distribution and expenditure by—

- (a) concentrating attention on increasing agricultural production by formation of democratic village panchayats which should launch patriotic production drives to exceed targets of production which should be fixed for each village by an immediate survey by Central Government with the help of Provincial Governments. There should be introduced a system of special prizes for provinces, districts, tehsils and villages, which exceed fixed targets of production. The district officials must be given authority and full facilities to supply the needs of agriculture like bullocks, ploughs, manures, seeds, implements, wells and other irrigation facilities to village panchayats, and Government must declare that Government officials in districts and tehsils whose areas show the best production results will get promotion and rewards. Any tenancy or other laws which hamper production must be amended wherever necessary;
- (b) a planned development of cottage and small and middle-scale industries on the widest possible scale within the shortest possible time. The Central Government should co-ordinate the activities of all the Provincial Governments in one comprehensive all-India cottage and small scale industries development plan whose execution it should supervise;
- (c) in large scale industry, there should be a check-up of production levels in comparison to war time levels. Inventory of unused capital equipment, industry-wise and unit-wise should be made and a minimum production quota for each unit should be fixed. Substantial 'Production Bonus' to Capital such as rebate on taxation for extra production should be given;
- (d) a central drive to enlist the patriotic enthusiasm of labour in this crisis should be launched. To make this fruitful and effective, provision should be made,—
 - (i) to supply grains and cloth at 150 per cent. of the pre-war prices in the factories on the same lines as is done in grainshops in railways;
 - (ii) to maintain wages at present levels;
 - (iii) to give substantial 'Production Bonus', but to freeze half the amount of Production Bonus earned and invest it in Government securities; and
 - (iv) to launch a drive for trade union unity, and introducing a suitable machinery for immediate resolution of industrial disputes; and
- (e) giving effect to the other suggestions put forward by the nine economists in their report."

Sir, this amendment is conceived in the light of the reports which have been submitted by the various economists, Government economists and others. At the very outset, I wish to say that today we have a crisis of inflation. In 1931 we had a crisis of depression. Therefore, a cycle of crises is overtaking us periodically. Our country must realise that so long as we do not have a full fledged socialist republic in our country, we cannot get rid of these crises. Therefore, I want to say that we must establish a socialist republic in our country. Then and then alone can we get rid of these crises. Otherwise, sometimes there will be depression and sometimes there will be inflation and there will be no end to our trouble.

The industrialists have mentioned that the present crisis is a crisis of confidence. To some extent they are correct. I do say that the policy of the Government should be settled and firm so that nobody may have occasion

[Prof. Shibban Lal Saksena]
to say that there is no confidence. I am sure that the party in power enjoys confidence all over the country; probably nobody else has so much confidence. Their declarations should be firm and unequivocal that nobody will be able to say that there is room for hesitation, and they may go forward to act as they want.

Coming to the various plans which have been suggested by the economists, it has been said that the main cause of the inflation is that there is too much money in the country and there are too few goods. That is true. They say that if money is curtailed, then the position will be eased. But, I personally think that while there is a lot of money in the country, the dearth of goods is very great and even if a large portion of the money is withdrawn, still the goods will not be enough to go round. Therefore, it is essentially a crisis of production and hoarding and afterwards a crisis of money being in abundance. I agree with many of the proposals of the economists for withdrawing the money in circulation; but I want that the chief emphasis should be laid more on production. I find in their report the economists have not laid due emphasis on production. Sir, I think about production, there should be both short term and long term plans. If you want to have this inflation controlled, then we must concentrate mainly on agricultural production and cottage industries. If we set about carrying out the plans which I have laid out in the first paragraph of my amendment, if we see that in every village a target of production is fixed and if the Government officials look to it that that target is exceeded and the Government gives promotions and rewards to them for exceeding the targets, I am sure much more food can be produced. I know in the Gorakhpur District, during the last year, one lakh acres of ploughed land were not sown because proper seeds were not available. Such things happen everywhere. If the course that I have suggested is adopted, and the District Magistrate is aware that he will get a reward, he will see that the quota of production is exceeded. The first portion of my amendment in which I have said that the Government must concentrate upon agricultural production is most important and this could be done to a great extent. I know the Grow More Food Campaign has failed; they have gone the wrong way. The Agricultural Department is not functioning as it should and it requires complete overhauling particularly in the provinces.

If we accept the recommendations of the economists, there is a possibility that all development plans may be held up. They have recommended that the plans should be carried out only to the extent that the expenditure on them can be met by borrowing so that there should be no inflation. I think the development plans should go on whatever the cost. *Zamindari* abolition must take place. Because unless that is abolished, no real agricultural plan can be successful. So far, the country has had three or four plans. One was the Birla Plan; the other was the Peoples Plan of Mr. M. N. Roy; then there is the Gandhiji's plan, and others. In my view, the Peoples Plan seems to be much more comprehensive and much better suited for us. In that plan, they have said that the development of agriculture should be the pivot round which the whole plan which is self-financing will revolve. If that plan is adopted, we will be able to develop agriculture both from a long term and a short term point of view. We must have big farms, State farms and Collective farms which can be run on a co-operative basis. I am convinced that other development schemes like the Damodar Valley Scheme etc., should not be stopped; they should go on and we should not grudge any expenditure on them. Of course, the minimum that is necessary should be spent. Similarly, plans for the development of water power should be taken on hand.

Then there are recommendations about freezing the Gandhi Memorial Fund etc. They have also said that retrenchment should go on. I should like to say one thing in this connection. The problem of unemployment is the most serious problem before the country and we should not add to its complexity.

We should see that the men who will be released on retrenchment should be given some skilled training so that they can be employed on productive purposes and may not add to inflation. Sir, a word about labour. Unless we are able to infuse a spirit of patriotism and enthusiasm in labour, as I have said in part (d) of my amendment we cannot do anything. It is not true that they are flowing with money. I have found that with their present income, they cannot have two square meals. I would therefore suggest that they should get food and cloth at rates which should be 150 per cent above the pre-war level. If that is done, and their present wages are maintained I think the desired result will be achieved and labour will co-operate fully in our efforts.

Sir, in the short time at my disposal, I have tried to mention a few points. In my amendment I think I have said all that I think is necessary to be done.

Mr. Speaker: Amendment moved:

"That in the Resolution for all words occurring after the word 'forthwith', the following be substituted:

'take steps to increase production and regulate distribution and expenditure by—

- (a) concentrating attention on increasing agricultural production by formation of democratic village panchayats which should launch patriotic production drives to exceed targets of production which should be fixed for each village by an immediate survey by Central Government with the help of Provincial Governments. There should be introduced a system of special prizes for provinces, districts, tehsils and villages, which exceed fixed targets of production. The district officials must be given authority and full facilities to supply the needs of agriculture like bullocks, ploughs, manures, seeds, implements, wells and other irrigation facilities to village Panchayats, and Government must declare that Government officials in districts and tehsils whose areas show the best production results will get promotion and rewards. Any tenancy or other laws which hamper production must be amended wherever necessary;
- (b) a planned development of cottage and small and middle-scale industries on the widest possible scale within the shortest possible time. The Central Government should co-ordinate the activities of all the Provincial Governments in one comprehensive all India cottage and small scale industries development plan whose execution it should supervise;
- (c) in large scale industry, there should be a check-up of production levels in comparison to war time levels. Inventory of unused capital equipment, industry-wise and unit-wise should be made and a minimum production-quota for each unit should be fixed. Substantial 'Production Bonus' to Capital such as rebate on taxation for extra production should be given;
- (d) a central drive to enlist the patriotic enthusiasm of labour in this crisis should be launched. To make this fruitful and effective, provision should be made,—
 - (i) to supply grains and cloth at 150 per cent. of the pre-war prices in the factories on the same lines as is done in grainshops in railways;
 - (ii) to maintain wages at present levels;
 - (iii) to give substantial 'Production Bonus', but to freeze half the amount of Production Bonus earned and invest it in Government securities; and
 - (iv) to launch a drive for trade union unity, and introducing a suitable machinery for immediate resolution of industrial disputes; and
- (e) giving effect to the other suggestions put forward by the nine economists in their report."

Shri M. Tirumala Rao (Madras: General): Sir, there is an amendment in my name.

Mr. Speaker: The point is, I was told authoritatively by the Chief Whip that it was agreed that no amendment will be moved. I stated this to the House at the beginning. If Professor Shibban Lal Saksena has insisted on moving his amendment, that is a matter between the party and him. If the honourable member still insists on moving his amendment, he may do so.

Shri M. Tirumala Rao: I have not so far received any information, Sir.

Mr. Speaker: That is a matter between the honourable member and the Whip.

Mr. E. John Philipose (Travancore State): Sir, in rising to make my comments on the Resolution before the House I do not wish to dwell on the plenitude of alternatives that have been suggested to Government concerning the economic problem that faces us. I have had a copy of the summary of the reports of the various groups, organisations and individuals, and even now various other alternatives are being suggested. So much so that from the point of view of Government this problem seems to have assumed the nature of a jigsaw puzzle or a cross word puzzle to which various alternatives have been suggested and all that remains is to put these in their proper places. I believe this attitude of Government is not correct. I was greatly disappointed with the statement that the Prime Minister made this morning. By asking for suggestions after suggestions and Government keeping quiet and collecting these alternatives you are even creating vested interests in the solution of this problem. I am inclined to think that a demonstration of vacillation and hesitation on the part of Government at this juncture is definitely not conducive to the solution of the problem that is before us. What I want to emphasise today is that this problem should not be viewed in isolation but should be viewed as part of the totality of baffling factors and problems that confront us. Whatever be the solutions that Government may decide on, whatever be the decisions that they arrive at, the real point is how are you going to implement them? That operational side of the decisions of Government is perhaps the most important at this juncture; and what is the attitude that Government have towards that? Sir, I said this economic problem will not be solved in isolation; I said this economic problem that is confronting us should be viewed along with the moral and military aspects of the complex situation that confronts India and her people today. Sir, we all know the tremendous amount of moral degeneration that set in with the war; we all know how with the introduction of control, blackmarketing and lust for easy money became a normal feature. Unless this moral degeneration is removed no decision that is going to be made by Government is going to produce any results. I therefore, even before I came here, in my own State spoke of the moral rearmament of this country. That is the one thing that is essential today. If we decide on certain things to be done there must be the sanction and the good will of the people behind it. You must create that sense of honesty and integrity in public life, an honest endeavour to see that this sort of black marketing and dishonest attitude is eliminated. How shall we do it? The only way is to view it in the context of mass psychology, to create a national fervour. It should not be viewed in intellectual isolation; you may have intellectual solutions based on sound economic principles, but that by themselves could not produce results, unless this Government and the members of this House go out to the country and tell the people that we must regenerate and morally rearm.

Sir, I know my honourable friend Pandit Kunzru has been speaking against the policy of decontrol initiated by Government. I am inclined to think that even Government were not intellectually convinced of its wisdom when they introduced decontrol. They introduced it more because Gandhiji who was the father of the nation had stood by decontrol. He saw all the blackness and the darkness of things, the lack of character, the lust for easy money; he felt that unless that atmosphere was changed, unless the controls that brought these things in their wake were changed nothing could be achieved. It was that unerring faith in the unerring instinct of our Mahatmaji that was responsible for the policy of decontrol. But he is no longer with us and therefore we cannot have that moral leadership, which we had from him; and in the light of that we have got to come down to earth. But when we come

down to earth let us not forget the moral values that he held aloft. And how can we solve this problem? I say this Government must tell the people of this country about the magnitude of the problems that face the country; they must tell the people of the tremendous burden of military operations that we had to shoulder, the burden of the military operations that we have yet got to shoulder. This Government have to tell the people frankly that we have got to rearm if we are going to be a powerful nation. It is in the context of these things that even the economic problem has to be solved. And therefore I suggest that it has to be viewed in its entirety along with the factors that make up the situation that confronts India and her people today. I am not making any concrete suggestions, but I want with Pandit Kunzru that the Prime Minister of India should definitely take this up and rid himself of all other responsibilities, and make an appeal to the people so as to create a response for the carrying out of the decisions that this Government make. I know that this Government have got the brains behind them and do not need any intellectual guidance. But I definitely think that the Prime Minister must give a moral lead to this country and create a moral force behind it. It is only then that the decisions of Government are going to be effective in practice.

Mr. T. J. M. Wilson (Madras: General): Sir, everybody is agreed that our present economic problem is low production. But when day in and day out it is dinned into our ears that it is due to the irresponsiveness and lack of a sense of duty and the strikes on the part of the labourers that there is this low production, and when in response to these protestations various remedies are suggested like the nine-hour day and banning of strikes, etc., I feel that we have forgotten the very fundamental factor of our economy which is a colonial economy. If strikes are the cause of low production what strikes are there in agricultural production? The production of our agriculture is ridiculously low, resulting on the one hand in huge expenditure on imports and in the starvation of people on the other. The reason is plain, though some seem to have forgotten it so soon, that a most heinous imperialism has created and preserved a feudal structure of agriculture and a lop-sided industry as its social and economic buttress and to keep this country dependent upon imperialism all the time. Production, agricultural or industrial, can only be increased by a radical solution, by a thorough change of this structure which our imperialist masters had left with us. And it is indeed strange that even for the most rudimentary and preliminary steps in that regard as *zamindari* abolition so much of strength and energy is wasted in pleading for what is called 'compensation' for perhaps the most valuable and humanitarian services that the *zamindars*, ever since they came into existence by the ingenious statesmanship of our British masters have done to the people of this country. It is stranger still when I see in these reports certain suggestions to drop this *zamindari* abolition for the time being, evidently because that compensation which is bound to be paid to *zamindars* aggravates inflation.

It is the same with industry too—it is the system of production—the system of private enterprise with its profit motive and with its master and slave relationship that is responsible for the low production. If we take the production index during the war years, when there was no control and when huge war contracts were placed by the Government of India with the capitalists, and when therefore they could make huge profits you will see that production was at its highest. As soon as controls were imposed and the war contracts stopped and when they could not secure the huge profits from the impoverished people of this country because they have not sufficient purchasing power for these goods, production fell. Of course a part of what was produced was sent to the black market but the truth is that actually production fell. The eight hour day and the strike wave came long

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after the clear exhibition of the low production. What is the reason for this fall? It is inherent in the structure of the system of private enterprise—goods are produced for profit and there should be a market which gives these huge profits. But unfortunately for our capitalists, our Imperialist Government had, by issuing and adding to the paper currency of the country, impoverished the masses of this country by immensely reducing the purchasing power of the people and transferring the burden of the war to the people, has thus narrowed down the market to a very small section of the wealthy and higher middle class people.

The problem today is therefore not simply too much money chasing after too few goods, as stated, but the absence of an effective demand for goods to the satisfaction of the capitalists, as a result of the absolute impoverishment of the vast mass of the people of this country. When labourers and peasants and lower middle class people have nothing to buy to eat or to clothe themselves with, it is suggested in the reports that are given to us that there is a lot of purchasing power with these starving people and that money should be withdrawn from circulation from these people by methods like freezing and saving certificates. But if you will look at the index of the prices and wages it will be clear that the real wages are far behind the prices.

The greed for profits in private enterprises is so strong that in the absence of an effective home market it seeks an outside market and hence the solicitude for foreign capital, without whose collaboration it is impossible to secure any access to a foreign market and the consequent control of our economy by foreign capital which would well result in our paying only lip sympathy to the many recommendations of our national Planning Committee and to the high principles which our leaders so loudly professed in days of struggle.

Foreign capital not only wants removal of Tariff barriers, and equal treatment, but also it seeks to dictate to the Government of India an economic policy not only for 10 years but also for 20 or more years, besides the assurance of cheap labour and fair returns, naturally by suppression of labour, and the same sad story of high prices and starving people.

There is no wonder that suggestions are therefore made not only to curtail expenditure on nation-building schemes but also to hold up schemes like prohibition to which the Congress has been so much devoted. It is the natural corollary of the system in which we are living and our utter inability to reverse that system.

It is not as if the economic problem is an isolated one. In fact the economic problem shapes the political problem. Inflation is aggravated by the Kashmir operations and may still be aggravated by certain other more important things which are pending. This would not have been the case if the Government had not relaxed the principles of the Congress and had done more to strengthen the people who would themselves have done away with those out of date feudal mediaeval princes.

Regarding the remedies suggested, there is no doubt that control is absolutely necessary. Surplus and black-market money may be withdrawn by any of the suggestions made and profits should be definitely taxed and income-tax on agriculture may be imposed provided you remove all other taxes on agriculture. Reduction of expenditure at the top administration level and in our embassies abroad is certainly good.

But what I would emphasize is this—that whatever you may seek to do in the existing system of private enterprise with its profit motive would not solve the problem but instead would aggravate the situation and land this country into a most terrible catastrophe—in spite of the so called democratic philosophy

and high-sounding principles that are invoked in its favour. The only solution therefore is complete drifting away from this system in which we are now entangled because it is not only immoral with its greed for profit as it was tacitly confessed by some of its strongest supporters like Lord Keynes, but also because it has proved most inefficient and disastrous to the people of this country.

Shri B. P. Jhunjhunwala (Bihar: General): Economists, industrialists labour and all other interests have given their reports on the policy to be followed by the Government. All these reports have been out in the papers and I have neither the time to dilate on those matters which have already been discussed and published and are before the public and the Government, nor do I consider that any useful purpose will be served by my indulging in these discussions, as to by which of the means enumerated whether by means of freezing capital, increasing taxes, issuing loans at high rate of interest etc. The Government should check inflation.

There is one point, Sir, which strikes me most and that is this. Inflation is not an evil by itself if there is sufficient production and sufficient demand for the products and there is sufficient money with all classes of people to purchase the articles. But why are these things wanted? Because we have not got sufficient production. And why is there not sufficient production? If we examine this matter, we shall find that the policy which we have been following is not the right one. We have got no confidence and faith in our own potentialities. We are looking abroad for very minor things. We have lost sight of the fact that with the available means of production in our country at least for food and cloth, one could meet demand.

Secondly, there is such a thing as secrecy—when you are fighting with the enemy you have to keep things secret. You have to make out a plan and not give out that plan to the public before you have properly planned how to meet the reactions if any. Sir, since the time our Government assumed office, instead of allowing things to go on and waiting and seeing how they progressed, they began to discuss and fight on theories as to whether there should be nationalization, whether there should be private enterprise, whether there should be abolition of *zamindari* and this and that.

When I say this I want to make it clear that I am not against nationalisation nor am I against the abolition of the *zamindari* system; provided the nationalisation and the abolition of *zamindari* and other vested interests will ultimately lead to the happiness of the people. What I mean to say is that before you abolish the *zamindari* have you made out a plan so as to have more production. How are you going to benefit the cultivators who will directly come under you instead of remaining under the *zamindars*. All these things we have to think out before but we begin discussing nationalisation and many other things instead of doing the proper thing. We simply indulge in theories. If at least private industries were allowed to go on, in the way the same was going on for sometime, I am inclined to think, we could have got some production. Thereafter, after strengthening our hand we could have by and by nationalised the industries. Similarly in the case of other things.

As for looking abroad, it was in 1946 that the last British Finance Minister made it clear that all the means of production in this country have been worked to their last edge and there are no spare parts or anything of the kind available to be put into the existing machineries to maintain them in proper working order. So far as the question of capital goods is concerned you cannot expect anything from abroad for years to come. That is what he said. We have been trying since to get capital goods from abroad but we have not been successful. When our Finance Minister went to England for negotiating the

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sterling balances we had expected that something would be done in this regard, that some condition precedent will be imposed; viz., that in exchange for these sterling balances we must have so much of capital goods. But we failed. We could not get the capital goods, nor are we utilising our own resources.

Sir, I require few minutes more to complete my point I have raised.

Mr. Speaker: I must be very strict in rationing time now. It has become an anti-inflationary measure! In view of the number of honourable members who wish to speak, I find that it is not possible to reach the whole list or even to call the members who are trying to catch my eye. I therefore propose to extend the session by half an hour. Even then, I do not know whether I shall be able to meet the wishes of all but I shall try my best. This will mean that I shall be calling upon the Honourable Minister to reply at 3-45 P.M. and the Mover of the Resolution to reply at 4 P.M., so that we go up to 4-15 P.M. Then from 5-30 P.M. instead of till 6-30 P.M. we shall sit till 7 P.M.

Shri. Mahavir Tyagi (U.P.: General): Is there any chance to speak for those who are not on the list?

Mr. Speaker: Oh, yes.

Shri H. V. Kamath: Sir, though my name is on the list I do not propose to speak.

चौधरी रनबीर सिंह: माननीय अध्यक्ष महोदय, मैं आरम्भ में अपने मंत्रिमंडल के प्रति किसानों की तरफ से कृतज्ञता प्रकट करना चाहता हूँ। मैं समझता हूँ कि यह देश एक कृषि प्रधान देश है। जिस ढंग से आज हाउस के अन्दर बातें कही गई हैं और जितनी खतरनाक हालत बतलाई जाती है मैं नहीं समझता कि हालत इतनी खराब है। इस देश के अन्दर ६० या ७० फीसदी आदमी अनाज पैदा करते हैं। इस तरह जहाँ तक अनाज का सवाल है वह ६० या ७० फीसदी लोगों के लिए तो हल हो ही जाता है। बाकी कपड़े का सवाल रहा। उसके बारे में हाउस के अन्दर यह ऐलान कर ही दिया गया है कि तमाम कपड़े को फ्रीज (freeze) कर दिया जायगा और कंट्रोलड प्राइस (controlled price) पर तकसीम किया जायगा।

अब जो सवाल बाकी रह गया है वह २५ या ३० फीसदी का कहा जा सकता है। मैं तो इसको दूसरे ढंग से समझता हूँ। यह आवाज जो देश के नाम पर उठाई जा रही है यह उन लोगों की है जो कि वोकल (vocal) है जिनके पास अखबार है। इसमें कोई शक नहीं कि उनके लिए मुश्किलता हुई है और यही वजह है देश में जो शोर है उसका कारण यही है कि जो भाई बोलता है वह देश का नाम लेकर बोलता है। लेकिन देश सिर्फ पढ़े लिखे आदमियों तक या मिडिल क्लासेज (middle classes) तक महदूद नहीं है। इस देश को चार हिस्सों में शकसीम किया जा सकता है। एक इंडस्ट्रियल लोग—उनके ऊपर कोई आफत नहीं है। दूसरे मिडिल क्लासेज या पढ़े लिखे लोग हैं जिनकी फिक्सड (fixed) तनख्वाहें हैं इसमें शक नहीं कि उनके ऊपर आफत है। तीसरे मजदूर

है। जहाँतक देहात के मजदूर और हाथ से काम करने वाले मजदूरों का सवाल है वह बहुत आराम से है। एक वढ़ई आज आसानी से पांच रुपये रोज़ कमा सकता है, एक लुहार भी रोज़ाना आसानी से पांच रुपये कमा सकता है जो सन् ३८ या ३९ में मुश्किल से चार आना या पाँच आना कमा सकता था। और खेती का मजदूर आसानी से दो तीन रुपये रोज़ाना कमा सकता है। तो जहाँतक मजदूरों का ताल्लुक है उनका भी मसला हल हो जाता है। अब बाकी रहे किसान। किसानों के बारे में मैंने आपसे अभी निवेदन किया था कि किसान तो अनाज को पैदा करता है इसलिए अनाज का तो उसके लिए कोई सवाल पैदा नहीं होता। दूसरी चीज़ कपड़ा है। कपड़े का गवर्नमेंट ने इन्तज़ाम कर दिया है और मैं उम्मीद करता हूँ कि वह एक बहुत अच्छे ढंग से और जायज कीमत पर उन तक पहुँच जायेगा। तो देखना यह है कि देश के अन्दर क्या आफत आ गयी है और क्या इन्कलाब आ गया है। जिसका इतना शोर है। मैं समझता हूँ कि अगर इन्कलाब है तो वह सिर्फ मिडिल क्लासेज (middle classes) या फिक्सड (fixed) तनख्वाह वालों तक ही महदूद है। मैं मानता हूँ कि मिडिल क्लासेज (middle classes) ने हमेशा हर एक मल्क में काफी बड़ा पार्ट अदा किया है। लेकिन देश के नेताओं को यह नहीं भूलना चाहिए कि देश की रीढ़ की हड्डी कौन है। वह किसान हैं। आज किसान देहातों में हैं। आप शहरों में इन्फ्लेशन (inflation) की बीमारी देखते हैं पर अगर आप देहात में जायें तो आपको तकलीफ नहीं मालूम देगी न वहाँ कोई तकलीफ है और न वहाँ यह मालूम होता है कि देश में इन्कलाब आने वाला है। बल्कि वह लोग खुशहाल दिखाई देते हैं। जैसा मैंने आपसे अज़ किया कि अगर थोड़ी तकलीफ है तो वह मिडिल क्लासेज (middle classes) तक ही महदूद है। उनके लिये सारे देश से चीप रेट ग्रेन (Cheap Rate Grain) की ढूँढ़ें खुली हुई हैं। मैं समझता हूँ कि यह मसला और भी आसानी से हल किया जा सकता है अगर हमारे माननीय रेल मंत्री लोगों की सहायता करें। श्री भट्ट ने कुछ दिन हुए कि हाउस को याद दिलाया था कि बीकानेर के अन्दर चने सड़ रहे हैं। मैं भी मंत्री महोदय को यह बताना चाहता हूँ कि जीन्द स्टेट के अन्दर, दादरी के अन्दर जितना आप चना चाहें हासिल कर सकते हैं। मैं आपको मिसाल देना चाहता हूँ रोहतक की जो कि यहाँ से ४४ मिल दूर पर है। वहाँ आप साढ़े नौ रुपये मन चना हासिल कर सकते हैं। मगर यहाँ पर चना १४ रुपये मन भी नहीं मिलता है। इसमें कोई शक नहीं है कि पंजाब गवर्नमेंट की लाने पर कुछ रेस्ट्रिक्शन्स (restrictions) हैं पर इसके बावजूद भी इस चीज़ को नज़र से ओझल नहीं किया जा सकता कि इस मामले में जो सबसे बड़ी जिम्मेदारी है वह ट्रांसपोर्ट (transport) की है। जहाँतक जीन्द स्टेट और पटियाला यूनिन का ताल्लुक

[चौधरी रत्नबीर सिंह]

हे म बतलाना चाहता हूं कि वहाँ हजारों मन गल्ले को बाहर भेजने के लिये पर-मिट्टा दिये हुए हैं लेकिन चूंकि ट्रांसपोर्ट के लिए उनको गड्डे (वेगन) नहीं मिलते इस वजह से यह आपत्ति है।

अब मैं आपको फलों के बारे में भी बतला देना चाहता हूं। नागपुर के अन्दर सन्तरो की एक वेगन आठ रुपये में नीलाम होती है और दिल्ली में आपको एक दो और चार आने में एक सन्तरा नहीं मिलता है। तो यह जो आपत्ति दिखाई देती है इसका बहुत कुछ हाल ट्रांसपोर्ट के मिनिस्टर साहब से मिल सकता है। मैं एक और नम्र निवेदन करना चाहता हूं कि पिछले साल गवर्नमेंट ने शहर के लोगों को सस्ता अनाज बेचने के लिए साढ़े २२ करोड़ रुपया खर्च किया और मैंने अभी पिछले सेशन में आपसे निवेदन किया था कि देहात में २४ रुपये से ४ रुपये गूड़ आ गया। जब गूड़ का भाव इतना गिर गया तो आसमान नहीं टूट पड़ा। तो आज मेरी समझ में नहीं आता कि अगर गेहूं का भाव १६ रुपये मन से २४ या २५ रुपये मन हो गया तो किस तरह से आसमान टूट पड़ेगा। तो मैं ज्यादा न कहते हुए चूंकि हाउस के पास समय बहुत कम है केवल यह नम्र निवेदन करना चाहता हूं और अपने मंत्रीमंडल को यह विश्वास दिलाना चाहता हूं कि देश के अन्दर कोई खतरनाक हालत नहीं है। यह देश किसानों का देश है। किसान सन् ३९ और ४० के निस्वत आज बहुत आराम में हैं। अगर किसान खुश है तो देश भी खुश है। और दूसरी बात में यह कहना चाहता हूं कि अगर आप भाव गिराने के लिये कोई एक्शन (action) लेते भी हैं तो आप इस बात के लिए भी तैयार हों कि जिस वक्त अनाज के भाव गिरें तो उस वक्त आप किसान को अनाज उसी भाव से खरीदने का विश्वास दिलाये जिस भाव से उसके घर पड़ता है।

(English translation of the above speech)

Ch. Ranbir Singh (East Punjab: General): Mr. Speaker, Sir, first of all I would like to express gratitude on behalf of the agricultural community to the Cabinet Ministers. I know that India is predominantly an agricultural country. It appears that the situation is not so grave as has been made out in this House to-day. Sixty or seventy per cent of the people in this country grow foodgrains and to that extent at least this problem is solved. Now remains the question of cloth. In regard to that an announcement has already been made in the House that the entire stock of cloth will be frozen and then distributed at control price. What remains to be done now is to tackle the problem affecting the twenty-five or thirty per cent of the people. I take it in the other way. The cry raised in the country comes from those who are vocal and who have access to the Press. There is no doubt that they had to face difficulties on account of which all this hue and cry is being raised in the name of the masses. But the country does not consist only of the educated and middle classes. It can be divided in four classes. Firstly, industrialists—they are not gripped by any calamity. Secondly, the salaried middle and educated classes who have got fixed income and there is no doubt that they are in great difficulty. Thirdly, the labouring class—so far as the labourers employed in villages and the manual workers are concerned, they are living comfortably. A carpenter and a black-smith who could hardly earn -/4/- or -/5/- during the years 1938-39 can to-day easily earn Rs. 5 per day. A labourer employed on the field-work can easily earn Rs. 2 to Rs. 3 per day. So the problem is solved inasmuch as it relates to the labourers. Now remain the

agriculturists. In regard to the agriculturist community, I had just stated that a cultivator grows foodgrains, and therefore, the question of its supply in his case does not arise at all. The other commodity is cloth in regard to which Government have already adopted necessary measures and I hope that this would be distributed in an equitable manner and at reasonable prices. The cause of all this upheaval in the country which is responsible for all this dissatisfaction has to be investigated. If there is dissatisfaction it is only confined to the middle classes or those who are in receipt of fixed salaries. I admit that the middle classes have always played an important role in every country, but the leaders of the country should not ignore the fact as to who form the backbone? They are the agriculturists. They live in the villages. You find the evil of inflation prevalent in the cities, but if you happen to go to villages, you will not feel any difficulty there. Neither there is any trouble nor any signs of the impending revolution in the country. On the contrary those people look to be prosperous. I have stated that if there is any difficulty that is confined to the middle classes only. For their benefit shops for the supply of foodgrains at cheap rates have already been opened throughout the country. I think that the problem can be solved more easily if the Honourable Minister for Railways is ready to help the people.

My honourable friend Mr. Bhatt reminded the House a few days ago that grams were rotting in Bikaner. I would also like to inform the Honourable Minister that in Dadri in the Jind State you can procure as much quantity of gram as you like. I would like to cite an instance of Rohtak which is situated at a distance of only 44 miles from this place. There you can get gram at a rate of Rs. 9/8/- per maund, but here it is not available even at a rate of Rs. 14 per maund. There is no doubt that the Punjab Government have imposed some restrictions on its export but in spite of this, this fact cannot be overlooked that transport is mainly responsible for this state of affairs. So far as Jind State and Patiala Union are concerned, permits for the export of thousands of maunds of foodgrains have been issued, but owing to the lack of wagons for transport, this difficult situation has arisen.

I would like to say something in respect of fruits. In Nagpur, a wagon containing oranges is auctioned for Rs. 8 and whereas in Delhi, you cannot get one orange for -/1/-, -/2/- and -/4/-. This difficult situation can be considerably eased through the help of the Honourable Minister for Transport.

With all the humility, I would like to make another submission. During the last year the Government spent twenty two crores of rupees for the supply of foodgrains at cheap rates to the people living in the cities and during the last session the price of *gur* came down from Rs. 24 to Rs. 4 in the rural areas as I have already stated. Heavens did not fall when the price of *gur* came down so low. I, therefore, really fail to understand what calamity will befall if the price of wheat rose from Rs. 16 per maund to Rs. 24 per maund? Therefore, without taking any much time of the House, I would only submit this and assure our Cabinet Ministers that there does not exist any alarming situation in the country. This is an agricultural country. The agriculturists are to-day living more comfortably than in the years 1939 and 1940. If the cultivators are happy, the country will also prosper. Another thing which I would like to say is that if you at all resort to any action for bringing down the prices, then in that eventuality you should also be ready to give an assurance to procure foodgrains from the cultivator at a price at which it costs him.

Shri T. A. Ramalingam Chettiar (Madras: General): Mr. Speaker, Sir, we hear a large number of people referring to this matter as a very critical one. To me it appears to be putting the matter a little too high. What is the position at the present moment? The prices have gone high. They have gone

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high openly because controls have been removed. But what was the position before the controls were removed? Except to the extent where the transactions were open, under the direction of the Government and their agents, the black market—so called—always registered much higher prices. The ordinary price in the Coimbatore market for a bag of rice when the control was in force was Rs. 55 in the black market. At the present moment it is Rs. 35 to 40. Of course it is open. That is the only difference. The control price, in the old days was Rs. 20. Compared to that control price the present prices are of course very high, and we are now aghast simply because these are prices openly announced and openly recognised. When the black market was ruling in the country nobody could say exactly how the thing was, and this idea of inflation and all that was never talked about.

The second point which has struck me in the whole situation was this. All our lives we have been thinking of giving more purchasing power into the hands of the poorer classes and the lower middle classes. Now for once they have got this purchasing power. The moment they have got that purchasing power we are now proposing to freeze that power. To say 'they should not have that power, take away from them what they have' seems to me to be a very unfortunate state of affairs.

Again, what is taking place? We have been asking for social services, and some of the Provincial Governments have got their own plans of social services. Now we are advised that all these social service schemes should be given up and that all this expenditure which is not productive—I suppose in the sense that it does not give rupees, annas and pies in return—should be stopped. This is one of the things which I for one cannot understand. There is no doubt that the prices have risen, and probably, looking at the thing in the ordinary way, people with fixed incomes—not the other people—find it difficult to get their needs. But what is the remedy? The remedy ought to be to supply what they want, to arrange for the supply of these things.

Sir, a lot has been said about controls and decontrol. What was in existence before? Not regulation of production, not any attempts at production—except giving assistance for what is called the 'Grow More Food Campaign' and all that—but it was all a control of distribution. You can only distribute what you have got. That is not giving more goods for the use of the people who want them. We have to attack the question from the other point. We will have to deal with it from the production point of view. We will have to increase the production. And we have to regulate the production. We have to give some priority to those things which are first. For instance, in regard to production, the main thing is food. What are we doing in that respect? My honourable friend the Minister for Agriculture has spent crores of rupees for the 'Grow More Food Campaign'. So many wells are supposed to have been dug. I do not think people who know the country can say that even half the number—40 to 50 per cent of the wells that have been planned have been actually dug and that they are in a position to serve at the present moment. Well, even with these wells what has taken place? Have food-grains been produced with the help of the wells that have been dug? The figures will show that it is the industrial crops that have increased in acreage throughout India. Taking my own Province—Madras—we have got a very large number of wells dug. Under every one of those wells it is either cotton or groundnut that is grown. The actual increase in the acreage under food-grains is negligible.

Again, what has been done with reference to this food question about which we have been talking such a lot? We have never tried to regulate the food supply with the production—with the possibilities of production in the country

itself. We have been getting foodstuffs in large quantities, paying sometimes three and sometimes four times the price that ought to be given or that was in force before. But we never cared to regulate the production in the country itself. Take my own Province of Madras. The actual deficit of grains is 10 per cent. The acreage under cultivation in the whole Province is 14 million acres out of which 10 million acres produce food grains; the other 4 million acres produce what are called industrial crops. Sir, I put the question to the Agriculture Minister: if only he makes it a point to have crop control and enforces production of food grains, of at least one crop in three, that is to say if once every 18 months every acre of land gives food grains, then, Sir, the gap of my Province, the 10 per cent, is covered. Was any thought spent on matters like that? I do not think it has been thought of—at any rate nothing has been done.

Then, agricultural improvement has been talked of. What is happening in my Province is this. We have not got enough manure and the little manure that we have is being distributed by the agricultural men. These agricultural men who are supposed to work for the advancement of agriculture, are keeping shops, they are running shops, they are doing nothing else. As the Chairman of the Reorganisation Committee of the Madras Government, I went into the question of the present set-up of the Agricultural Department. I was told there are eight Deputy Directors of Agriculture looking after these shops. They cannot be abolished simply because of these shops—otherwise they had no work to do. That is the sort of way which these technical men who were trained for agricultural work are being utilised. If only steps were taken to utilise these men for the purpose of producing seeds, distributing seeds and also advising with reference to manures, it will be very helpful.

Sir, I may say there are a lot of manures in the country itself which can be utilised. I was hearing a lot in the olden days about fish manure which was being utilised for several crops. I do not hear anything about fish manure in these days. There was a lot of propaganda done and a lot of fish manure from the West Coast was used in those days. Nothing is done now. Then there is the green manure about which also we talk. There is no systematic effort made in this direction. It was only within the last one year, I think, that the Director of Agriculture was making plans for having these green manures grown. The trouble was that in waste lands which can be utilised for the purpose of growing these green manures, there is no water available; no water is given—not even a single watering—for these green manures. These are matters which ought to be tackled so that production may increase and that increased production may be turned into the channels in which we would require them.

Sir, one or two words more about industry. The same thing happens in industry. Take for instance the cloth production. What is happening? I am glad Mr. Khandubhai Desai drew attention to that. Finer counts are spun in many of these mills. If only you turn it into coarser counts the production can be increased considerably, probably by about 100 per cent. Has that been done? We are so soft to these industrialists who earn large profits. Of course I do not deny I am myself a little bit of an industrialist and I know the difference between manufacturing coarser counts and finer counts. Production can be increased by about 100 per cent by producing coarser counts instead of the finer counts, but still we are allowed to go on as now.

Again, why should they be so chary of increasing the shifts and having a third shift? We have in many places three shifts working. Why should the Government not regulate these?

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So, I think, Sir, the solution for our troubles is not restricting the use of money, is not introducing control with reference only to distribution, nor is it freezing of funds and things like that. It is supplying more goods and arranging for distribution of these goods in the proper channels by studying the channels and doing it. As has been said by one of my friends there, we have got so many plans and we are speaking so much, but the actual implementation and doing of things is very little. It is more of what we are actually doing that is wanted, rather than making plans and talking here and elsewhere.

Kazi Syed Karimuddin (C. P. and Berar: Muslim): Mr. Speaker, Sir, it is not necessary for me to speak at length on the causes of the rise in prices; there has been a great deal of discussion in this respect. My opinion is that there is no reason to be panicky because after all it is a National Government, and if the House decides about any measures to be adopted for the decrease in prices, they are bound to be accepted.

The Resolution lays down that a Commission should be constituted to investigate into the causes. In my opinion there is no such reason to constitute a Commission because the facts and figures are known to the Government. Mr. Lari has moved an amendment which lays down that the findings of such a Commission should be accepted; if they are perverse they cannot be accepted; therefore there is no question of that amendment being accepted. One lady Member of this House was so much disgusted with the democratic institutions in this country that she said she wanted a dictator instead of a democracy.

The point which I want to make is this. The present rise in prices is more due to the defective policy of the Finance and the Industries Departments than anything else. I admit there are causes which are beyond control, but there are special causes which have led to the rise in prices and one of them is the defective policy of the Finance Department. We have been criticising from the very beginning—that the principle of indirect taxation must be given up, or that the principle of indirect taxation should not be resorted to in every respect. The result of indirect taxation is that the prices of commodities which are essential for the poor people, for the common man in the street, like tobacco and so many other things have gone so high that it is not possible for the ordinary man in the street to purchase these articles.

Secondly, the black market money that has been acquired by the industrialists has not been tapped. In the last Budget we very forcefully brought it to the notice of the Finance Department that the rate of business profits tax should not be reduced. It was stated that it was an incentive to industry and that production would increase. The Finance Department policy was not to tap the capitalists but to allow the war-earned increments or the war-accumulated wealth to remain with them. We have found that the piles of notes with the capitalists are there, the purchasing power has not decreased; production has not considerably increased. Therefore, my submission is that Government should withdraw the money in possession of the capitalists or the industrialists with a view to use that money, for the nationalisation of the industries.

The Government has only tried to lay down the economic policy for ten years, assuring these private enterprise people that they would not be touched. In spite of the fact that we have given them a concession in the business profits tax, production is not increasing. Why,—because they say that labour is not co-operating. We are giving them reduction in excess profits tax but it is not possible to have capital equipment. Therefore, the first duty of the Finance Department is to

tax the war accumulated wealth, and to withdraw from circulation that money which has been accumulated by the industrialists.

Then, the Finance Department has committed a very great blunder in appropriating Rs. 5 crores from the Railway Budget surplus. Transport which is defective today is due to the fact that the Finance Department has taken away these Rs. 5 crores, which would have been spent on repairs and on purchase of locomotives. If this had not been done, the condition of the Railways would not have been as it is at present.

Then, although we wanted to take away some of the accumulated wealth by the imposition of an Estate Duty, even that has been shelved. Therefore, on the one hand the capitalists' wealth is not reduced by any measure by the Finance Department and on the other they are allowed to escape the axe of taxation. So my suggestion is that with a view to fight out inflation, the Government should levy a capital levy or they should have excess profits tax in order to reduce and withdraw money from circulation.

Then, Sir, the argument of the then Finance Minister was very fallacious. He said that reduction of the rate of business profits tax will increase production. It has not increased production. I had warned and others also had warned that capital goods cannot be obtained, so the Government should see that triple shifts should be allowed to work in industries. There is no other go except that.

Another defect of the Finance Department is the deficit financing. Instead of taking money away from the capitalists by taxation, they allow deficit financing with a view to support and finance nation building programmes. Nation building programmes are a necessity, but deficit financing is a positive disservice to the country. My submission is that either take away the money from the capitalists as you require money for nation building purposes or immobilise the capital and pay interest on those deposits at a future date.

The greatest stigma on the Government is about cloth distribution. It was stated on the floor of this House that in case there is a breach of faith on the part of the capitalists, or the industrialists, Government would take action. What action has been taken? Have the licences been cancelled? It is an open secret that the industrialists who deal in cloth and who distribute cloth have committed a breach of faith and a very severe action ought to have been taken against them.

Lastly, I give a note of warning about the fixation of the prices of foodgrains. I am a cultivator myself. In rural areas the cost of production is very high because of the agricultural labour. Instead of decreasing the prices of foodgrains, my submission is that the Central Government should give a subsidy of Rs. 15 crores to the provinces instead of Rs. 4 crores for purchasing the produce and setting up Government shops.

With these words, Sir, I close.

The Honourable Shri Jairamdas Doulatram (Minister for Food and Agriculture): Sir, I feel that the present is one of those occasions when for the time being the usual distinction between the Government and the rest of the House or between the Government and the Opposition should be extinguished.

An Honourable Member: A very good idea.

Mr. R. K. Sidhva (C. P. and Berar: General): But it is too late.

The Honourable Shri Jairamdas Doulatram: We are facing a situation which, I would not say, is critical, but yet it is one which needs plenty of hard

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thinking and there is no doubt also, plenty of quick action. What those steps would be which have to be taken, it is impossible to state today, as has been indicated by the Prime Minister.

[At this stage, Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar).]

It is not during the last two or three weeks only, but for some little time past that the situation has been under some kind of examination. As you will find from the graphs and the statistics which, so far as food is concerned, have been placed before you, the prices had, round about the middle or third week of April, reached a certain level which was lower than the level in February. But from about the middle of April the prices again began to rise and it was felt necessary in June that if this rise in price is going to be maintained, some kind of close investigation of the matter and some remedy that may be necessary would have to be considered. A special investigation of the food prices was conducted in U. P. and Bihar and the results of that close investigation, during the course of which officials, Merchants' Associations, producers and other were interviewed and an attempt was made to find out which were the abiding causes of the rise in prices and which were local or temporary causes, was embodied in an interesting report submitted to us. We felt that before any further step could be taken, it was necessary that even this report, though of a specialists, ought to be fully examined by other economists whom we have in the Government. Therefore, early in August, before the session commenced, an examination by the economists of the causes of rising food prices and the remedies had been concluded and the ground prepared for a general review of the rise in prices of all commodities. I am suggesting this to indicate that there is no question of any blind optimism and I would venture to say that there is also no question of any self complacency. There is, on the contrary, an ever-anxious attitude to watch the events from day today and take every step that is necessary in the interests of the people. Though it might appear as if more time has been taken than necessary, I have no doubt that when this matter is further considered it will be appreciated that hasty decisions may possibly be worse than no decisions. I will not labour this particular point any further.

But there is one other aspect and a very important aspect which has come out in the course of this discussion and I thought it would not be proper to sit silent, because I think it affects the fundamentals of the whole position. The reference is to our food production. Agricultural industry is not only our basic industry, it is also the largest national industry and if we for the time being deal with this in a spirit of self-introspection and as I said forget for the moment that distinction between the Government and the House, I think we would all agree that it should have absolutely the first priority and we must do the best we can to increase the agricultural production of the country. On that alone can be built up any further development, whether industrial or other. I am therefore generally in sympathy with what Honourable Mr. Chetty was saying as to the backward condition of agricultural production. I would also venture to say something in reply to a remark let fall by one of the members, that all the money which spent for the Grow More Food Campaign went into the drain. I want to clear one misunderstanding which I find continually recurs. The Grow More Food Campaign is the name associated with the campaign for production of more food from 1942 or 1943 to 1947. Most of that time our predecessor Government ruled the country; most of that time Section 93 Governments ruled in the provinces. It is not possible for the present Government to take up the responsibility for what was done or what was not done in the course of those 4 or 5 years, but as you know, my predecessor, Dr. Rajendra Prasad, in his time, set afoot a proper

development scheme based on definite quotas fixed for provinces in contrast with what used to happen before when *ad hoc* proposals came from provinces for detached un-co-ordinated schemes and they used to be supported and financed by the centre. Dr. Rajendra Prasad tried during 1947-48 to plan out on some methodical basis. We have only now in the month of June and July begun to receive the reports from the provinces as to the result of that one year's effort. But still I can frankly state that I am not satisfied with the progress which the country is making in regard to agricultural production, least of all in regard to production of food. But as I said, let us examine the thing in a mood of self-introspection. First of all, though in a way, it is I, think, a good sign, the central executive is being repeatedly asked to take up more responsibility for agricultural production, but yet the fact is that Agriculture is a subject which is almost entirely within the purview of the provinces and many of the things which members of the Assembly bring up here with regard to acts of omission or commission relate to the provinces. It is difficult from here to answer for them or to regulate them. The gentlest effort at co-ordination is the utmost that is possible under the existing constitutional position of the Central Government in regard to Agriculture, but apart from this constitutional point, let us see what we are doing for Agriculture, and compare it with what other countries are doing for developing their Agriculture.

I had occasion during the Budget session to refer to the fact that while America was spending from the Federal Budget Rs. 80 per person for agricultural development, we were spending only 1 anna under our own Central Budget out of every Rs. 100 we spend on all subjects, only 12 annas are allocated for Agriculture. When we study in detail the mechanism which is set up for agricultural development in those countries, what do we find? A huge number of trained staff linking up the Centre with the remotest village, men of knowledge moving about among the agriculturists, conveying to them the results of research experience conducted at various Institutes, coming in day to day contact with them, telling them of the mistakes they are making in their agricultural processes, supplying to them their every day's need of technical aid, in short acting as their guides, philosophers and friends. I have no doubt that unless we are able to set up in this country a very wide spread machinery involving certainly more expenditure and to some extent involving waste—that cannot be helped and here and there probably we may have some men not up to the mark—but on the whole, and by and large, unless we put forth far greater effort in regard to agricultural development there is no future for the country. It is only after the development of agricultural production that with increased wealth our further national progress would be possible. Therefore, whether it is a question of more money or more staff, unless our energies are more directed towards that objective, I am afraid our path before us will not be smooth. As the Honourable Mr. Chetty said, well, it is alright planning, but things must be done, this is only too true. But after all any Government, any Cabinet, any Ministers can only issue orders, can only sanction plans, who is to execute them? who is to carry them out? It is the people represented in the non-official world or their cousins, the people represented in the official world. It is only when the people are determined to carry out and execute what is planned that anything is possible. May I give one single illustration from which no other inference need be drawn. An Indian friend, a few years ago, went to one of the European countries. On arrival, his host telephoned to the nearest rationing office; giving him the name of the visitor who had come and the number of days he would stay and asking for the ration card. Within half an hour a man came from the rationing office to the house of the host and handed over the ration card and after that took the application from the host. Right action by thousands had enabled the

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rationing office to rely upon verbal instruction even on a telephone and the spirit of service also permeated the official work. This single instance, which I do not want to elaborate indicates the method in which the public and the method in which the official world function in some countries. It is only when it is found that the people are obeying the law and the official world is obeying the law that the Government is able to act. I am not referring to the entire official world. As my honourable friend the Finance Minister said there would be some black sheep, but we have to take note of the fact that no plan, no scheme can work unless the fullest co-operation is possible from the people. I think our own sister honourable Mrs. Ray struck the right note when she said that unless that co-operation is available, we may chalk out in the course of the next two or three weeks the finest plans, but I am afraid they will not result in a complete success. If today's debate has to serve any purpose, the best purpose it can serve is to create an atmosphere in the country for this co-operation which is the key to the whole situation.

Mr. R. K. Sidhva: The Honourable Minister referred to the co-operation of the public. The Standing Committee of the Food Committee was very anxious to help the Honourable Minister. Letters were written to call the meeting in the month of May when the prices were soaring high; several questions were put at the meeting; ultimately when the meeting was called, the situation was reviewed and the Honourable Minister gave a very rosy picture and the members were prepared to co-operate but I can tell you from my experience, Sir, that the co-operation was not forthcoming.

The Honourable Shri Jairamdas Doulatram: All that I can say that the meeting was not called at once as I had to consult not one member, but several members. The prices having continued to rise in June we sent out our officers for the detailed investigation of the prices in the month of July.

Pandit Govind Malaviya (U. P.: General): Sir, before I come to my task of this afternoon, may I say a word to express my sense of privilege and joy, on this chance of opportunity of being the first member to stand up and say anything before this House under the Chairmanship of our own old colleague, our great friend, our ablest adviser and one of our oldest and most experienced member namely, yourself, Sir. It is a privilege I very greatly value. You have been with us as a fellow member so long, we have known your qualities, both of head and heart, your courteous manners and sweet temperament so well that one feels a little awkward to speak of them. And yet, Sir, our joy and satisfaction are so universal and so genuine that I think I would be failing in an obvious and very pleasant duty and missing an opportunity which I am sure every one of us would highly value, if I were not to offer to you the felicitations and the tribute of every member of this House.

Kazi Syed Karimuddin: Has the resolution been withdrawn, Sir?

Pandit Govind Malaviya: Sir, coming to the debate which we have had in this House for two days now, I am happy that my task of replying to it even though it may be slightly less exhilarating, is less unpleasant than the usual task of replying to debates, because of the very simple fact that as the Honourable Food Minister has pointed out, on this issue, there is no real difference of opinion between any two sections of the House. We have had different arguments to advance; we have had different approaches to make to the subject. But, in the ultimate analysis, Sir, every one of us has agreed that something has to be done and has got to be done fairly quick to ease the situation that prevails in this country. It was on the 11th of August, Sir, that I had the privilege of moving before this House the resolution which I did. Twenty three days have gone by. I regret, every one will regret, the

Government regrets, that no conclusions have yet been arrived at, no decisions have yet been taken. But, we know, Sir, that the Government is giving its closest attention to the matter. The speeches of the Honourable the Prime Minister and the Honourable the Minister for Food are proof of it. We know we can trust to them to do the needful in this matter.

In the meantime, while it was my intention to raise the subject in this House with a view to have some speedy relief for the people, unfortunately, some new complications have arisen. I hope we have not unwittingly been the cause of injury rather than relief. I am glad that the Honourable the Prime Minister made the categorical statement, this morning, to clarify things and to state emphatically that the Government had no idea, not only that they had no idea, but that the Government was definite that there was not going to be any demonetisation of the 100 Rupee note, and that the Government had no intention of freezing any Bank deposits. These may appear to be small matters; but upon that statement probably will hang the well being of the entire financial structure of this country. We were playing with fire, Sir. On account of the various suggestions that were appearing in the newspapers from day to day, our people were becoming panicky, and were making runs upon the Banks to ask for hundred rupee notes to be exchanged into smaller denominations, and for withdrawing their deposits. It might easily have led to a terrible crisis. I am glad that statement has been made and I hope, Sir, that that danger is now averted.

Sir, a great many proposals have been made to deal with the problem of inflation and of high prices. We have had the memorandum of the industrialists; we have had the memorandum of the economists, both official and non-official. We have had the memorandum on behalf of labour and we have had so many other proposals. They are all proposals which have to be considered most carefully and then decisions arrived at. But, Sir, about all these different proposals, there seems to be no unanimous opinion either among the lay men or among the legislators or among the scholars, experts or financiers.

Sir, during the course of the debate in this House, we have listened to the view from some quarters that it was a grievous blunder on the part of the Government to have gone in for de-control in December last. The cry has been raised that we must now go back full gear to the old control days. I wish to submit, Sir, very respectfully that if by the panic of our present difficulties we are hastily led back into something which we gave up after mature consideration—I do not at all agree that it was done for any sentimental reasons,—something which was done after the most careful and mature consideration, if we go back into the same mirage, I am afraid, we will have sounded the death knell of all possibility of our improving the situation in this country. What did we do in the control days, Sir? No doubt, we covered 143 millions of our people. But what were we doing to these 143 millions of people?—giving them eight ounces or ten ounces of food grains. Will anybody in this House be able to say that for the average man eight or ten ounces can suffice? We are not in England; we are not in America; we are not in Australia where people have been well fed and have had good sustenance in the past with the result that they have some reserve strength in their body. Our people have been semi-starved. For them to have been asked to live on eight ounces or ten ounces a day was a terrible irony. The result was, Sir, that while rationing and control were there, every one of these men—and I ask the members of this House to put their hand on their heart and to say to themselves honestly as to how many of them and their families were able to manage with eight to ten ounces which were allowed—(An Honourable Member: "You are so precise".) Yes; I am so precise because I have talked to dozens

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of members here and elsewhere, I have talked to Government officials and heads of institutions and I know that it is physically impossible for anybody—I am not talking of individuals, I am not talking of one or two exceptions, I am talking of families,—impossible for the people anywhere to manage with that much of rationed food grains. What was the result, Sir? Everybody had to go out to buy in the black market. It may be very good for us to pose that we did not do that. When one saw his wife and children, his father and mother starving, he did not wait; he went and purchased the necessary foodgrains wherever he could find them. Therefore, by that control we were teaching one and all to be dishonest. We were compelling them by sheer force of circumstances to fall in the moral scale and to set up in this country a state of affairs of which every reasonable and sound-headed man should feel ashamed. (A voice: "Question".) It is all right for some of our friends here to say 'question' because possibly they did not feel that need. I know of cases, where, in various other ways, the necessary victuals and the necessary provisions could be obtained by some people or could be received for them. It is easy to sit here in these comfortable seats and question that statement. But, let us go to the people; let us go to the poor middle class man, let us go to the poor man in the street and find out whether he questions that statement or endorses it. It will be only then that the reality will be found. That was what control was doing.

If by this control we could bring about a healthy state of things I would surely have no objection; but what will happen? Today, prices, generally, are what they were in the black market before. Generally speaking, they are not higher. People can openly and honestly buy what they must and what they can. With control all this will disappear. We will be in control and we will give an opportunity to a large number of corrupt officials to practise further corruption and to create again a situation of which we shall all feel ashamed. And eventually, again, we shall have to go back upon it. Therefore even though the distress is great let us not be led back into that terrible state of affairs.

Sir, a number of other proposals have been made. All those proposals are of a highly important nature. But each one of them is intertwined with and dovetailed into something else; if we do one thing here it affects other things elsewhere. I therefore submit that all those suggestions are good and should be carefully considered. But, we should not grudge to the Government the necessary time required for considering them most carefully and thoroughly before coming to any conclusions. I do not think we can have any two opinions about many of the proposals which have been made. But let us not be in a hurry; let Government take ample time to consider them most carefully and then let them come to such conclusions in the long-range plans as they think necessary. Some persons have said that the problem is not very serious. I am amazed at that statement. If I had time I would have gone into it. I do not think the House will share that view. It was said that we should not be panicky. There is no question of panic about anything; there is no panic in the country; people are not in panic, they are in distress, they are in misery. There is a difference between the two things. There is no panic; but they are dying; they want some food, they want some clothing, they want some sustenance. It is not a matter of panic, it is a matter of mounting dissatisfaction, mute dissatisfaction which the people are today feeling and they are becoming desperate. Unless we do something for them quickly the situation may become really very bad. In such circumstances something must be done immediately. As I said the other day, we know that efforts are being made but we want results. Efforts will not satisfy the people, we want results.

we want something tangible to come about. Therefore while Government should take the necessary time to consider all the technical proposals which are before them—I shall not go into them. I suggest as an immediate measure that Government should do a few things which probably will ease the situation immediately.

What I suggest is—I am sorry the Transport Minister is not here—first of all the question of transport should be tackled. Today's passenger trains may be reduced further. Whatever may be done, transport should be provided for foodgrains and other necessities of life. The honourable Member from Bikaner said here the other day that there was any quantity of gram lying in Bikaner which was rotting. It is a scandalous state of affairs and something should be done about it.

Then there is another proposal which I wish to make for the consideration of the Government and that is that we should have subsidised sales at cheaper prices of certain necessary commodities of life at the ration and cheap grain shops which Government are running today. It is a very simple scheme which I suggest. I am not thinking of the long-range plans; I am thinking of something which will have an immediate effect and which will enable us to create an atmosphere in the country where even the long-range plans will become practicable.

Sir, cloth has already been controlled. I suggest that if we can arrange that at our own cheap grain and ration shops we should sell wheat at 4½ seers instead of about 3½ sheers for a rupee as it is now selling, if we can so arrange that potatoes should sell at 4 seers, sugar at 2 seers, ghee at 8 chataks for a rupee, eggs for one anna each and dry fodder (Bhoosa) for cattle at 30 seers and oilcakes at 15 seers, the expenditure would not be great. Some sceptics will scoff and say, how many people will you cover with that? I know that; but, I propose that alongside this, Government may issue an ordinance laying down that nobody in the country should sell any of these articles anywhere at a price higher than those fixed by Government. Again the question will be asked as to who will enforce it. I submit that the Ordinance should authorise every officer—civil, military and police—and all officers and members of local boards, heads of educational institutions, heads of cooperative societies, to take note of any delinquency and to record on the spot statements of the parties concerned and of two or three witnesses and to forward them to the district authorities, who should be authorised to take summary action and inflict deterrent punishments in these cases. A few such cases will ensure that even though there may be a few black sheep in the country, the vast majority of the people will respect the provisions of that ordinance; and in the result while we ourselves will be selling grain at a cheaper rate at only a few shops, it will have a salutary effect, all over the country. If wheat can be made cheaper, if ghee can be made cheaper, if potatoes can be made cheaper, if cloth can be made cheaper, all other foodgrains, all other vegetables, all other articles, will fall down in the price scale. It will achieve a wonderful result over the entire field of prices in the country in all directions with only a comparatively small expenditure and effort, we will have achieved stupendous country wide results all along the line. I have not been able to obtain the figures of the cost of this scheme but I understand that it will be well within a crore of rupees per month if we restrict it to these few items. What is that? If we can do this for six months we will have changed the entire atmosphere in the country.

Sir, the other suggestion I have to make is that rents and revenue may be realised in kind and that zamindars should be asked to sell their rental grain

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collections, at the prices fixed, to the Government. If we did that even as a temporary measure, then at the end of the season we will have sufficient grain stocks in our hands to sell at these shops and the entire atmosphere in the country will be affected by it. I have not the time here to go into the details of these proposals; but I hope Government will be good enough to consider them seriously as practical, feasible and immediate steps to be taken; not as something which will entirely meet the requirements of the situation, not as a long-term plan, but as something which, without any practical difficulty, can be done tomorrow while the other proposals are being carefully considered and final decisions taken.

Sir, I have done. A friend here said that the people in the villages who are 50 per cent. and more are happy. I do not know what to say to that. I do not agree with him. Whatever it be, no one can deny that the average urban population,—the middle class men—with their feet inextricably entangled in the rock of fixed income are being drowned in the sea of these high prices. The level has well nigh reached their nose. If Government will not take immediate action, the people may be drowned in that sea. I hope they will rise to the occasion; I am confident they will take in due course such steps as may be needed to bring about an improvement in the entire situation in the country. We will need a calm and peaceful atmosphere so as to enable the government to decide upon such long-term decisions and plans as may be suitable to extricate the country from the terrible mess in which it is today. But to bring about that atmosphere, to ease immediately the present situation, I hope Government will adopt without delay the proposals I have made.

Sir, in view of what the Prime Minister was pleased to say this morning, and what the Honourable the Food Minister has said, and of the general belief on the part of the members of this House that the Government will be doing everything possible to meet the situation, I have no desire to press this resolution to a vote. The Government themselves have expressed their anxiety in the matter and have assured us that they are considering it and that the necessary steps will be taken without delay. Under these circumstances, Sir, I will with your permission, seek the leave of the House to withdraw my Resolution.

Mr. Deputy Speaker: Has the honourable member leave of the House to withdraw?

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

RESERVE BANK (TRANSFER TO PUBLIC OWNERSHIP) BILL

Mr. Deputy Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Prof. K. T. Shah (Bihar: General): Sir, I move:

"That in part (b) of sub-clause (1) of clause 3 of the Bill, for the word 'eighteen', the word 'fourteen' be substituted."

Shall I move the second one also in my name?

Mr. Deputy Speaker: Yes. Both relate to the same matter.

Prof. K. T. Shah: Sir, I move:—

"That in part (b) of sub-clause (1) of clause 3 of the Bill, the words 'and ten annas', be omitted."

You will bear witness that I have scrupulously followed the advice of the Speaker in not inflicting myself upon the House too frequently, and trying the patience of honourable members. Though I did not speak on the general discussion on this Bill, here is an important part of a provision to which I cannot but take exception, and hence the amendments which stand in my name.

The Bill has been mentioned as being preliminary to the nationalization—or as I prefer to call it, socialization—of the Imperial Bank of India. I go a step further and say that I for one regard it as preliminary to the socialization of the entire banking system of this country, because I hold the view that all social services and public utilities must belong to the community as a whole and must be operated on behalf of the community by the State. In this view of the matter, there are many provisions of this Act which would require very radical alteration, and I trust in good time they would be forthcoming. I have therefore not put forward any other amendments to other parts of the Bill as I believe that co-ordinated and integrated amendments in a wholesome Bill would be much more appropriate than any *ad hoc* suggestion which, at this time on this Bill might be put forward. The Finance Minister has rightly pointed out that this Bill is confined strictly to the nationalization or socialization of the share capital of the proprietors of the Reserve Bank, and as such all other suggestions might be deemed a little out of place. I could claim with perhaps not the same emphasis as the Honourable Minister claimed yesterday to belong to that little fellowship of people who, from the very beginning, have desired that this institution should be from the start a socialised public service concern which ought not to be handed over to private proprietors of any description. I welcome, however the measure on the principle of better late than never, and now that it is at last being proposed to be socialised, I am very glad indeed that the opportunity has fallen to one of the sponsors of the idea from the very commencement of any formal scheme for instituting a Central Bank of this kind.

The provision to which I have offered an amendment relates to the reduction of the price proposed to be paid for taking over the shares from the private shareholders and making the entire capital belong to the State. This is an institution which has been made by, and whose whole prestige, profit and authority are the creation of, the special Act and the policy followed thereon, by which the entire monetary system so to say of the country and Government banking have been placed in the charge of that institution.

A provision was made in the original Act whereby the institution could not under the ordinary company law be taken into liquidation. If however a situation arose where it became necessary to take this institution into liquidation, it could be done under the provisions of that section only by order of the Government and in such a manner as Government may direct. Liquidation of a going concern ordinarily takes place, as I understand the term, only when the institution is in loss or threatened with it. For the life of me I cannot understand how such an institution, armed with the powers and given the privileges that it has been given, could possibly make any loss, unless its directors or conductors were crooks. For my part, of course, I find it very difficult to see the difference between capitalists and crooks. I suffer from weak eyes. Therefore it may be that what I am not able to see others may be able to see. I venture to say, however, that even the celebrated trio of Sherlock Holmes, Mr. Lecoq and Ellery Queen each aided by a 1000 h.p. microscope would not be able to deduct the difference between capitalists and crooks. It may be that there are differences, and as such it is a possible contingency that an institution like this might have been brought under loss. But as I said before, even then the Act provides that the liquidation of this institution cannot be done except by order of Government and then in such a

[Prof. K. T. Shah]

manner as Government may direct. Now this is of course not liquidation. Even I can understand that difference. But it is a contingency which I submit has been contemplated when the initial measure was passed, even by those who preferred to make it a private proprietors' institution and not a public corporation of the type that some of us had hoped it would be. The provision of the second sub-section of section 2 to which I have already made reference, lays it down that in the event of any such liquidation or change-over taking place, the proprietors would be given a certain compensation for their holding provided that the share of the Government in the total capital and reserve assets would be three-fourths and that of the shareholders one-fourth—and provided further that in no case should the compensation offered to the proprietor shall be more than 1 per cent for every year that the institution has been in existence. The institution, I believe, came into existence in 1934 and from that date till now there are 14 years, unless my mathematics is wrong. 14 years at one per cent without recurring compound interest would be Rs. 14 and not Rs. 18/10 as is proposed in this measure in clause 3. Even at Rs. 14 we would be giving something like a bonus of 70 lakhs to the shareholders for doing what? They have done nothing, in my opinion, to earn this bonus or surplus or special gratuity or perquisite to which they can lay claim under this Bill. The shareholder of a joint stock company and particularly of a corporation like this is, in my opinion, the worst type of parasite going and unless you propose to accept them as the inheritors of the managing agency system in firms who enjoy an unearned income as well as an undeserved reputation, the shareholders I submit have done nothing whatsoever to deserve this special bonus, this additional gratification, this extra compensation, which is provided for in this Bill.

Somebody says that they have invested their money. Had our counsel been followed they would not have had to invest this money. In fact the public need not provide any capital because the credit of the whole community is behind the back of this institution. That you have initially been given an advantage of being called upon to invest your money is made an argument that you must be specially compensated. In an ordinary bank, if a banker receives deposits for a fixed period, does he at the end of the period, after having paid regularly the interest, pay any special compensation in the event of the depositor withdrawing his money on maturity. Even so why should the Reserve Bank, like any private Bank, pay to its depositor any special compensation in the event of the depositor withdrawing his deposit on its maturity, especially at no time has a default been made by the bank in the payment of interest. This money that the shareholder claims to have invested is only a sort of deposit. He knew perfectly well that there was no danger whatsoever of his money ever being lost, because the country, the community and the Government were behind it and as such there was not an iota of danger of the money being lost in any eventuality whatsoever. The argument therefore that he has invested or parted with his instrument of earning his livelihood is in my opinion utterly out of place and irrelevant and those who urge it only exhibit their own selfishness in making such a preposterous suggestion as that.

Another consideration put forward is that the then Finance Minister in answer to a question on the subject declared that the compensation would be paid at the rate of the average during a period of 12 months beginning with March and ending with February of the following year. As I view the matter it was an *obiter dictum* of the Finance Minister. As I conceive it, it was a casual answer to a casual question which again I submit, in all humility, is not necessarily a formal declaration of policy and the incurring of an obligation which all of us are obliged to discharge. I regard it as an *ex-parte* declaration which of course should be taken for what it is worth. But even granting for

the sake of argument that the Finance Minister spoke on behalf of Government, as he probably did and that he was making a declaration of policy on behalf of the Government, in that case too I do not see why the Reserve Bank Act itself should be infringed upon and a higher rate be paid as compensation than is provided for under the original Act. That is the bone of contention that I want to present to the House.

The average is a very fallacious term. In my opinion it was a direct invitation to the speculative element in the market to put up the price and in fact the price went up to 158, if I am not wrong. For reasons outside the control of the speculator, for reasons for which people like me are blamed, who are talking about socialisation in season and out of season, it is possible that they lost confidence, the price fell, the average came down lower than the average. Even so, even that average was I believe lower than as it has been worked out by the department. The shareholders themselves have claimed as much as 137. I am amazed at their moderation. Why did they not claim much more? They could have argued that this Rs. 100 in 1933, when the price of money in terms of commodity was much higher than five or six times, was today worth much more and they would be entitled to something like six times the capital invested. I am amazed that they have been so moderate as to claim from this Government only 137 or 138 as against 118 that Government seem to have compromised on. For my part I neither accept their claim nor the proposal that Government have put forward. In fact I would say that there is no case whatsoever for offering any compensation on the institution being taken over. This institution has earned all the profits, it has built up its reserve, it has earned surplus assets, not because the shareholders or for the matter of that even the Directors have done anything to deserve it, not because of any special effort or enterprise shown by them, but simply and only because Government have made over to them the paper money of this country to be issued and maintained. It was simply because, they have been acting as the Government banker, it is because they are a banker's bank on account of which other scheduled banks are obliged to keep their balances with them of considerable amount free of interest, it is because of that that they have made the profits that they have and as I said earlier none but fools could have failed to make profits in an institution like that. There is no special credit, there is no special claim in honour, in ethics for this demand of anything more than Rs. 100 which they are alleged to have invested and anything more payable to them would in my opinion be a needless waste of people's money on this occasion. At the rate of Rs. 18-10 you are giving away 93 lakhs odd free and gratis for doing nothing, for having been just the proprietors, for having been just registered shareholders, for just worshipping the golden calf that they have been worshipping. I further point out that not only have they no claim to anything more than Rs. 100, they ought in fact to have been made to contribute something to the country for not having done what they should have done in the interest of this country, specially at a time in the past when the emergency occurred and they merely acted as a tool and henchman of a foreign government. Between 1933 and 1939 hundreds of crores worth of gold went out of this country and the Reserve Bank did not do anything to stop that drain or even to make a protest against a policy which denuded this country of the little substantial wealth that was left in this country, in order to bolster up the sterling, which was the only reason why the drain of gold between 1933 and 1939 was allowed from this country. What have the shareholders of the Reserve Bank done to justify or authorise this special gratification? It only amounts to saying this "Do the utmost harm to the country; strike it as hard as you can; but simply because you happen to be capitalists we shall try to please, placate and propitiate you." I say this is a desire which is implacable and inexorable; they are people whom you can never satisfy; you can never

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propitiate them. The more you offer the more they will ask; the more you give in the more they will demand. Therefore, if you ever want to call a halt, if you ever want to say that there is a limit—please remember that there is a limit to our patience, to our capacity to bear the burdens—if ever you want to do so, you should lay down some limit beyond which they shall not try your patience.

On a previous occasion when the Industrial Finance Corporation Bill was before this House I had the honour to point out that Government were deliberately ruining their own credit and standing and needlessly encouraging the capitalist world to demand more and more, for them to hold them up like highway-men on the public road, by offering an absolute guarantee of 2½ per cent. on the principle as well as the interest, and even on their bonds. I am sorry to say the House was not in a mood to accept my suggestion on that occasion. I hope that I would prove a false prophet and that it will not come true when you had eventually taken over that institution and are required to work out twice or thrice after giving them guarantee over and above what they have got so far. In this institution you should realize that for 14 years you have been paying them 4 per cent interest whereas the market rate and the bank's own rate was somewhere near 3 per cent. That is to say they were paying something more to the shareholders than the shareholders could have got if they had invested in equally strong securities outside the bank. In that way Rs. 66 they have already got in 14 years. Over and above that you are now proposing to give Rs. 18-10 which will work out to a return of 3½ per cent or a bit lower—my working out suggests 3:57 per cent, but perhaps I am wrong. The average money market rate is about 3 per cent. Why should this extra money be paid—why should this extra valuable security be made over to the proprietors, to the shareholders of the Reserve Bank, I fail to see.

At this point I come to a seeming inconsistency in my own proposal. I also offer or suggest that they should be given at the rate of Rs. 14 over the Rs. 100 they have invested for every share. As I have said before, for my part I would not certainly offer them a pie more than is strictly the investment they have made. But few recognize the essential moderateness and the reasonableness of my proposal. You do not realize that I have not proposed giving them no compensation. I will therefore get enough credit for having been eminently reasonable in my proposal—because that is behind the scenes as the stage managers say. Here I come forward with a proposal for Rs. 114 because unfortunately the original authors of the Act have tied down our hands, and ours is a successor government, peacefully acquiring power by voluntary transfer and as such morally bound to honour the obligations they have incurred. Whatever my reasons may be for questioning these obligations—the ethical justice of it, the economic value of it—I feel that in sheer justice to this House, in respect to the honour of our government, I should not depart from the pledges made by a predecessor government, though not with our consent or on our behalf. It is because of that that I have come forward with a proposal to offer a compensation of Rs. 14 over and above Rs. 100 which they had invested—and that too will yield them something like 3:4 per cent, as against the 3 per cent. that I have been telling you is the ruling rate in the market. Because I honour the obligation incurred under this Act it does not follow that I accept the ethical or economic validity of the suggestion: I accept it because there is on the other hand the only alternative of having broken, so to say, the moral pledges of the government—and I am at this stage not inclined to break those pledges. But again I repeat to you, Sir, that this is a kind of moderation, sweet reasonableness on my part, that goes utterly unrecognized in this House or by the majority party. And that is because they will not read the writing on the wall. The

writing is grim and glaring. As it was said in the Gita itself by no less a person than Lord Krishna—

कालोऽस्मि लोकक्षयं कुतः प्रवृत्तौ

Remember that revolution is only a normal form of evolution in social matters. And by doing things like this you are inviting revolution to march grimly and foist itself on your cherished institution. Remember that east of us, in China, in Japan, in Malaya, in Burma, in Ceylon the forces of revolution are gathering. In your country too these forces are growing strong. They will not listen to moderate counsel; they will not listen to wise suggestions and reasonable arguments of those who are made blind by greed—insatiate greed—and by their egoism. There is a Latin proverb "Those whom the gods wish to destroy they first make them blind". I suggest that those who represent the capitalist classes, those who demand their dues in season and out of season, are forgetting the lessons of history in France in 1793 or in Russia in 1917. The representatives of monarchy will fare no better in this country if they forget the dues of the people of this country and claim their pound of flesh in season and out of season. And this is not even a pound of flesh. This is something more. It is shedding in addition to the pound of flesh, the people's blood. If you sanction Rs. 118 as against the proposal that I have made you will be co-sharers in the guilt of shedding the blood of the unvoiced, unvoiced people of this country. I trust that this sweet reasonableness of mine will commend itself to the House and that the forces of greed will not blind them—because I trust this nation has a long life before it—and that no section of it will be destroyed by its own tribe, by its own ignorance, greed or blindness. Sir, I commend this motion of mine to the House.

Mr. Deputy Speaker: Amendments moved:

(i) "That in part (b) of sub-clause (1) of clause 3 of the Bill, for the word 'eighteen', the word 'fourteen' be substituted."

(ii) "That in part (b) of sub-clause (1) of clause 3 of the Bill, the words 'and ten annas' be omitted."

Shri B. Das (Orissa: General): Sir, I stand here to plead for the shareholders of the Reserve Bank. When I listened to my esteemed friend Prof. Shah—I always regard him as one of the greatest economists that India has produced—I began to shudder in the place I was sitting when he hurled down those blood cuddling epithets that we are forgetting the lessons of French history where the people hurled down Louis XIV.

Sir, as far as I can recollect the scheme of shareholders, to save the Reserve Bank from the capitalists, we provided that every shareholder can only have five shares. Although we knew the Bombay and Calcutta capitalists tried to corner some of the shares in their dependents' names, still many villagers like me hold only five shares. We also took care to see that one of the members of the then Assembly was associated with the allocation of those shares so that the capitalists did not capture all. If the capitalists of Bombay managed to take away a lakh or two of shares from the Calcutta side and from the countryside of C.P., Orissa and other places, it is the propensity, the evil propensity, of the Bombay capitalists that is responsible for that, and not the shareholders.

But, Sir, it is not the matter of Rs. 20 that I shall lose in my five shares that I stand to plead here. I did not like that my esteemed friend Prof. K. T. Shah should have referred to the five lakhs of shareholders as capitalist shareholders of the Reserve Bank. Of the five lakh shareholders the capitalists may be a small moiety, I think about 25,000. The rest do not pay any income-tax. Does my friend Prof. Shah know that out of the 3½ per cent Dividend that the Reserve Bank used to pay us, income-tax is deducted to the extent of something like Rs. 3-14 in Rs. 15? So, how is it that the nation had been mulcted

[Shri B. Das]

by the shareholders? We were not allowed to have a State Bank and therefore those of us who assisted in framing the Reserve Bank Act insisted that the shares should be distributed throughout the nation so that when the right time will come every shareholder will contribute to the nation his share certificates. Today if the Government asks us to hand over the share certificates, we will hand them over—we do not want the money. But that condition of things has not yet come. Professor Shah wishes the shareholders to be deprived of the premium money—something like Rs. 20—the money side matters little. But that day will come according to the greatest authority in economics, though I do concede my friend is now more leaning towards Russian economics than Indian economics. Of course, he has always held advanced views but today I find he is advocating such views that perhaps in India we are not find to understand him unless he will make us understand it by the blood bath of those whom he calls the capitalist classes.

My only excuse in rising to speak is that I and others who have subscribed to the Reserve Bank, all subscribed as patriots and never thought that thirteen years later somebody will dub us as "capitalists and exploiters." On the merit of the issue, the twenty rupees is a very small thing, it does not interest any of the shareholders. But my friend Prof. Shah forgot one thing, that the Government of India, whoever controlled it, the former Government or this Government, are very much benefited by the shareholders' five crores of rupees. Any excess profits have gone to the Government of India. That means it has returned to the tax-payer, by which I mean both Prof. Shah and myself are benefited; although in the past the benefit was going to the foreign Government now it is going to our Government. Therefore, Sir, I oppose the amendment.

Shri Prabhudayal Himatsingka (West Bengal: General): Mr. Deputy Speaker, Sir, I have heard very carefully the 'sweet reasonableness' of Prof. K. T. Shah. He has bemoaned the fact that his advice was not followed when the Finance Corporation was formed nor was it followed as regards the price to be paid. No wonder that with the line of argument advanced by my Honourable friend Prof. Shah, his advice could not have been followed.

Sir, he has accused the shareholders as not having done anything and at the same time having got the profit year after year. He has also blamed the shareholders for not having been able to stop the drain of gold from India that was made through the Reserve Bank of India. I found that he was all along contradictory. Sometimes he feels that whatever good has been done was done because the Bank was in the charge of the Government, and whatever there was bad was due to the Reserve Bank shareholders not having interfered. As everybody knows, the policy of the Reserve Bank was in the hands of the Government of India and the Government had the final say in the matter. All profits that had been made so far have gone to the general revenues of the Government, and I think a sum to the extent of about Rs. 80 crores has been paid by the Reserve Bank of India to the coffers of the State.

Sir, my friend says that the Government's word of honour must be respected. In March 1947, when the declaration was made in this House as to the intention of the Government to nationalise the Reserve Bank, a statement was made on behalf of Government as a declared policy, on the basis of a Short Notice Question which was arranged to be put to Government. In answer to that Question, the Government of India through the Finance Minister made a statement that a certain average price that would be found to be ruling between March 1947 and February 1948 will be taken and the average price will be paid. This Rs. 118-10 has been worked out on that average basis. If the shareholders had any say so far as the fixation of the price is concerned

then the shareholders' voice had not been taken. But they had no say in the matter and if their voice had been taken at all, they would certainly have asked for more. The price after the declaration has gone down and the speculators also had no power to influence the price. If the average price had been given that was ruling before the declaration was made, the Government would have had to pay much more because the price in 1946-47 was round about Rs. 156 per share. The price went down after the Liaquat Ali Khan Budget and the disturbances that started in the country. So, the shareholders have no say in the matter and my friend Prof. Shah went out of his way to accuse as if all of them are 'capitalists.'

Sir, my honourable friend forgets that on the 30th June 1948 there are so many as 44,400 shareholders of the Reserve Bank and the average therefore comes to ten shares per holder, that is they are holders of Rs. 1,000 worth of shares. As you know, when this Bank was floated the limit was put that no one will be allotted more than five shares unless the applications for five shares were exhausted. On that basis, on the 1st of April 1935, we had 92,407 shareholders of five shares. But if all these 44,400 shareholders are all capitalists, then this country would have been rolling in wealth. But most of the people as you know hold only five shares. They have stuck to them and at least more than 40,000 of the shareholders are perhaps the original shareholders of five shares.

Therefore, my friend has tried to bring in factors which do not come into play at all. As the honour of the Government is involved and as it has a very great repercussion on the financial stability of the country, we must be careful to see that the Government's word of honour, or any statement made on behalf of the Government is not lightly treated and the Government does not go back upon what they say or what is said on their behalf in the House. There is no reason why there should be any going back on the statement made. Moreover, if the Bank had gone into liquidation and if there was no limitation or instruction regarding the distribution of profits in the Act, the shareholders would have got a much larger sum and they would have got the money in cash. What the Government propose to do is to give them bonds. Therefore, they are going to surrender their shares and will get bonds which will give them 3 per cent. and the fixation of price is an eminently a reasonable proposition.

The Assembly then adjourned till Half Past Five in the Afternoon.

The Assembly re-assembled at Half Past Five of the Clock, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Mr. Deputy Speaker, Sir, it would not have required any speech in the House to vote against the amendment, but in moving the amendment, certain broad statements have been made, certain hints have been given about questions of great importance and it is for this reason that I think a reply is called for. The honourable member Prof. K. T. Shah, is an economist, but with all his learning, it seems to me that he has mixed up two independent questions, namely, nationalization and expropriation. He thinks that nationalization means expropriation. While he wants to nationalise, he wants to take away by paying less. I think the tone sounds somewhat Russian. The proposal of the Government is that every shareholder should get a non-terminable loan bond for Rs. 118-10-0. The learned Professor by his calculation thinks that only Rs. 114 should be given. The quarrel is one of Rs. 4-10-0, but the principle involved is of first importance. The House will be pleased to remember that when the talk of nationalization of this Bank began during the time of Mr. Liaquat Ali Khan's Budget, the shares stood at the time at something like Rs. 139. On account of the talk of

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nationalization the shares went down further and now the average works at Rs. 118-10-0. The learned professor would deny the shareholder this depreciated average which is now proposed to be given by the Government. But may I ask the honourable member one question? Supposing the shares went down, would the honourable member be prepared to pay in full? Suppose the shares stood at an average market price of Rs. 90 and supposing there were no guarantees in the Act, would the honourable member be prepared to pay more than Rs. 90 or pay in full when the capital appreciated and the shares went up to a maximum price of Rs. 178 in 1946? Now what we are paying is a depreciated price and not a proper or an average price. Then the most important thing is that the honourable member would like to punish some capitalists by this amendment. I beg to submit, Sir, a large number of middle-classes are share-holders. While some capitalists own more than 5 shares and that was at a appreciated price, say at Rs. 120, Rs. 130 or Rs. 140, those capitalists will certainly be punished and I have nothing to quarrel with that but in trying to punish some capitalists, we are going to punish some persons belonging to the poor middle-classes whose share represent their savings. I think that would be extremely unfair to the middle classes. I submit, Sir, that if we refused to pay Rs. 118-10-0 and we merely paid Rs. 114 the very difficult situation which has grown will be accentuated. The upheavals in the money market are due to constant threats to the so called capitalists. There is always a threat that the capitalists must be expropriated without realizing the fact that the expropriation of the capitalists means the expropriation of a large number of shareholders. Big concerns are known as capitalist concerns, and it is perhaps known but not quite realized that millions of shareholders belong to the middle-classes in those concerns. While you try to expropriate the capitalists, you kill a large number of middle-class investors and deprive them of their lives' earnings and savings. In these circumstances, these constant threats serve to produce nervousness amongst the investing public which largely consists of middle-classes. It is absolutely wrong to say that a few capitalists have entered into a conspiracy and are controlling the market. Those who have studied market tendencies know that it can be done only for a few days, but then economic factors, the factors of supply and demand and the intrinsic worth of shares and stocks really have play and they ultimately decide the market rates.

I submit that the lower prices which are now prevailing in the markets and the disinclination on the part of the investors to come forward to finance big undertakings and subscribe for Government loans is due to this nervousness, distrust on the Government policy. This constant talk of punishing the capitalist class is the cause of the present situation and it has also accentuated the situation. The House will be pleased to consider one more point. Professor Shah was one of the Economic Advisers of the Government whose advice has been consolidated and supplied to us yesterday. He was one of the Economists who advised that the Government should raise the interest rate on their loans. The present rate of interest is three per cent on the bonds which are going to be given to the shareholders. Let us suppose that Professor Shah would advocate a policy of the Government taking loans at four per cent. The effect of that would be an immediate depreciation of the bonds which are going to be given to the shareholders to the extent of 25 per cent. You pay them on an average of depreciated price, which depreciation was due to the threat of nationalisation. The Government is coming into the loan market at a higher rate, that is, four per cent. That would further depreciate these bonds. The bearer of these bonds will have to sell them at lower prices in the market. You cannot control this downward tendency. This tendency will have the certain effect of lowering the market prices. In these circumstances, I beg to submit that we should not lightheartedly talk about nationalisation, which has these disastrous

consequences. Nationalisation is a good principle. But it has got to be applied by the Government with caution and with some ideas of priority and with the sole purpose of making the management cheap, efficient and productive. These are principles which should be kept in the forefront before the nationalisation programme can be taken up. But, loose talk inside the House and outside the House has created a very awkward situation. Even now, what is the position of the Government? The Government cannot go into the market for a loan; I do not think that at the existing rates any loan would be subscribed to the extent that the Government needs. We want money for large undertakings and must go to the market. We have created a situation that the market is shy, where money could not be easily obtained. I submit that this proposition should be rejected with this understanding that we do not support these sentiments behind the amendment. We do not want to expropriate and do away with those very classes upon whose savings the whole Government and the industrial policy of Government will depend.

With these few words, I oppose the amendment.

Dr. B. Pattabhi Sitaramayya (Madras: General): Sir, I am sorry I was not here at 4-30 when my honourable friend Professor Shah explained the basis of his figures; but I have tried to acquaint myself of the course the discussion has taken and we are thankful to Professor Shah for having given this House an opportunity of explaining the rationale of fixing the price of each share at Rs. 118-6-0. It is obviously inconsistent with the requirement of section 57 of the Reserve Bank Act which lays down that the price when the Bank is liquidated should be fixed at one per cent. per annum more than the original amount, to the extent of the number of years that have passed since the inception of this Bank: fourteen years have passed and therefore Rs. 14/- have to be added to the value of each share.

Strictly speaking, in law, it is a point of doubt whether the conversion of the Bank from a private Bank or a quasi public bank into a National Bank by the process of nationalisation involves and is based upon liquidation or not. Is it a case of liquidation in which case alone this requirement of one per cent. per annum applies? In the first place, we hold it is not liquidation. In one sense, it is passing from one kind of management to another kind of management by agreement. In the Insurance world, we are accustomed to the idea of amalgamation of Insurance companies which is regulated by a particular set of laws, which does not involve the liquidation of either company, though, strictly speaking, perhaps in the eye of law, it may be considered by some stretch of imagination as liquidation. Any way, this is not a case of liquidation, but nationalisation. Nationalisation is not penalisation. We are going to nationalise many institutions hereafter. We should not create a panic or alarm that every time an institution is nationalised, whether it be an industrial concern, or a banking concern or an insurance company, the shareholders stand to lose much of what they are likely to gain by selling their shares in the open market. It is our duty to offer that confidence to the people in this country. At the present moment, we are labouring under a kind of, I shall not say want of confidence, but a certain doubt in regard to the confidence to be placed in the spoken word of the Government. The spoken word of the Government, or for that matter, of any man in this country had lost its value under the British Government. The moment courts of law came into existence in this country, working according to the English law of evidence, according to the English law of Contracts, of Mortgages or Transfer of Property, the spoken word has ceased to have its value and everything has got to be committed to writing. The written word has two meanings according to the parties that take the paper to the lawyer they seek the help of. If we want to restore the character of this country, if we want to restore the reputation and integrity of the spoken word in this country, we have to respect the integrity of the spoken word whether it is committed to

[Dr. B. Pattabhi Sitaramayya]
writing or not. What is the spoken word? In this House, in relation to the valuation of these shares, the Honourable the Finance Minister at the time, spoke publicly on the floor of this House that it was the policy of the Government to give a certain average calculated upon the market rates of the previous twelve months. Right or wrong, good or bad, the Finance Minister has made this statement and he has committed himself to the statement as emanating from his Government. We must naturally take it that his Government is responsible for that Statement. We have therefore to respect this offer as the sacred word of the Finance Minister backed by his Government. That is the long and short of the whole story so far as I can judge. This matter has been given anxious thought by the people who are concerned with it outside the premises of this legislature and after going into the matter thoroughly, it has been agreed that the spoken word of the ex-Finance Minister must be respected. We do not lose anything except twenty five lakhs of Rupees. (An Honourable Member: 'Eighteen lakhs'). I stand corrected. That is the difference between the valuation on the two bases. That amount is nothing if thereby we can restore the confidence in the public mind regarding the veracity of the offers and promises and statements of Honourable Ministers on the floor of this House. This is at the back of the arrangement and I wanted merely to mention this fact, so that you may accept the recommendation of the Government. But for Professor Shah's amendment, it would not have been possible to explain the genesis of this arrangement and therefore I say we are very much obliged to Professor Shah. Perhaps he has got an inkling into the rationale of this higher figure, but nevertheless he has done a public duty perhaps to give us an opportunity of explaining the things clearly to this House.

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I am grateful to my honourable friends who have supported the Government proposal in this matter and have therefore very much lightened my own task. I am particularly grateful to my honourable friend Dr. Pattabhi Sitaramayya for having put the issues so very clearly before the House. I should like first of all to tell the House that this is not a question of liquidation and that it is no use referring to the provisions of the Act relating to liquidation. It is a case of compulsory acquisition by Government of a 'shareholders' institution, and the shareholders in this instance have absolutely no voice in the matter of determining the price. In fact I am not aware of any negotiation even having taken place between Government and the shareholders; as a matter of fact when it is a question of nationalisation perhaps that formality is expected to be done away with. But the fact remains that the price that has been fixed rests upon the average prices fetched by the shares of the Bank during the period when the value of the shares was depressed as a result of the announcement by Government of its decision to nationalise the Reserve Bank. From this point of view it is open to any one to argue that Government are taking advantage of their own action, in calculating the amount of compensation on the basis of prices which have been depressed as a result of the announcement of Government policy in the matter.

Now, Sir, I have got the figures before me month by month for the last few years of the share value of the Reserve Bank. The average price stood at Rs. 135 and odd annas in 1944; it was Rs. 139 and odd annas in 1945; in 1946 it went up to 162; in the month of January of 1947 the price was quoted at 150, in February it was quoted at 138/8/-, and it was in February that the announcement was made that Government had decided to nationalise the Reserve Bank. Then followed a regular depression in the market; the price went down immediately next month to 128 and so on. In 1948 the price in January was 119, in February 114/8/-; I understand it has gone down further. I therefore think we should not be too critical of the value as fixed by Government, and stated

by my predecessor in office, when he made it definitely clear as to what the Government's intention was in this matter. There is a good deal of discontent not merely among the shareholders at the fixation of the price at the present figure. The Central Board of the Reserve Bank passed a Resolution.....

Shri Ramnath Goenka (Madras: General): Interested party.

The Honourable Shri K. C. Neogy: In what sense are they interested? You know very well that the number of shares to be held by individuals is strictly limited.

Shri Ramnath Goenka: You know how they are held.

The Honourable Shri K. C. Neogy: I know it; I personally hold a few.

This is what they state:

"They hold strongly that as this is the first case of nationalisation Government should interpret generously the undertaking explicit in their declaration of economic policy that compensation paid to shareholders on the nationalisation of a concern would be on a fair and equitable basis."

Then they go on to point out the various factors that should be taken into account in fixing the compensation, and incidentally they refer to the fact that for the last five years Government had reduced the rate of interest payable to the Reserve Bank shareholders. Under the Act 5 per cent. is the maximum payable and that would easily have been paid to the shareholders but for a restriction put upon the authority of the Bank in the matter of the amount of dividend which was not to be more than 4 per cent. For these five years the shareholders suffered from this disability, and I take it the House would not be prepared to subject them to a further disability by cutting down further the compensation which is proposed in this Bill. Sir, I oppose the amendment.

Mr. Deputy Speaker: The question is:

"That in part (b) of sub-clause (1) of clause 3 of the Bill,—

(i) for the word 'eighteen', the word 'fourteen' be substituted; and

(ii) the words 'and ten annas' be omitted."

The motion was negatived.

Mr. Deputy Speaker: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 to 7 were added to the Bill.

Shri T. A. Ramalingam Chettiar (Madras: General): Sir, I beg to move:

"That in the Schedule to the Bill, in part (c) of the proposed sub-section (1) of section 8 of the Reserve Bank of India Act, 1934, after the words 'Central Government', the following be inserted:

"to represent as far as possible territorial and economic interests and the interests of co-operative and indigenous banks."

The Reserve Bank is the financial apex bank for the whole of India which serves several purposes. It is the adviser of Government; it is a bank which has got under the new Banking Bill several powers with reference to the Scheduled and other banks. What has been happening is this. It has got a Board of Directors in which the directors do not know the working of cooperative and other Societies. The directors are generally people who are taken from the Scheduled banks and from business elsewhere. I explained only yesterday that with reference to the cooperative societies the advice given to the Provincial

[Shri T. A. Ramalingam Chettiar]

Governments has been such that we had to fight against it and get it reserved. With reference to the cooperative societies advising the Reserve Bank issued a bulletin advising re-organisation of the movement we had to fight for a pretty long while, for something like 5 or 6 years, to have every proposal of the Reserve Bank reversed. The Banks have now gone back on every one of the proposals that were formulated in their bulletin. I also referred to the help given to the cooperative Societies and the way in which it was hedged round with conditions which were impossible of fulfilment. I will only mention one case in the district of Masulipatam to which both our honourable friends Dr. Sitaramayya and Prof. Ranga belong. The Central Bank lends something like 40 to 50 lakhs of rupees for the marketing of agricultural produce. The Reserve Bank came forward to help that bank. The Central Bank is getting money from the Provincial Bank at the rate of 3 per cent and lending to the loans societies which are undertaking to market all agricultural produce. The Reserve Bank made the proposal that they will lend money for the marketing of this produce at $1\frac{1}{2}$ per cent and they imposed the condition that the benefit of this concession should go to the actual borrower at the other end. Well, it is impossible to work on that condition for the reason that the Reserve Bank fixed the maximum limit of credit for this particular bank at Rs. 5 lakhs. So what it means is this. They will lend money through the bank at $1\frac{1}{2}$ per cent to the extent of Rs. 5 lakhs, whereas the actual transaction of the bank amounted to Rs. 40/50 lakhs. How can a poor bank find accommodation or facilities for the purpose of passing this difference between 3 per cent and $1\frac{1}{2}$ per cent to the actual borrower if it has to borrow Rs. 35 lakhs from the Provincial Bank at 3 per cent. It is an impossible condition on the very face of it. So it is in that way that the Reserve Bank proposed to help co-operative societies. It is for that reason that I propose that this Board which they are constituting for the management of the Reserve Bank should consist of representatives of banks and co-operative societies and also indigenous bankers. The wording I have taken from the Government's own formula for the local bank. So far as the formula is concerned, it does not differ. I want the same formula to be adopted for the Central Board also. I hope the member in charge will accept the amendment.

Mr. Deputy Speaker: Amendment moved:

"That in the Schedule to the Bill, in part (c) of the proposed sub-section (1) of section 8 of the Reserve Bank of India Act, 1934, after the words 'Central Government', the following be inserted:

"to represent as far as possible territorial and economic interests and the interests of co-operative and indigenous banks'."

The Honourable Shri K. C. Neogy: I am very sorry that I am not in a position to accept this amendment. As I stated in my opening observations yesterday, we have incorporated in this Bill the minimum number of amendments that are required to transfer the ownership of the bank from shareholders to the State. Now so far as the Central Board is concerned, no principle of the kind enunciated by my honourable friend has been accepted, so far. The only difference that will arise in future would be that in place of a board composed partly of nominated and partly of elected members we will have only a nominated board. That does not justify my fundamental departure of the kind suggested by my honourable friend.

So far as the central organisation is concerned, I am not in a position to limit the discretion of Government in the matter of making nominations to the various categories mentioned in the amendment. But at the same time I want to point out that as regards the composition of the local boards there is adequate provision for the representation of the various interests which my honourable friend has in mind, and I think that it should suffice for the purpose of my honourable friend to have adequate representation of the various interests on

the local boards. It is for these reasons that I am not in a position to accept the amendment.

Shri B. Das: I was a little disappointed to hear the remarks of my honourable friend, Mr. Neogy. Had he asked us to be satisfied for the present as his amendment stands, I would not have risen to speak. But I think he ought to recognise the points that my friend, Mr. Chettiar has made and ought to give some sort of assurance.

Mr. Deputy Speaker: May I ask the Honourable Minister to see if under clause (b) the four directors that are nominated by the Central Government, one from each of the Local Boards, and the composition of the Local Boards as representatives of these interests, the four directors of these interests are not in the Central Board?

The Honourable Shri K. C. Neogy: There will be one from each Local Board and it may not necessarily follow that the director to be nominated by a local board would represent the co-operative societies.

Shri T. A. Ramalingam Chettiar: I am not satisfied with the explanation given but still I do not want to press it.

Mr. Deputy Speaker: In view of his not pressing it.....

Shri B. Das: rose—

Shri T. T. Krishnamachari: When the mover does not press it, where is the room for discussion.

Shri B. Das: I want the Honourable the Finance Minister to give us an assurance that he will examine the point of view which Mr. Chettiar has raised. We find that for fourteen years the co-operative and agricultural interests have been neglected by those directors whom Government have themselves nominated or who have been elected through Government connivance. That assurance my friend can give us, namely, that when the Bill will be examined in the near future, those intentions will be incorporated in it.

The Honourable Shri K. C. Neogy: All I can say is that the Government will take into consideration all the factors that may bear upon this particular matter.

Mr. Deputy Speaker: Is it that the honourable member wishes to withdraw his amendment?

Shri T. A. Ramalingam Chettiar: Yes.

Mr. Deputy Speaker: Has the honourable member leave of the House to withdraw?

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

Shri T. T. Krishnamachari: Sir, I move:

"That in the Schedule to the Bill in the proposed sub-section (7) of section 8 of the Reserve Bank of India Act, 1934, the words 'for not more than two full consecutive terms', be omitted."

This is not the original Reserve Bank Act. I spoke at length on this particular aspect of the matter yesterday. A similar provision does not find a place in the Nationalization Act so far as the Bank of England is concerned, in a country where there is ample talent available. So far as we are concerned, considering the number of restrictions that we have statutorily put on the qualification of a director or the type of people who will serve as Directors, I see there is no room for further tightening up the discretion of Government to say that no one will be a director for more than two consecutive terms. In fact if the director is not pulling his weight and is not useful, I think the Government will not

[Shri T. T. Krishnamachari]

renominate him. But if a particular person is useful, the mere fact that he has served two terms should not be a bar. I do not see the advantage of this particular addition to the clause.

I therefore move that this be eliminated with this rider that Government would only exercise their discretion in favour of a person being renominated for more than two terms, or being renominated once again in cases where he is useful and contributes to the proper working of the Bank. Sir, I move.

Mr. Deputy Speaker: Amendment moved:

"That in the Schedule to the Bill in the proposed sub-section (7) of section 8 of the Reserve Bank of India Act, 1934, the words 'for not more than two full consecutive terms', be omitted."

The Honourable Shri K. C. Neogy: Sir, I have much pleasure in accepting the amendment: it only enlarges the scope of Government's discretion.

Mr. Deputy Speaker: The question is:

"That in the Schedule to the Bill in the proposed sub-section (7) of section 8 of the Reserve Bank of India Act, 1934, the words 'for not more than two full consecutive terms', be omitted."

The motion was adopted.

Shri T. A. Ramalingam Chettiar: Sir, I beg to move:

"That in the Schedule to the Bill, in the proposed sub-section (1) of section 9 of the Reserve Bank of India Act, 1934, for the word 'three', the word 'seven' be substituted."

Sir I am proposing that in the local board the number may be 7 instead of 3 for this reason. The clause says that the representation ought to be distributed throughout the territory, there should be territorial representation and there should be also representation for co-operative societies and indigenous banks. For instance, in the Madras Circle I want one representative to represent the Andhra Desh, one to represent the Tamil Nad, one for Mysore and Karnatak areas and the fourth to represent Travancore, Cochin and Malabar, one at least ought to be a co-operator and one an indigenous banker. So there will be six people accounted for. I am only suggesting that the number may be seven, so that there may be proper representation given to all interests. It is quite possible to say that in territorial representation the whole of it may be treated as one territory and you can appoint only one person. There is no meaning in saying that there will be territorial representation unless you are going to give adequate representation. The proposal that has been brought forward in another amendment is that the number should be 5 instead of three. As I have already explained taking Madras as having one of the local boards there shall be at least 6. So five will not satisfy the requirements of the place. That is why I propose seven since five will not be suitable.

Mr. Deputy Speaker: Amendment moved:

"That in the Schedule to the Bill, in the proposed sub-section (1) of section 9 of the Reserve Bank of India Act, 1934, for the word 'three', the word 'seven' be substituted."

Shri T. T. Krishnamachari: Sir, I propose with your permission to move later on an amendment that the number should be five instead of three.

Mr. Deputy Speaker: The honourable member can move the amendment now.

Shri T. T. Krishnamachari: Sir, I move:

"That in the Schedule to the Bill, in sub-section (1) of the proposed section 9 of the Reserve Bank of India Act, 1934, for the words 'three', the word 'five' be substituted."

The reason why I have limited the number to five is that as it is at present there are seven directors in the local board, four of whom are elected by the

shareholders and three are nominated by the authorities. All these three are supposed to represent specific interests. Actually the work of the local board, even as it is, is more or less of a nominal nature. One of the important pieces of work that it does is to look into the share transfer register, scrutinise it and authorise the share transfer. It will not do that work hereafter and its advisory capacity will be much less than what it is today by reason of the fact that it is a government bank and the Central Board will practically do all the work that is necessary. So a large representation will be futile. My honourable friend Mr. Chettiar said that four must represent territorial interests in a province like Madras and two must represent special interests. There is nothing to prevent the person representing Malabar to represent also the interests of the indigenous bankers or the person who represents Tamil Nad may also represent co-operative societies. There is absolutely no bar to all these interests being represented and still the number being only 5. Any larger number would be futile when the work of the board will be practically nominal and that is why I propose the number five instead of seven.

Mr. Deputy Speaker: Amendment moved:

"That in the Schedule to the Bill, in sub-section (1) of the proposed section 9 of the Reserve Bank of India Act, 1934, for the words 'three', the word 'five' be substituted."

The Honourable Shri K. C. Neogy: Sir, I am prepared to accept the amendment of my honourable friend Mr. T. T. Krishnamachari. I do not altogether agree with him that there will be very little work left for the local boards. It is true that there will be no share registers in future and therefore the local boards will not function in respect of the share transfers, but if and when the Reserve Bank comes to be endowed with greater authority for purposes of supervision and control over the private banks as is proposed to be done under the Banking Bill, I take it that the local boards will have a considerable part to play in regard to various matters connected with enquiries and other things that the Reserve Bank may undertake.

Shri T. A. Ramalingam Chettiar: Sir, I am surprised at this. When I moved the other proposal the Honourable Minister said that there will be proper representation in the local board and I ought to be satisfied with it. Now he explains that the local board is nothing. I do not know how the two statements are to be reconciled.

The Honourable Shri K. C. Neogy: I never said that.

Mr. Deputy Speaker: On the other hand, he supported it.

Shri T. A. Ramalingam Chettiar: Sir, in the circumstances, I beg to withdraw my amendment.

Mr. Deputy Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Deputy Speaker: The question is:

"That in the Schedule to the Bill, in sub-section (1) of the proposed section 9 of the Reserve Bank of India Act, 1934, for the word 'three', the word 'five' be substituted."

The motion was adopted.

The Honourable Shri K. C. Neogy: Sir, I move:

"That in the Schedule to the Bill in the proposed amendments to section 11 of the Reserve Bank of India Act, 1934, for items (i), (ii) and (iii) the following be substituted:

'(i) in sub-section (1) for "nominated or elected", substitute "other" and omit the proviso.

(ii) for sub-section (2) substitute the following, namely:

[Shri K. C. Neogy.]

"(2) A Director nominated under clause (b) or clause (c) of sub-section (1) of section 8 shall cease to hold office if without leave from the Central Board he absents himself from three consecutive meetings of the Board convened under sub-section (1) of section 13."

(iii) in sub-section (5) the words "appointment" and "or election" in two places shall be omitted."

Sir, I apologise to the House for having to move these amendments which at first sight might appear to be rather confusing. Yesterday I circulated a paper indicating how the entire section 11 would read as a result of the amendments proposed in the amending Bill, subject to the amendments that I have now moved. This was placed in the hands of every honourable member. It is rather a long note but if you want it, I can read out the whole of it and most of it is not of any substance actually. The only point of substance is as regards the disqualification of a director if he absents himself from three consecutive meetings. This unfortunately was omitted due to an oversight. The others are more or less drafting amendments, particularly to correct certain errors, except that in case of item (1) the result of the amendment would be to place the Governor, the Deputy Governors and the other Directors on the same footing for purposes of removal from office.

Mr. Deputy Speaker: The question is:

"That in the Schedule to the Bill in the proposed amendments to section 11 of the Reserve Bank of India Act, 1934, for items (i), (ii) and (iii) the following be substituted:

(i) in sub-section (1) for "nominated or elected", substitute "other" and omit the proviso.

(ii) for sub-section (2) substitute the following, namely:—

"(2) A Director nominated under clause (b) or clause (c) of sub-section (1) of section 8 shall cease to hold office if without leave from the Central Board he absents himself from three consecutive meetings of the Board convened under sub-section (1) of section 13."

(iii) in sub-section (5) the words "appointment" and "or election" in two places shall be omitted."

The motion was adopted.

The Honourable Shri K. C. Neogy: Sir, I move:

"That in the Schedule to the Bill in the proposed amendment to section 12 of the Reserve Bank of India Act, 1934, in item (iii) the words 'and omit the proviso' be omitted."

This is intended to correct what is purely a drafting error.

Mr. Deputy Speaker: The question is:

"That in the Schedule to the Bill in the proposed amendment to section 12 of the Reserve Bank of India Act, 1934, in item (iii) the words 'and omit the proviso' be omitted."

The motion was adopted.

The Honourable Shri K. C. Neogy: Sir, I move:

"That in the Schedule to the Bill for the proposed amendment to section 13 of the Reserve Bank of India Act, 1934, the following be substituted:

Section 18—

(i) in the first paragraph, omit the words "or, where the powers and functions of the Central Board under this section have been delegated to a committee of the Central Board or to the Governor, in the opinion of such Committee or of the Governor, as the case may be,";

(ii) in clause (2) for the word "sterling" substitute the words "foreign exchange"; and

(iii) omit the proviso."

As regards the first one it is also by way of correction of an error of drafting. As a matter of fact the words in the amending Bill are not appropriate to the changed character of the Bank.

As regards (ii) the amendment seeks to substitute 'sterling' by 'foreign exchange'. The reasons for this I have explained in my opening observations yesterday.

As regards the omission of the Proviso, here again certain words were left in the amending Bill which are inappropriate, having regard to the changed constitution of the Bank.

Mr. Deputy Speaker: The question is:

"That in the Schedule to the Bill for the proposed amendment to section 18 of the Reserve Bank of India Act, 1934, the following be substituted:

Section 18—

(i) in the first paragraph, omit the words "or, where the powers and functions of the Central Board under this section have been delegated to a committee of the Central Board or to the Governor, in the opinion of such Committee or of the Governor, as the case may be,";

(ii) in clause (2) for the word "sterling" substitute the words "foreign exchange"; and

(iii) omit the proviso."

The motion was adopted.

Mr. Deputy Speaker: The question is:

"That the Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Schedule, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. C. Neogy: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Deputy Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

INDIAN COTTON CESS (AMENDMENT) BILL

The Honourable Shri Jairamdas Doulatram (Minister for Food and Agriculture): Sir, I beg to move:

"That the Bill further to amend the Indian Cotton Cess Act, 1923, be taken into consideration."

This is a simple Bill and three points are involved for the purpose of amendment. Almost entirely, the Bill is the consequence of the partition of the country—especially the amendments which relate to the composition of the Central Cotton Committee and also the functions of the Committee.

The first amendment is this. The Central Cotton Committee contains representatives of the Provinces. As some of the Provinces have gone out of India their representatives are no longer to be retained in the Committee.

The second amendment relates to the functions of the Committee. Originally, according to the Preamble, the purpose of the Committee was not only to do research but also to help in marketing and development. As a result of partition we have found that the 9½ lakh bales which we used to receive from areas which are now included in Pakistan can only be produced if we develop the cotton areas within India. Therefore the amount of research work to be done has increased. There are areas which are intended to be developed for the purpose of better and superior quality of cotton. It is therefore felt that the functions of the Committee also should be in tune with the Preamble of the Bill, so that for the purpose of marketing and development the Committee might be able to function better.

The third amendment relates to the increase of the amount of the cess from two annas to four annas in the case of baled cotton and from six pies to one anna in the case of unbaled cotton. Originally this was the cess under the Act as passed in 1923 and a certain amount of reserve was built up. Later on

[Shri Jairamdas Doulatram]

the cess was reduced. Ever since then the Committee has been drawing amount every year upon its reserve, to make two ends meet. During the last ten years it was found that the Committee was not able to balance its budget and about Rs. 2 to 5½ lakhs was the deficit. The Committee continued to draw upon the reserves built out of the original cess at the rate of 4 annas. By 1945 the reserves also were almost exhausted and in spite of the prescribed minimum limit of Rs. 9 lakhs it was found that only about Rs. 7 lakhs remained in the reserve. At the same time after partition, because of extra number of research stations and because of additional work to be done, the Committee has proposed that the cess might be increased.

With regard to the result of the research work, in the case of certain important varieties, say, for instance, the Broach variety, the improvements have resulted, in a benefit of about Rs. 2 to 3 crores to the growers, because the improved variety gets a higher price. In the case of Jarilla, the improvement has resulted in a benefit of Rs. 2 to 2½ crores.

The consequence of partition has been that the irrigated cotton area has gone over to Pakistan. The yield in the irrigated cotton area is higher than in the rain-fed area. Therefore a greater effort has to be put forth and more research has to be done so as to see that the better varieties can be grown also in the rain-fed area. All this necessitates extra expenditure.

The plan at present is to put about 40 lakhs additional acres under cotton. Therefore, it is requested that the cess might be increased from 2 annas to 4 annas. This amounts really to about 1/12th per cent of the present value of cotton. That means somewhere about one pie per hundred-rupees. Therefore, it will have no substantial effect on the price of cotton. The Standing Advisory Committee of the Department has also approved of the Bill. Therefore I hope that the members of the House will see the necessity of this extra increase of cess, and also the two other amendments, and pass the Bill.

Mr. Deputy Speaker: Motion moved:

"That the Bill further to amend the Indian Cotton Cess Act, 1923, be taken into consideration."

Mr. R. K. Sidhva (C. P. and Berar: General): Sir, this Bill seeks, as the Honourable Minister stated, to increase the cess from two annas to four annas, and from six pies to one anna, and also to amend the constitution of the Cotton Cess Committee. From the statement of objects and reasons it is clear that all along cotton was exported to Japan and a cess was levied on the export of cotton, but that due to Japan having entered the War, to that extent our finances have suffered and the Committee has suggested this increase. There is no objection to the increase in the cess, but I would like to point out one thing and draw the attention of the Honourable Minister to it, namely that the object of the Indian Cotton Cess Committee is to promote technological research in the interests of the cotton industry.

Sir, after Pakistan came into existence, as you are well aware, the long staple cotton that was grown in Sind and Punjab has been lost. Broach grows a certain superior quality of cotton, but it cannot be compared with the American quality which is known as a very special staple quality, which Sind and the Punjab also were growing. It has therefore to be specially borne in mind that the Cotton Cess Committee has to explore all avenues and extend their energies to see that this fine long staple cotton is grown in our country. Sir, you are aware that we had to send a delegation to Egypt to purchase on a barter system fine staple cotton for our mills. That delegation has failed, and we could not get, for reasons best-known to the Government, this long staple cotton from Egypt. Egypt grows a very fine staple of cotton and from that a finer kind of cloth is made. Sir, I therefore draw the attention of Government to this and say that earliest steps should be taken to ask this Committee to undertake immediately research in this direction and see that while increasing the cultivable area, a finer variety of cotton

is also grown immediately, from next year. Let me tell the Honourable Minister that it will not take much time to do so; Sind which was growing only ordinary Sind cotton was able, after the Cotton Committee reported that Sind could produce American variety, to produce fine cotton within two years after research there. The Honourable Minister may not be under the impression that it may take some time.

Sir, we have to recoup the cotton lost to us in Pakistan. And we should also produce finer long staple varieties for producing finer cloth. We should not depend upon foreign countries; it is high time that we produce fine staple cotton in our country. I am sure that the ground that we have lost will be recouped if efforts are made by the Cotton Cess Committee, which is its fundamental duty. Under these circumstances, I support the motion and draw the attention of the Honourable Minister to the remarks that I have made. As far as the change of constitution is concerned, I have nothing to state because that is obvious in view of the division of the country.

Shri Satish Chandra (U. P.: General): Sir, having learnt from you this morning that talking pays, I venture just to say a few words today, and enter a talking career. I would like to make only a few brief observations with regard to this Bill.

Sir, this country has been the birth-place and the ancient home of cotton, and it was from this country that cotton migrated to other parts of the world. But today we find that cotton produced in this country is probably of the poorest quality that can be found anywhere else. It was under these circumstances that the Indian Central Cotton Committee was constituted by an Act of this House in 1923. Since then it has been doing useful work no doubt, but I would submit that much more vigilance and effort is required to produce better standards of cotton in our country.

If we just look over 25 years of work that this Committee has been doing, we shall find that up till now it has only been able to increase our long and medium staple varieties of cotton from 30 to 45 per cent. It has changed the character of the cotton crop to a certain extent. Though no long staple cotton, of staples bigger than an inch, was produced in those years when this Committee came into existence, we have now about 50 per cent. of the total of the long and medium staples as cotton with more than one inch staple.

Sir, we see that the area under cultivation of cotton has been continuously going down. If we compare the figures of 1941-42 with those of 1945-46, we find that the acreage of cotton has almost gone down by 50 per cent in the four or five years of war and the production of cotton has also similarly gone down. While India produced in 1941-42 about 44,24,000 bales of cotton, the production in 1945-46 was only 21,19,000 bales. These figures include the Indian Provinces and States, as also the Hyderabad State if we can include its territory as a part of our economic unit. I just want to supplement Mr. Sidhva's point by saying that in the divided India we have lost greater portion of the area where cotton acreage and production had not gone down to the same extent. That means that after partition we have been doubly hard hit. The cotton area in Pakistan has gone down only from 36,83,000 acres to 23,19,000 acres in the four years about which I am talking, while in India the area has gone down from 2,04,68,000 acres to 1,13,49,000 acres. There has been a decrease of about 50 per cent. in cotton area and more than 50 per cent in cotton production. The Central Cotton Committee should devote itself to this important aspect of our cotton problem if we are to become self-sufficient in respect of our cotton requirements.

Another thing that occurs to me, Sir, is that while we talk of food, it is generally said that during these years, the 'Grow More Food Campaign' has

[Shri Satish Chandra]

been responsible for the cultivator changing from food to cash crops, namely cotton, sugar-cane and so on. But when we look at the statistics we find that the area under such cash crops has also gone down. I do not know whether something is wrong with the statistics or the statisticians, or whether the purpose of these experts is only to confuse and complicate simple issues and explain them away by putting arguments as they suit them at particular moments. The statistics of the same statistician are placed before us, and we are told different things at different times. I would therefore request the Honourable Minister to kindly look into this important aspect of the problem.

One thing more which I would like to say is this. The Library of the House has not got any literature, not a single report, nothing about the working of this Committee, which is a statutory body deriving its authority from an Act passed by this Legislature. I wanted, with the help of the Librarian, to search anything, to find out some literature in respect of this Committee, and I am sorry to say that not a single volume could be available. The Committee, during its 25 years of existence, has not been able to place even one report about its work, in the past, or the work it proposes to do in the future, in the Library of the House. It is only from casual information gleaned here and there from the statistical data published by the Economic Adviser (Ministry of Agriculture), that one can draw his conclusions. There is no literature as such from the Committee in the Library of the House.

Another point that I would submit, Sir, is that we have lost all the area under jute in East Bengal, and also a lot of area under cotton in the Punjab which grew mostly medium and long staple varieties. At the same time, everywhere, it is being suggested that the area under food should increase. It is, I think, not possible to increase the area under cotton in this country as the Indian Central Cotton Committee has suggested recently. I understand that the Indian Central Cotton Committee has recommended that 4 million acres of land should be brought under cotton cultivation so as to grow one million additional bales of long staple varieties of cotton. I do not know where these 4 million acres are to be found at present, till we can reduce the area under food crops. Therefore, I think, the real emphasis should be on increasing the yield per acre rather than adding to the area under cotton. If we compare the figures of crop yield in other countries like Egypt, U.S.A. or Peru to our own, we find that India grows only 110 lbs. of cotton per acre, whereas Egypt grows 530 or 535 lbs. In these 25 years that this cess is being levied and this Committee has been functioning, we have only been able to improve the yield from 96 lbs. to 110 lbs., that is to say about 15 lbs. per acre according to the figures of these statisticians, which I think are not wholly reliable. Therefore, I submit that the greatest consideration should be given to this aspect of the problem also.

Then, Sir, this Committee has been engaged mostly on technological research. It maintains a technological laboratory, an experimental spinning station and a testing house for fibre in Bombay. But it has altogether neglected the agricultural side of it. The Provincial Governments have of course been doing something, and this Committee has tried to co-ordinate their activities. But it has not done anything directly for the agricultural improvement and agricultural research of cotton cultivation. I think this can be explained away by the fact that the section which is now being amended, Section 12(2) says that the money realised from the cess could only be spent on technological research for the development of cotton industry. But as you will see from the Preamble of the Act, the Committee has been constituted for "the improvement, development and the growing, marketing and manufacturing of cotton in India". So even if Section 12(2) restricted the scope of the expenditure that the Committee could incur out of this cess which had to be applied only to technological research, still it could have done more in this field if the

Government had taken care to provide money from general revenues or the Cotton Fund. Anyway, this defect is being sought to be remedied by this amending Bill and I hope the Committee would take greater interest in this respect.

Lastly, Sir, I have a few words to say regarding the constitution of the Committee. There is a publication by the Imperial Council of Agricultural Research regarding its "organisation and function", and at the end of it, a list is appended of the members of the Indian Central Cotton Committee also. I am amazed to see that while in this Committee, the manufacturers the big businessmen, traders, they are all over represented, the few seats that are reserved for growers have gone to Nawabs and Rai Bahadurs. I do not know why, Sir, the United Provinces growers are represented by one of the biggest zamindars of that province, a Nawab who has probably, I think, never seen a cotton plant, and the other is a Rai Bahadur. Are there no other persons who grow cotton in the whole of the United Provinces and who can be found to represent the interest of the growers on this Committee? I find, this is the general position. I cannot definitely speak about other provinces, but at any rate, I very much doubt if the two persons who represent the cotton growers from the United Provinces on this Committee have ever seen a cotton plant or can identify and pick it up when it is mixed up with other plants.

Mr. Deputy Speaker: I think the honourable member ought to confine himself to the increase of the cess.

Shri Satish Chandra: The cess is levied by the Committee which is constituted by an Act, and if the cess is increased its burden goes ultimately to the tax-payer and to the consumer, and we should see that it is properly spent and it is properly administered. It is in that respect that I am making my observations. If I am off the point, I can resume my seat.

Mr. Deputy Speaker: The honourable member may reserve the constitution etc. to some other Bill that may come, but it is not quite relevant to the scope of this Bill.

Mr. Hossain Imam (Bihar: Muslim): The Constitution of the committee is also one of the items that is being amended. Therefore, I think, the honourable member is relevant.

Mr. Deputy Speaker: The honourable member may go on.

Shri Satish Chandra: Sir, I would say that the Indian Central Cotton Committee has neglected one more important aspect, and that is the proper utilization of our short staple cotton. In other countries, we find that a lot of improvements have taken place in the cultivation as well as on the technological side of cotton cultivation as well as cotton trade and cotton manufacture. In Russia we find that cotton is now being grown in natural colours such as red cotton or blue cotton. There is an interesting pamphlet "king cotton" published by the Department of Information and Broadcasting. From it I have got the information that Russia is growing cotton in natural colours. I do not know, Sir, whether any effort has been made in this country to grow cotton in different colours. If such cotton is grown in some countries and it ultimately finds a market in other countries, I doubt, if our white cotton will not become obsolete and out-of-date. I am sure, its demand and its prices will very much go down. I wish, Sir, that the Indian Central Cotton Committee may conduct research in that direction and try to keep in touch with the experiments that are being made in other countries.

There are also non-textile uses of short staple cotton in other countries, for example, cotton-beltting, cotton bags and other things. In this country we are

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only producing coarse cloth out of it, or we are exporting it to other countries, while we can very well manufacture many important things out of that, if there is some technological research on the uses to which it can be put. Without exporting it, we may easily manufacture those things which we now usually import. Similarly, Sir, rayon I understand has now become very popular, and in U.S.A. its production has gone to such a high level that out of the total fibre produced in the world, about one third is rayon fibre. If our people have got a taste for fine cloth, we can convert our short staple cotton, by artificial means, by using its cellulose, into artificial silk and finer cloth, and I hope that experiments will be made in this direction also by the Committee.

Sir, though this Committee has been doing useful work, and it has carried out many agricultural experiments for evolving better varieties of cotton by hybridization and inter-breeding of various strains, or by suggesting methods for the control of pests and virus or fungus diseases, I think there are many other ways in which the activities of this Committee can be developed. Sir, as I said before, I think that the Committee has been doing very useful work, and very little flutter that has been caused in this House when the cess is being doubled is in itself a tribute to the work of that Committee. I only wish, Sir, that its activities must be more diversified and developed.

Mr. Deputy Speaker: As the House had sufficient discussion over this, I shall request the Honourable Minister to reply.

Some Honourable Members: No, no.

Mr. Hossain Imam: The House seems to have the desire to have further discussion on this Bill and therefore, it would be better if you postpone it till tomorrow.

Mr. Deputy Speaker: We can sit for 15 minutes more.

Shri Biswanath Das (Orissa: General): Mr. Deputy Speaker, Sir, I wanted to give my honourable friends, the Ministers a safe passage of their Bills by remaining myself silent. I have followed this all along for the past few days, but I am sorry I have to request my honourable friend for some explanation connected with this Bill. Sir, we are unfortunately having too many funds, too many committees working towards the same end and for the same purpose with diversified activities. Sir, we have a Cotton Cess Fund and the Cotton Fund. The House has a right to know why we have two different kinds of funds intended for the same purpose and realized from the cotton and cotton textiles. Sir, I further learn that the Cotton Fund has a lot of money at its disposal. If my information is correct, we have today about a crore of rupees. I am not, sure but that is my information. If that is so, I should appeal to my honourable friend in charge of the Bill to explain why is there so immediate a necessity to rush through this Bill in this Session.

Having said so much about these two different funds, I should like to know why these two funds should not be co-ordinated and unified, brought under the unified control of one committee with one purpose namely development of the cotton industry as also cotton cultivation in the country. Sir, the Bill proposes to raise the taxation by 100 per cent. My honourable friend has not given an estimate of the amount that he expects to realise in terms of this taxation, what was the previous income under this head, what is the present income that is expected out of this.

The Honourable Shri Jairajdas Doulatram: Seven to ten lakhs; it depends on production and consumption in the mills.

Shri Biswanath Das: I am thankful, Sir. I am alive to his difficulties. I know important areas of Pakistan have gone out of us. I know that under

the name of the Grow More Food Campaign, areas have been diverted from this cotton cultivation, with the result that the area has been considerably reduced. None-the-less, we want that this cotton industry as also the cultivation of cotton should be undertaken in an intensive manner. I expect that the Honourable Minister would think of having a reshuffling of the whole thing. I am thankful to my honourable friend the previous speaker from the connected areas for having given an idea—a very good idea of the working of this Committee. Sir, if this committee is to be useful I think a new set up is necessary, a new set up whose utmost attempt will be directed towards development of agriculture as also of industry. As I have already stated, I repeat, we want two first class institutions namely, one for the development of cotton cultivation and also for improving the quality and improving production.

Sir, my honourable friends have referred to short staple cotton. I come from a district in Orissa which has the reputation of producing Patsal cloth. This cloth has got a wide reputation. They were going on with this industry producing the finest varieties of cloth, the Patsal cloth which could match with 200 counts of yarn. This very yarn was produced in this country out of this very cotton. Either there must have been deterioration or the art and industry have failed to live up to expectation, or have deteriorated in quality. In any event, it should be the duty and purpose of this Committee to see why it is so and what is the power that has dragged it down and down to this mire so as to be away practically from the pale of existence.

Having stated so much about the work of the Committee, I come to request the Honourable Minister about the representation in the Committee. He has given representation only to the cotton areas. Why? If I remember aright, Sir, his colleague and friend, the Honourable Minister in charge of Industry and Supply has allotted textile mills to the different provinces in India. Orissa has had allotment; I believe Assam has allotment. The other areas which had not found representation find their quota of allotment of this machinery. Therefore you feel, it is necessary and justifiable that the different provinces in India should have also their textile mills developed in their own areas. This takes us to this question namely that the provinces also will take care to see that they develop the growth of cotton in their areas. We have very good areas. An industrial survey was conducted in Orissa and also in the Orissa States and it is the view of experts that there is ample scope for development and growth of cotton in the province of Orissa. Need I say that there is and there will be the possibility of development of growth of cotton in other areas which are left without representation. I do not claim that equal amount of representation is necessary for those areas that are actually cultivating and producing cotton. But should I be wrong in claiming that certain representation is necessary also for the areas who are anxious to develop the growth of cotton and who are taking necessary steps in this regard. In this view of the question, I would appeal to my honourable friend to examine this question.

Sir, having stated so much, I would again revert to the question of having two first class institutions in our country for the growth and cultivation of cotton in quality and quantity as also to develop the cotton technology in this country. Sir, it is unfortunate, and I shall stand corrected if I am wrong—my information is this—that this unfortunate committee had also communalism brought into its operation with the result that it was neither useful nor helpful to the industry nor to agriculture to the extent to which we had expected. All this should be given the go by and a first class Agricultural Institute and a Technological Institute should very soon be inaugurated, if necessary with experts from outside countries. It is a sad anomaly that in our country with 32 crores, previously it was 40 crores, of people to clothe, it has not got a proper Technological Institute for cotton. It is a disgrace; we hang our face in shame. Still the fact remains. I would appeal to

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honourable friend to take care to see that he indents technologists and scholars who are well versed in this art from outside countries to help us in this regard, in the direction indicated. Sir, we are depending on Egypt. How long are we going to depend on Egypt? When I plead for oil-cakes and other necessary manure either for agriculture or for cattle, you plead in the name of hard currency, the necessity for dollars and hence the necessity for export. Need I say that this will be more useful to you, more helpful to you to your dollar reserves and also for the development of industry and agriculture in this country if you go ahead. Therefore, in conclusion, I would appeal to my honourable friend to make the committee more useful and effective and if necessary come forward with more taxation. We are not opposed to the idea of taxation. What we ask him to do is to make the Committee effective and go ahead with the scheme. I wish him good luck.

The Honourable Shri Jairamdas Doulatram: Sir, in the remaining five minutes it will not be possible for me to cover all the points which have been referred to. I therefore propose to deal with the major points, and with regard to the rest I can assure the House that they will be very carefully gone into and decided as favourably as possible. I am grateful to the members of the House for giving many constructive suggestions. With regard to some of them I may be able to state even now definitely what Government will do. I do propose to go into the constitution of this Committee in the sense as to who the persons are who represent the cotton growers; and if it is found that any people are not functioning effectively or do not represent the cotton growers properly.....(*An Honourable Member:* 'Cotton merchants?') Yes, all those who represent the industry represent the growers, and if possible, also introduce new blood on the earliest possible occasion. I am surprised to know that there is nothing in this library which can give the members of this House any information as to the activities of the Committee which is 25 years old; and I do propose to supply that need immediately.

With regard to my honourable friend Mr. Sidhwa's suggestion, as a matter of fact the Committee sat within a month or two of partition and reviewed the whole position, and they themselves came to the conclusion that both with regard to the quantity and also the quality we will have to put forth special efforts. Therefore it is in the Committee's programme not only to increase the quantity but also to improve the quality. As a matter of fact they have a plan for about seven Central research stations in different regions and 25 sub-stations attached to them. It is because of shortness of time that I did not go into fuller detail, but this is their programme.

With regard to the cotton funds we made efforts to secure *ad hoc* grants and the Committee did give us and would give us *ad hoc* grants for special development schemes.

With regard to the criticism about the acreage under cotton it was decreased deliberately because in Bombay and some other provinces special efforts were made during war time to increase the area under food even at the cost of cotton. But this matter has been gone into and the provinces have been circularised so that under the new programme food may not suffer on account of cotton. The two things have to be reconciled; we want food and we want also cotton. How these two are to be reconciled has to be investigated.

Sir, I do propose to go into all the other suggestions and give them favourable consideration and try to implement them as soon as possible.

Mr. Deputy Speaker: The question is:

"That the Bill further to amend the Indian Cotton Cess Act, 1923, be taken into consideration."

The motion was adopted.

Mr. Deputy Speaker: The question is:

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I beg to move:

"That in clause 3 of the Bill—

(i) part (b) be omitted, and

(ii) in part (a), the brackets and letters '(a)' be omitted."

There were four items of which items VIII, IX and X are condensed into two items leaving a gap of No. X. Now the Draftsman attempts to renumber XI as X and remove the gap. But it is the universal practice that when certain numbers are omitted the others are not renumbered, because that dislocates the original scheme. If some houses are broken in a street the municipality does not renumber the remaining houses, if some telephones are abandoned the other telephones are not renumbered. One should not attempt to change the scheme of numbers needlessly because it leads to administrative difficulties. If amendments are not thought necessary there need not be any amendments. The Honourable Minister may accept bad drafting or even bad English.

But I submit that for the sake of uniformity of practice as also of simplicity this should be accepted. Sir, I move.

The Honourable Shri Jairamdas Doulatram: Sir, I am not convinced by the argument and cannot accept the amendment.

Mr. Deputy Speaker: The question is:

"That in clause 3 of the Bill—

(i) part (b) be omitted, and

(ii) in part (a), the brackets and letters '(a)' be omitted."

The motion was negatived.

Mr. Deputy Speaker: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 and 5 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri Jairamdas Doulatram: Sir, I move:

"That the Bill be passed."

Mr. Deputy Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Saturday, the 4th September 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Saturday, 4th September, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-05 A. M.

MOTION FOR ADJOURNMENT

Mr. Speaker: I have received notice of an adjournment motion from Sardar Bhopinder Singh Man. I do not know whether copies of the motion have been handed to the Honourable Minister concerned. The honourable member Sardar Bhopinder Singh Man handed over to my Private Secretary, at about 10-30 A.M. notice of an adjournment motion. Has the honourable member given notice of this to the other parties concerned?

Sardar Bhopinder Singh Man (East Punjab: Sikh): One copy was given to the Secretary and the other copy to the Relief and Rehabilitation Minister simultaneously as it was given to you, Sir.

The Honourable Shri Mohan Lal Saksena (Minister of State for Relief and Rehabilitation): I have not received any copy so far.

Mr. Speaker: The honourable member refers to *lathi* charges and several other things and I do not know how they relate to the Relief and Rehabilitation Ministry. They are matters within the purview of the Honourable the Home Minister. In the circumstances, I do not think that this motion can be moved. Even otherwise the motion is inadmissible but I need not go into the merits of it nor read it to the House.

ELECTIONS TO INDIAN CENTRAL COCONUT COMMITTEE, STANDING COMMITTEE FOR MINISTRY OF STATES, CENTRAL ADVISORY BOARD OF ARCHAEOLOGY, CENTRAL ADVISORY BOARD OF EDUCATION AND COURT OF UNIVERSITY OF DELHI

Mr. Speaker: I have to inform the Assembly that upto the time fixed for receiving nominations for the Indian Central Coconut Committee, the Standing Committee for the Ministry of States, Central Advisory Board of Archaeology, Central Advisory Board of Education and the Court of the University of Delhi, two nominations in the case of the first and one nomination in the case of each of the remaining Committees were received. Subsequently one member withdrew his candidature in the case of the first. As the number of candidates is thus equal to the number of vacancies in each of these Committees, I declare the following members to be duly elected:

Indian Central Coconut Committee.—Shri A. K. Menon.

Standing Committee for Ministry of States.—Shri V. S. Sarwate.

Central Advisory Board of Archaeology.—Shri Satish Chandra.

Central Advisory Board of Education.—Dr. Raghu Vira.

Court of University of Delhi.—Pai Ji Govind Malaviya.

STATEMENT OF BUSINESS

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Leader of the House): Sir, two days ago I drew your attention and the attention of the House to the state of business and to the difficulty of getting through some important legislation in case the House met at the usual time and the session is adjourned today. You were pleased then to say that after the first day's experience of the progress of business the matter might be considered and further that the House might sit yesterday and today till a later hour in the afternoon. The House did sit till a later hour yesterday. We had some experience of what has been got through, and I am afraid the progress has not been as rapid as it might have been and quite a good deal of legislation has still to be considered. Now, I do not think it right to make the House rush through important legislation, nor do I think it would be desirable to postpone something that we consider fairly urgent. So some of us—members of Government and members of the House—have been in consultation over this matter, and we felt that it will perhaps be desirable to prolong the session up to Tuesday next—that is, two extra days after Sunday—to allow this legislation to be got through and not to be rushed through or perhaps delayed till the next session. So I would suggest to you, Sir, if you and the House agree, that the session might be prolonged for another two days, that is Monday and Tuesday. In that event of course—if that is agreed—it would not be necessary for the House to meet beyond 5 p.m. today.

Mr. Speaker: I am gladly agreeable to the proposal. As I personally said the other day, I did not like legislation to be rushed through, and honourable members should have enough time. But that does not mean that we should take more than reasonable time to discuss legislation. So the House will continue to sit on Monday and Tuesday, and we will not be sitting today beyond 5 o'clock.

Shri H. V. Kamath (C.P. and Berar: General): We have lost the Question Hour in the bargain.

Mr. Speaker: Yes. But we have perhaps gained at least one day because otherwise a sitting on Wednesday might have been necessary.

Shri B. Das (Orissa: General): There was some Committee called on the 6th, and most of us have made our arrangements to go away after that. I hope the Government will not ask the House to sit after Tuesday, so that we can finish our Committee work on Wednesday and go away to our places.

Mr. Speaker: What the Honourable the Leader of the House has requested does imply that. But his request and his expectations have to be implemented by the House when they discuss the business before them in the House.

Shri B. Das: Yesterday we had to rush like anything.

Mr. Speaker: Now there is no ground for rushing.

CHARTERED ACCOUNTANTS BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I move for leave to introduce a Bill to make provision for the regulation of the profession of accountants.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to make provision for the regulation of the profession of Accountants."

The motion was adopted.

The Honourable Shri K. C. Neogy: Sir, I introduce the Bill.

ESSENTIAL SUPPLIES (TEMPORARY POWERS) (AMENDMENT) BILL

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Sir, I beg to move:

"That the Bill to amend the Essential Supplies (Temporary Powers) Act, 1946, be taken into consideration."

This is a short Bill, but it deals with a question of principle of considerable importance. The House may recall that a few days ago I announced while discussing the textile policy of Government that it was the intention of Government to bring forward an amending Bill to amend the provisions of the Essential Supplies Act, 1946 to provide for a different form of compulsory punishment with regard to all offences relating to violation of textile control orders. The present Act provides that if any person contravenes any order under the Act he will be punished with imprisonment for a term which may extend to three years, or with fine, or with both, and if that order so provides, the court trying such contravention may direct that any property, in respect of which the court is satisfied that the order has been contravened, shall be forfeited to Government. There is a proviso that with regard to any contravention of an offence relating to foodstuffs the court shall, unless it records its reasons in writing to the contrary, direct that the whole or part of such foodstuffs be confiscated. With regard to textiles there was no specific provision except the general provision that it was left to the discretion of the court either to award sentence of a term of imprisonment or to order fine. The amendment which has now been proposed lays down that in case of any contravention of an order relating to cotton textiles, where the offence is proved, it will be obligatory on the part of the court to award sentence for imprisonment for a term which may extend to three years, and it may in addition impose a sentence of fine; and further that the confiscation will be compulsory. There have been many cases in the past where, although cases were proved, either some fine was imposed or forfeiture also was imposed to a limited extent. It is not my purpose to suggest that by merely tightening the provision for punishment we are going to secure a complete change in the present state of affairs. But it does indicate a change in the policy which Government would like to see pursued. It secures considerable psychological change. Government desires that all cases of contravention of textile control orders will be taken serious notice of, and it will not be open to any offender to go away merely by paying some fine, but imprisonment and confiscation of the property in question will be a compulsory part of the punishment.

It is not the intention of Government to modify the present provisions with regard to other commodities—for instance, foodstuffs, paper, petroleum and other commodities. That portion has not yet been considered by Government.

The only amendment which I am now bringing before the House for its approval relates to cotton textiles only. There have been some amendments proposed with regard to foodstuffs. I would suggest to the honourable members that it will be desirable not to consider those amendments at this stage, because the whole object of the Bill is to secure amendments of the order regarding textile control to fit in with the new textile policy. With regard to foodstuffs, or other commodities, when the policy of the Government is determined I am sure that the Minister concerned will bring forward necessary amendments to the control order. But that is not the object of Government just now.

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

Mr. Speaker: Motion moved:

"That the Bill to amend the Essential Supplies (Temporary Powers) Act, 1946, be taken into consideration."

1004 CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) [4TH SEPT. 1948]

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I have heard the Honourable Minister and noted the reasons suggested by him for introducing this amending Bill. In this connection, I would like to invite his attention to the present position. The present law gives sufficient powers to the Courts if they are so minded to inflict the punishment that is provided in the amending Bill. The penalty now provided in the Essential Supplies Control Order is that if any person contravenes any order he shall be punishable with imprisonment for a term which may extend up to three years, or with fine, or with both. Now, the amendment proposed is that where the contravention is of an order relating to cotton textiles, the Court shall sentence any person convicted of such contravention to imprisonment for a term which may extend to three years. The only difference that is intended to be made is that here the law compels the Court to sentence the person to imprisonment and also to direct that the property shall be forfeited. That power was also there if the Court thought fit to give that sentence.

Sir, the Honourable Minister has suggested that this would mean a psychological change of considerable importance. I would invite his attention to the fact that these control orders are not available even in Government Departments; even the Magistrates who try the cases have not got complete information on the orders that are issued from time to time and the rules framed from time to time. This amendment is not confined to cases of blackmarketing or any other malpractice in connection with cotton textiles, but it will cover even such small items as exhibiting certain rates on black-boards or the exhibiting of stocks etc. etc. It also relates to movement of goods and various other minor things connected with the textile business as a whole. If it were confined to certain specific offences which would be anti-social and which would add to the troubles of the general public, one can understand that the Courts' hands may be strengthened or tied and they may be forced to inflict certain punishment. But, Sir, this order will be applicable to a number of minor, petty acts which in law would amount to a breach of the provisions. Therefore, I would invite the Honourable Minister's attention to consider whether it will not be proper for him to define some of the breaches, some of the definite acts which will come within the category of the present amendment and leave out the minor things which are still governed by the Essential Supplies Order, to be dealt with according to the discretion of the Court. After all, we must presume that the Courts are there to try cases and give the punishment that is deserved in each case—unless we feel that the Magistrates trying the cases are all persons who cannot be trusted; in that case I will be sorry if the Minister takes that view.

Then again, another thing that has got to be seen is that if we are going to tighten the law in this fashion, Government should take steps to familiarize the public with the orders that are issued from time to time. As I said, even lawyers, even the Magistrates trying these cases, even the Department which got to administer these things, have not got complete information on this subject. I am speaking from personal knowledge when I say that a copy of this Essential Supplies Act is not to be found in the Bengal Government Department, it cannot be found with the Magistrate who has to try all cases under this Act in Calcutta. If that is the position in Calcutta you can very well imagine what happens in other places. Therefore, either the Government should make it possible that these orders that are issued from time to time are available at every place, or make them known to people all over the country. Otherwise they should not force the hands of the Magistrates to inflict this kind of punishment in every case, whether the offence is petty or big or of any nature whatsoever.

Mr. R. K. Sidhva (C.P. and Berar: General): Sir, we have to see the background of this Bill before we comment upon it and upon the necessity for Gov-

ernment to have brought it forward. The background is that notwithstanding all the efforts of the Government in the past to check blackmarketing and profiteering, the commercial interests both in industry and elsewhere flouted, and successfully flouted, all the provisions of the Act that is now in force. That is the background which we have to remember when my honourable friend the previous speaker stated that on a petty matter also the Court may inflict a heavy penalty. The object of this Bill is really to inflict such heavy penalty; I think that is in the mind of the Government, and if that is not so I will certainly not support this Bill. For the last four years these interests have in season and out of season flouted the provisions of the Act notwithstanding some cases of deterrent sentences having been passed even under this faulty Act. Sir, I remember that in one instance even after a fine of Rs. 50,000 was inflicted, a repetition of the offence occurred. This is a thing with which we were all upset including the Government and the Government had to state on the floor of the House in the last Session that they cannot check blackmarketing, that they cannot stop this profiteering.

Sir, that is the attitude that has been displayed by our friends, these industrialists who say they are out to co-operate with the Government. On their assurance this House took the responsibility in supporting the Government in de-controlling cloth, which let me tell you I was personally opposed to. When we were told that there was no other alternative to remove the black-marketing and profiteering, we had to support the Bill half-heartedly—not half-heartedly but with great unwillingness on my part and on the part of several of my friends. Sir, what did we find? Between then and the period when Government had to decide to control again, the prices went up abnormally. No doubt some of the cloth came into the market which was not available before. But what good is it to the people and to the average consumer? People say that the prices are now lesser than the prices prevailing in the black market during control days. Is that sound argument? The industrialists should have taken steps to see that the proper prices—not black market prices—but the real control prices prevailed during the interim period. Then we would be able to say that they have been honest in what they told the Government.

Mr. Speaker: Order, order. I find the honourable gentleman is going into the general question about control and people who are responsible for high prices and all that. These have been exhaustively discussed in the course of the debate on yesterday's Resolution.

Dr. P. S. Deshmukh (C. P. and Berar: General): He was not allowed to speak yesterday.

Mr. Speaker: Therefore, this is not an occasion for making that speech now. As I find, it is an agreed proposition that the controls have to be tightened and the only question, so far as the Bill goes, is the quantum of punishment that should be provided for, so that the control can be effectively tightened. Therefore, if we have again to go into general arguments which the honourable member is advancing, I shall be practically throwing open that Resolution now. So I propose to limit the scope of the discussion only to the quantum of sentences and not to the general discussion of control.

Mr. R. K. Sidhva: Sir, of course, I obey your ruling but it was never my intention to speak what I did not speak or wanted to speak yesterday. That was never in my mind.

Prof. N. G. Ranga (Madras: General): He did not say so.

Mr. Speaker: I did not attribute any motive. It was suggested by some other honourable member. I did not say that that was his motive.

I would therefore suggest one thing in this respect. I find a large number of amendments. Instead of having any discussion on the general consideration

[Mr. Speaker]

motion, just as I have suggested in respect of some other Bill, if the scope is to be restricted to the quantum of punishment only the better course would be to adopt the consideration motion, move all the amendments which refer to the various punishments and then have discussion in respect of them. That would limit the discussion and would also avoid repetition of the same discussion again when the amendments are taken up.

Mr. R. K. Sidhva: I have no objection. Whatever procedure you want us to follow, I shall adopt that, but my point is I was only referring to what the previous speaker said about punishment and I was just coming to it and it was a little preliminary remark that I made as to what was the reason why although the punishment was deterrent this Bill was necessary. However, whatever you decide I have to carry out your order.

Mr. Speaker: Therefore, I would suggest, if the honourable members agree, —of course, they are entitled to speak on the general consideration motion and I do not want to stop them—but let that motion be put through and then we shall have the amendments and the honourable member may speak when the appropriate amendment regarding sentences is taken up.

Dr. P. S. Deshmukh: I want to speak particularly on the motion for consideration.

Mr. Speaker: Very well, then. Let Mr. Sidhva finish.

Mr. R. K. Sidhva: Thank you, Sir. I was stating that the Bill now which provides deterrent punishment is perfectly justified. If it is left to me, I would have gone further and stated that not only the property which is under dispute should be confiscated but the entire stock of that dishonest dealer should be confiscated. I have seen from my experience that even this deterrent sentence does not frighten them. They are prepared even to go to jails. I have also seen that they are even prepared to pay some more fine, but they are really afraid to have their goods confiscated. Therefore, merely confiscation of a piece of cloth or a bale of cloth will not help. Whatever the goods, if he has repeated an offence, all those goods must be confiscated *in toto*. Then these people will come to their senses, not otherwise. In England, such a clause is very very strictly enforced. Even ten years imprisonment has been given and in one instance £10,000 has been inflicted as fine by the court and therefore the control has been effective and satisfactory there. But unfortunately, so far as punishment is concerned in this country, I may tell you with due deference to the present Government or the past Government, they were very luke-warm and the result is all this suffering. I am still doubtful about this provision. If you really wish to bring about a satisfactory result and a peaceful atmosphere in the country as far as this control is concerned to the consumers and the public, then why not make up your mind straightaway that we shall not consider the position of A or B or C, but whosoever contravenes this order, whether it be a minor offence as my honourable friend pointed out or anything else, he shall certainly be dealt with very seriously. Then, my honourable friend stated that the Court has no copy of this order, the Court has got no papers. I do not know which Magistrate will conduct a case without any Act before him or any charge sheet before him. He would consider all these matters. He would call for the orders and papers if he has not got them. To say that there are no papers before the Court and therefore it will not be possible to inflict punishment is no argument. Although I have yet some amendments to move making the punishment more deterrent, still as this is an improvement upon the previous Act, I support it.

Shri H. V. Kamath (C.P. and Berar: General): Sir, before I take the Bill itself, I would like to have one point clarified. Did the Honourable Minister state that sub-clause (b) of clause 2 will not be moved in the House today relating to foodstuffs? Is that the position?

The Honourable Dr. Syama Prasad Mookerjee: I did not say that. What I said was that the Government's intention was not to alter the existing provision relating to foodstuffs and we have repeated the existing provision in the revised Section.

Prof. N. G. Ranga: Both are included, you see.

Shri H. V. Kamath: Mr. Speaker, I welcome this Bill so far as it goes, but at the same time, I am constrained to say that it does not go far enough. The Bill, as my honourable friend, the Minister for Industry and Supply made out in his speech, is designed to meet the social menace that arose during the war and has still not been curbed. Perhaps, it will not be far from the truth to say that it is going apace in spite of the fact that the war has come to an end and the conditions that gave rise to it have also ceased to exist. Wars, Sir, invariably lower the ethical and social and moral standards of mankind and it takes a long time for humanity subsequently to achieve a re-valuation of values, to uplift itself or to regenerate itself. The last World War—World War II because of its colossal magnitude and its enormity of destruction and devastation accentuated this process and we are still suffering from the after-effects of this malaise. Unfortunately, Sir, never has any society been free from those unscrupulous people who exploit the hunger of their fellow-men—those, if you will permit me to say, sharks of society who do not shrink from making even death pay a dividend. Death has paid to many of these a very rich dividend. Even the tragedy of the Bengal famine during the last war did not serve to change the hearts of these racketeers, black-marketers, and profiteers, the vile and contemptible traders in misery and death. Laws were passed during the war, but the British Government was in no mood to enforce them, because the ill-gotten gains and tainted money of these sharks of society went to fill their war-chest, and so that bribe went on increasing. It is disgraceful to what depth this menace reached during the war. So filthy and foul, so disgraceful were the state of affairs that Pandit Nehru, before he assumed the helm of affairs in our country, soon after his release in July 1945, I believe, in a speech in Bombay, referred to these black-marketers and profiteers in food and cloth and went to the length of saying that they must be hanged from the nearest tree. That was before he became the Prime Minister. But, latterly, Sir, I think, only 3 or 4 months ago—I do not remember exactly whether it was in Gwalior or some other place—he said: "I see this evil all around me, but at the same time I am feeling helpless in the face of this",—hardly a statement or a remark or a pronouncement to be made by the Prime Minister and the Head of a State. To say that he is helpless in the face of these 'gold bugs' is certainly something which I cannot imagine. Why, just a little while ago the Honourable the Home Minister said the Government is powerful enough to suppress or repress or take action against refugees or against those who might try to incite them there. Is not Government powerful enough to put an end to these black-marketers, the hoarders, the anti-social parasites who invest Indian society today? So far, Sir, I believe, there were measures enough, measures galore, but for some reason or other, the laws did not have the desired effect and why? Personally, I think that the causes were four or five-fold. I think, firstly, perhaps the Acts passed by the legislature were not strictly and vigorously enforced and there was some indifference on the part of the authorities who were there to administer the laws promulgated by Government. Secondly, the machinery for the enforcement of the laws was perhaps inadequate. Thirdly, Sir, I say it with considerable hesitation, perhaps there was corruption or collusion between some of the authorities and the trade and industry. Fourthly, there was no co-operation between the traders and Government; they did not want to co-operate and snapped their fingers at the Government; and lastly, Sir, perhaps the fear of punishment was not strong enough in those who dared to break the law. It is said, Sir, that fear

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of God is the beginning of wisdom, but perhaps many have not got that fear of God and that faith in God enough to make them travel on the right path. So for those, there must be the fear of punishment. The punishment must be deterrent enough to make them stick to or to travel on the right path. Therefore, Sir, I would have liked the Government to go further than they have gone in proposing this measure. The Statement of Objects and Reasons says: "In order to tighten the machinery for the enforcement of the control on cotton textiles . . ." In my view, it is not sufficient, not adequate to merely tighten the machinery. There are other things also to be done and that is, Sir, that corruption must be rooted out. Corruption whether among the people, whether among the traders, whether among the Government Departments or anywhere else, must be rooted out first before you can enforce this measure with any degree of hope as to its success; otherwise, Sir, it would be a dead letter and like some of the Acts adopted by Government, this will also be a dead letter and we shall become a laughing stock of those who take an impish delight in violating the orders of control on food and cloth. My honourable friend, the Honourable Minister may say "Well, how much farther can we go?" We have made the sentence of imprisonment mandatory. I was surprised to hear Shri Prabhudayal Himatsingka say that even at present the courts are sufficiently armed. But, Sir, they are not so armed. Had they been armed, had the measures at present in vogue been sufficient, these black-marketers, these profiteers, these anti-social parasites will not be flourishing at present. As my honourable friend Mr. Sidhva said it was only 'may' and not 'shall'; it was only recommendatory; it was not mandatory; I am glad, Sir, that this imprisonment has been made compulsory. The court will have no option but to sentence an offender to imprisonment. But, Sir, even this, I think is not sufficient; it is not enough, because, Sir, somehow or other during the last 20 years, I think due to Mahatma Gandhi's movement and partly to other reasons, the fear of jail does not deter people from committing crimes against society. Of course, the crime in itself will involve moral turpitude or lower them in the estimation of their fellows, but some have gone so far down the scale that mere contempt of their fellow men will not deter them from committing crimes against society, so long as they can feather their nests by hook or crook. Therefore, Sir, I want that the punishment should be more deterrent, so that they will not think of committing such an offence again.

The other day, Sir, in the papers, there was a report to the effect that the C.P. Government was thinking of riding anti-social offenders, especially offenders in regard to cloth and food on the backs of donkeys in the streets of towns in which they were arrested. That perhaps is a very salutary punishment. That might deter some person at least from committing such a crime, but, Sir, there are others more hardened to any sense of shame and therefore, Sir, I would have liked the Government to bring in this punishment of whipping. I suggested, Sir, in the course of a debate in the last session that whipping shall be introduced and it will have the desired effect as against anti-social offenders of this type. I would recall this fact that Kemal Ata Turk, soon after he became the Head of the Turkish State in 1924 or 1925, had a man whipped for spitting in a public square. Only for spitting. We had penalized "spitting" in the Factories Bill, but we had only "fine" there. Kemal Ata Turk in Turkey, he had a man publicly whipped for spitting in a public square. But, Sir, here it might be said by my honourable friend the Minister that it is a barbarous practice; whipping has gone out of fashion.

Dr. P. S. Deshmukh: May I ask if anybody was whipped for speaking at random?

Mr. Speaker: Not physically, but figuratively.

Shri H. V. Kamath: I would ask my honourable friend, Dr. Deshmukh to apply that law to himself. Therefore, Sir, if my honourable friend, the Minister thinks it is a barbarous practice to whip people, I would say, is it not more barbarous to exploit the hunger and misery of their fellow-men? Is it not more barbarous to kill people in cold blood? Is it not more barbarous, Sir, to exploit the misery of millions just in order to feather their own nests and to fill their own coffers? Barbarity is a crime against mankind. If the hoarders and the profiteers are not barbarous then who else can be?

Therefore, Sir, I would earnestly plead with my honourable friend the Honourable Minister that the punishment should be more rigorous, must be more deterrent, so as to make them desist from this kind of anti-social practices. Our own Ex-President of the Congress, Acharya Kripalani in a momentous speech when he resigned the Presidentship of the Congress last December, asked the Government; "where is all your army of C. I. D. and Police gone; here, under the very nose of the Government, in Delhi, there are people who carry on the nefarious trade in black-marketing, and profiteering; what is your army doing; if you are not able to prevent these things in the heart of Delhi, what hope have you got of enforcing this measure in the rest of the country?" We must make up our mind whether we want to put an end to these things or not. If the will is there, certainly action will follow; if the will is not there, any amount of laws that you make, any number of measures that you may pass in this House will have no effect, and will be in vain and all the tears shed here will be a mere waste, and the time spent here will be a sheer waste.

Then, I would like to draw your attention to this advice, the exhortation that Mahatma Gandhi used to make in the early part of his campaign against British rule. He used to say that we are fighting a Satanic Government, the Government of Satan. But, Sir, I find today that Satanic Government has gone, but the rule of the Mammon has come. I am not eager to disparage the Government; I am not anxious to merely criticise the Government. When I see these practices flourishing all over the country, I hang my head in shame. What is the Government doing? I would like to appeal to the Government and tell them not to take my comments amiss, not to take my criticism amiss. I want that all anti-social practices should be put an end to; I want that some action should be taken by the Government. I say all this, not that I love my Government less, not that I love my leaders less, not that I love my Ministers less, but that I love my country more. That is why I want these practices should be put an end to as soon as possible.

The suggestions I want to make are: first of all, the Government must make up their minds that they want to put an end to these crimes and anti-social practices, and the laws made in this House must be strictly and rigorously enforced without fear or favour, against whomsoever it may be. Secondly, the machinery should be tightened and if the machinery is inadequate, it must be made adequate to meet the menace. Thirdly, corruption—however highly placed the man may be—must be put an end to. This is very fundamental. Fourthly, if trade refuses to co-operate, if industry refuses to co-operate, if the retailers or the wholesalers refuse to co-operate, then, Sir, the punishment should be more deterrent. I was also going to suggest that there should be social boycott of these criminals.

Mr. Speaker: I am afraid the honourable gentleman is covering much more than is justified on general grounds. This is not a general speech against what should be done and what should not be done. He has to confine himself to the scope of the Bill. He is merely repeating his own arguments in different words.

Shri H. V. Kamath: I was coming to the end of it.

Mr. Speaker: He must end it.

Shri H. V. Kamath: I was coming to punishments.

Mr. Speaker: He has already sufficiently spoken on that. I am marking his speech from the beginning. I cannot allow a general dissertation on morality and general things about controls, etc. I believe he has sufficiently spoken on them. Has he anything special about the Bill?

Shri H. V. Kamath: I was going to suggest further that there must be social boycott of these criminals and offenders against society. Sir, I am reading from one of the articles that appeared in our weeklies in India: "Instead of discouraging these black-marketers and profiteers, some of us, even highly placed men go to the length of inviting them to our functions and actively collaborating....."

Mr. Speaker: I am afraid the honourable member is going beyond the scope of the Bill. I cannot permit that quotation or that line of argument.

Shri H. V. Kamath: Sir, I am coming to the end. I said that if these anti-social offences and practices are put an end to with vigour, then only, we will have the rule of the people by the people and really our institutions will be democratic and the Government will work for the people. Otherwise there is the danger that we may stray into plutocracy, that is rule by the men of wealth. I hope this is just a transition to the rule of God on earth that Mahatma Gandhi aspired for. He wanted that the Kingdom of God must prevail. Today the position is different. We see Mammon all round. I would like to say something from one of the books that inspired Mahatma Gandhi in the early part of his life, the book "Unto this Last".

Mr. Speaker: I must ask the honourable member to finish his speech now. I am not allowing him any further. Dr. Deshmukh.

Dr. P. S. Deshmukh: Mr. Speaker, Sir, I am very much grateful to you, Sir, that I have been able to catch your eye. I got up and sat down ten times yesterday; but I was not fortunate enough to get half the time that my honourable friends have had today.

Sir, it appears to me that the Honourable Minister is committing a grave waste of time of the House. We are every time being told that the time of this House is very precious and you, Sir, are the most watchful guardian of the time and have always seen to it that it is properly utilised. It appears to me that you have not examined the provisions that are proposed in the Bill. If you had examined them carefully and considered the speech of the honourable the Minister, you would have come to the conclusion that the whole ado is for the mere change of the word 'or' into 'and'. There is nothing else in the whole amending Bill except this. Added to it, Sir, before the speech was made, we might have some consolation that clause 2 sub-clause (b) was going to make some difference add to the provisions in the existing Act; that has also been retracted and we have it from the Honourable the Minister that he does not propose any change so far sub-clause (b) of clause 2 is concerned. Therefore, all that is left is the change of the word 'or' into 'and', unless, of course, the Honourable Minister is pleased to accept my honourable friend's suggestions in regard to whipping, donkey processions and social boycott which would change the character of the amending Bill. Then probably we would have spent this time usefully. I think this is much ado about nothing especially when we have the Honourable Minister for Home Affairs who is the guardian of law and order in the country, and we are also conscious of our strength which was effectively manifested in this House this morning. If the executive Government of India is worth anything the present courts and the present powers should serve them more than adequately. It is no use saying in an enactment that the magistrate shall do such and such a thing; there is nothing like 'shall'. After all a Magistrate cannot catch hold of a person and sentence him. The whole of the Indian Penal Code is content to have the word "may" and that has served us all these years. Similarly the original Act which is in force today

would be quite sufficient if the executive instructions of Government are followed. I do not therefore see any necessity for this amending Bill and taking all this trouble, because actually there is not going to be any difference whatever. The word 'may' always has, specially with reference to punishments, the force of 'shall'. It is not necessary to say that the court shall, do a particular thing. After all it is open to the court to say that it does not find the offender guilty. The only difference that is going to be made is that there will be fine in addition to imprisonment. I suggest therefore that the Bill should be withdrawn so that the time of the House may not be taken by other honourable members delivering harangues on the textile policy of Government, etc. That of course is natural because we do not usually have a chance of saying all that we feel and so you should consider it excusable if we give vent occasionally to our pent-up feelings. I suggest that the time of the House would be saved if the present bill were boiled down to what is absolutely necessary. I should also like to make a request that you Sir should not permit the Honourable Ministers on the Treasury Benches the latitude of taking up too much of your time. Yesterday the Prime Minister talked for about seven minutes to tell us that he had nothing to say; and that time was unfortunately taken out of non-official business. It might well be that those seven minutes would have given me a chance to deliver a speech which I had prepared and spent a good deal of time on. I have all the greater grievance because on a previous occasion when Babu Rajendra Prasad decontrolled food I had no opportunity either. I do not of course want to make a personal grievance of it but these are things which may I think be borne in mind. The Honourable Minister may therefore postpone this Bill and confine it to the essential purpose if any which it is intended to serve.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I want to speak on a drafting point.

Mr. Speaker: The honourable member can speak when we take up the amendments.

Mr. Naziruddin Ahmad: I want to speak now so that the Honourable Minister may take note of it.

Mr. Speaker: Then I take it the honourable member will not speak then.

Mr. Naziruddin Ahmad: I may not. Section 7(1) which is going to be amended provides that in case of contravention certain properties shall be forfeited to His Majesty. This law was passed on 9th December 12 Noon 1946 when His Majesty had undoubted jurisdiction over India. But in the revised proviso of the present Bill the Draftman has used that phrase in two places, although "His Majesty" is today an anachronism. So the expression in the proviso will have to be changed and that will require a consequential change in sub-section (1) itself. This drafting point may be considered.

Srijut Rohini Kumar Chaudhuri (Assam: General): Sir, confronted with a legislation of this kind I think the House would do well to remember the distinction between the duties of a member of the legislature and those of the executive authority. If you give too much power to the executive, if you only want to rid the country of all its evils by a mere resort to greater punishments I think you will have undesirable results and you find the executive completely demoralised and lazy in the performance of duties. I confess that I do not see eye to eye with my honourable friend Mr. Kamath in all that he has said. I would rather ask this House to ponder carefully and thoughtfully on what has been said by my honourable friend Mr. Himatsingka and proceed slowly and cautiously in respect of legislation of this kind. I should like to be informed whether black-marketing and profiteering have increased only owing to the leniency or so-called leniency of the State. Have they not failed because in all cases the necessary amount of proof has not been produced? They have increased not because fine has not been provided, but the real fact is that

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cases of this kind are brought before the courts hastily. It was thought that as soon as cases were brought to court they would end in conviction. The lower magistracy are dependent for their promotion on Government and think that more convictions would lead to their promotion. So they convicted and gave the most monstrous sentences, and in the court of appeal the accused either got off or were treated leniently. This is the only reason why black-marketing and profiteering have increased, not because of any defect in the law. They have increased because of the carelessness and inefficiency of the officers who deal with these cases. I am very much surprised to find that in order to make the law drastic the elementary principles of criminal law have been ignored; section 562 of the Criminal Procedure Code has been thrown to the winds. This Bill provides that when contravention of the order has been proved the magistrate will have no alternative but to send the accused to jail. There is departure from the ordinary law; the word "shall" is there and there must be imprisonment. Section 562(1) Cr. P.C. lays down that an accused instead of being sentenced to imprisonment may be let off with a security. That is completely abrogated in this measure.

Then, Sir, there should be some distinction between ordinary and technical contravention of orders. We know that for the mere fact that certain accounts are not shown properly there is a contravention and technical breach of the order; will that man have to be sentenced to imprisonment also? Will the Government really get the sympathy of the public in general if they have a legislation of this kind, where all small technical contraventions and serious contraventions have to be punished by imprisonment and nothing else? It is time that the Honourable Minister should ponder over these things. I am afraid the country will say that you are trying to cover up your inefficiency and your own mistakes in the matter of the textile policy by trying to lull the public into a sense of security by introducing a legislation of this kind. Only the other day you decontrolled cloth without having an alternative provision for the supply. Cloth having been decontrolled, people purchased it at very high prices from other places. In places like Assam, people booked cloth from Bombay and Calcutta by air and the prices soared up very high. They did it because decontrol had taken place. Now you are going to impose control again and you will thereby be compelling those people to sell their cloth at a very low price: but if they keep it back they will be charged with hoarding. What will the people think of this?

As I have said it is not by whipping or by awarding capital sentences that you are going to solve this problem. The speech of my friend, Mr. Kamath, reminded me of the medieval days. You may remember the punishment inflicted in the Tower of London. You may remember the time when Nanda Kumar was sentenced to death for the offence of perjury. You may remember the days in old Assam when people were sentenced with their knee-caps, as it is alleged, cut off for thefts. The kind of talk which Mr. Kamath has treated this House with may please some people outside it, but it is no solution of the problem before us. The solution is that you must get the public confidence, and you must convince the public that you have introduced a policy which is really going to work and only in cases of any infringement of that policy can you have this kind of punishment. Merely enhancing the sentence will not solve anything. I would ask the Honourable the Minister to consider the provisions of Section 562 where for minor offences you punish merely with a fine and in cases where more severe punishment is called for, you punish with imprisonment. That is commonsense.

Even two years after the war you have not been able to tackle the cloth problem. Merely that you cannot send people to the gallows because you have not provided for a lesser sentence.

As regards the point raised by my friend, Mr. Naziruddin Ahmed about "His Majesty" I do not know whether it is a real mistake or whether it is intentional. But the fact remains that still we are wedded to the old order of things. We want our Majesty kept and our Crown kept. The Indian sentiment has never been so democratic as to forget the King and the Crown.

Mr. Speaker: I may point out that in the original section the words are "His Majesty" and this is a proviso to that section.

Srijut Rohini Kumar Chaudhuri: Sir, I have finished.

Mr. Hossain Imam (Bihar: Muslim): I do not wish to indulge in any high-flown rhetorics. I simply wish to say something on the matters of the day. I welcome this measure in the spirit in which it has been brought, but I regret that it does not go far enough. My regret is twofold. Firstly, there is the old complaint that I have been making, that we pass skeleton laws leaving the rule-making power too wide to the Executive Government, and thereby creating the troubles to which reference has already been made by honourable members on this side of the House that rules and regulations under which they are being prosecuted are not available to the public. The public does not know what are the rules which have been framed. Although the ignorance of the law is no excuse, nevertheless there are occasions when it is the duty of a just Government to make endeavours to supply them. This is caused because the regulations are made and unmade so frequently that it is difficult to keep trace of them. Even in the Government offices, except for one or two copies of the Act and the Regulations which are continuously pasted up, you do not find the latest and the last rule made in many copies available. I therefore think that this habit of legislating by rules should be avoided as far as possible. But that is not within the scope of this measure. I wish to stress the fact that the provision of a punishment is not an end in itself. It is a means to an end. The end desired is that the practice which is penalized will end. May I know what steps are being taken by the Ministry to bring forward this desired result? The law, as it is being amended, simply makes the forfeiture mandatory. Otherwise there is no change in the law and stress has been laid on the period of three years. Imprisonment is compulsory but imprisonment can be till the rising of the court as has often happened in courts which regard the offence to be merely technical.

I would like to draw the attention of the Ministry to the fact that the black-marketing does not start with the retailer as is commonly supposed. There are four steps in this racket, and the first and foremost is the one which goes with impunity. I refer to the production by the mills. The first black-market starts from there because unless you have the supplies you cannot have the black-market. The supply is usually given by the mills through the ingenious method of showing lesser production than is the actual production in the mill. My complaint is that the Government has not framed any rules, from 1943 up to date, in order to tighten the grip on the millowner who is the first and the keystone in this black-marketing racket. I have known instances where mills have shown their production by about 20 per cent less than the actuals. The method of finding this out is a formula which has probably the approval of the tariff board also that 100 lbs. of cotton gives 108 lbs. of ordinary coarse and medium cloth. On this formula if it were worked out by the Textile Commissioner I am certain that lakhs of bales would be found to have been hidden away by the mills, and there is no regulation at least to my knowledge by means of which mills are compelled to bring about their production to the average level or to be penalised for producing less.

The second step among the black-marketeers is the quota-holder, as they existed before the decontrol was started. I do not know whether they exist

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today. The quota-holder is a person who acts as an intermediary between the mill and the wholesaler.

The Honourable Dr. Syama Prasad Mookerjee: He is not in existence today.

Mr. Hossain Imam: I am so glad. So I will pass on to the wholesaler. They take some premium on the supply of better kinds of cloth. It is there that you must have a role to regulate that they should not make these charges.

Last but not least is the retailer. In places where there had been rationing no check was ever applied to find out whether the cloth sold was sold according to ration cards or not and whether the ration cards were genuine or bogus. All these things go to make up the black-market. The purport of my speech is to remind Government to tighten its machinery of inspection, regulation and control. Unless you do that it is no good providing for any measure of punishment, because there will be no cases and there will be no punishment. If there is only one case out of a 100 or 1000, that will prove no deterrent. What is wanted is that the Government should go full steam ahead and evolve a system by which they will have complete check, greater inspection and better rules and regulation, so that every thing can be controlled. If we have that it is not necessary that the punishment should be strict. On the other hand even exemplary punishment to one in 1000 will induce the black-marketeer to take the risk rather than give up his practice.

In this connection I should like to point out to a bit of inconsistency between the Act itself and the proviso. In the original Act Section 7 sub-section (1) says:

"If the order so provides, any court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to His Majesty."

And the present proviso says:

"The Court shall direct that any property in respect of which the Order has been contravened shall be forfeited to His Majesty."

Here there is an element of incongruity. In the main Act you give the discretion to the Court, whereas in the proviso you make it compulsory. I do not know the law and so I shall place this point for your consideration. Secondly I want to draw your attention to the words "any property in respect of which the order has been contravened." Supposing the charge is that a man has sold rubber cloth No. so and so at such and such a price. Will it mean that one bundle of that cloth will be forfeited. This should be clarified. Do these words cover the generality or particularity? If it is to be restricted to that particular piece of cloth to which it refers I think it is better not to provide for it. It would be so minor a matter that it would be difficult to prove that it has been systematically going on. You can only say that so and so bought the cloth and at a higher price than what was fixed. If it is the intention of the Government to continue this control it is necessary that a more comprehensive Bill including many of the rules which are fundamental, should be brought forward in the next session so that we may know that the Government is up and doing and what it is doing. It is not enough that they should be satisfied that they are giving us a good government. It is necessary that the public should be satisfied that they are having a good government. This is the advantage of having a national government. I want that the public should be satisfied and it is no good saying that the measure is of a temporary nature. The textile trouble will continue in my opinion for three or four years and we must proceed on the assumption that the control is to continue for a longer period and in a more comprehensive manner. Sir, with this I resume my seat.

Shri B. Das (Orissa: General): Sir, I support the measure under discussion but my support is half-hearted, because it will not meet the needs of the country. Much has been said about punishment, more drastic punishment and less drastic punishment and punishment in the legalistic way as suggested by my honourable friend Mr. Rohini Kumar Choudhury. I think we are in a drastic situation and a drastic situation needs a drastic remedy. During the last four years the black-market has been at its worst. With the help of the British and American Air forces cloth was flown to Siam and China and now it is smuggled to Pakistan on both sides of India. Some drastic remedy is necessary. Those who are black-marketeers and suppliers need drastic punishment. I am not an admirer of Russian methods of action but I do feel that the Government of India should be empowered sometimes to act up to Russian methods. If there is summary justice and hanging of a few black-marketeers, suppliers, and intermediary dealers, if one hundred hangings take place in the market square of every town throughout India, there will be no more black markets. I do not profess that I love my government. I am trying to love them. I do not, like my honourable friend Mr. Kamath, profess that I love my country more than I love the Ministry. I am trying to love my ministry. They must understand the situation and act up in a measure that will suit the desire of the people of the country. Many women committed suicide in the Honourable Minister's own province because a *saree* or *dhoti* could not be available. Why are we fighting shy of hanging the black-marketeer or the cotton millowner, the wholesale supplier and even the retail dealer? (*An Honourable Member:* 'Hang them all.') Of course there will be hundreds of lawyers all over the country to defend the black-marketeer. Therefore I do request my honourable friend Dr. Syama Prasad Mookerji after the session is over to have an ordinance promulgated. We will not question him. I will send him a telegram of congratulations. Let them hang all black-marketeers, let them have summary justice. If there is to be any justice, let them take five people from the town and try those people, say five members of the provincial congress Committee as Panchayats. Unfortunately, although the Minister is not a Congressman, he is following the Congress principles of non-violence. Otherwise I believe the Honourable Minister has the strength and courage to act up to what I am suggesting to him. If you do not do that there is no use of this half-hearted measure. It won't meet the exigencies of the situation. It would not help the poor man who occasionally commits even suicide because he is going naked. It is pitiable that we are in this position for the last five years. Being faithful followers of non-violence we cannot say what is the proper punishment for those thousands and thousands—I may say even lakhs—of people who have been black-marketing and depriving the poor people of their minimum requirements of cloth. Sir, I do hope that during the recess the Cabinet will follow the suggestion I have dropped, and occasionally let us have Russian methods of justice though not Russian practice in other matters.

Prof. Shibban Lal Saksena (U.P.: General): Sir, I wish to confess at the very outset that the Bill is a disappointing one. I would wish the Honourable Minister to have brought forward a Bill more comprehensive, according to the wishes of the House. As has been pointed out by my honourable friends, the only change contemplated by this Bill in the original Act is the substitution of 'and' for 'or'. And by this Bill the Honourable Minister hopes to control the black-market. I am not for the punishment of whipping or of taking people round the streets on donkeys, as suggested by my Hon'ble friend Mr. Kamath. I really wonder how he made that suggestion. When these punishments were inflicted during the bureaucratic days on civil resisters we called them barbarous and uncivilized. I do not think that after we are free we should impose such punishments on anybody, whatever the offence may be.

[Prof. Shibban Lal Saksena]

While I do not like the punishment that my hon'ble friend Mr. Kamath has suggested I am not a whit less keen than him to root out corruption and I do wish the Prime Minister did really give effect to the announcement he made in his free days that he will hang the black-marketeers by the nearest tree. In fact I won't even mind the law not being made more stringent. What I am more concerned with is giving effect to the law. May I ask my honourable friend the Minister whether he can tell the House the number of prosecutions or convictions of millowners who have been guilty of all this cloth black-marketing during the last four or five months? The existing Act did give them power to award sentences of imprisonment for a period of three years or to confiscate the property. I want to know what has been done. The Bill says that if there is any contravention of the control orders, the offender will be punished. But we do not know from the Bill what the orders are. So this Bill is just a blank cheque to the Government—that whatever orders they make shall be followed, and if there is any contravention thereof, then such and such punishment shall be given. My honourable friend Pandit Kunzru pointed out the other day that such Bills should not be brought before the House. The entire power of law-making is really taken by the Government, and whatever they want they can provide for in the Rules. I wish the Bills brought are more comprehensive so that rule-making power does not degenerate into law-making power. I hope that the orders which will be made under this Act shall be comprehensive enough to root out the evil.

Yesterday I was listening carefully to the debate on the report which the Economists have submitted for solving the problem of inflation. I was feeling as to what was the use of these proposals so long as from top to bottom there is corruption in the Government and in the Congress and everywhere. So long as that is not rooted out no improvement can come. We will solve neither the food problem nor the cloth problem so long as that evil persists. If the law is properly and rigorously enforced, it will really be able to do much. But the position is unfortunately different. In my own Province there have been cases of big industrialists being convicted by the sessions courts of crimes of hoarding and black-marketing—there was a lot of coal buried under ground inside a factory—but the millionaire proprietor was acquitted by the High Court though the sentence against the underlings was upheld. Everybody knew what had happened, for such scandals cannot be kept hidden. I have no doubt that if some of these big millionaires who are really guilty of such crimes are punished this thing will come to an end. Black-marketing goes on, because the men at the top do it and we have not got the strength to punish them and to set them right. They have got the means, the lucre, and can influence even the highest-placed authorities in our country. And our Ministers know it. My hon'ble friend Mr. Kamath quoted just now from our ex-President, Acharya Kripalani, who asked "Where was the C.I.D. now?" Everybody one of them knows what is going on. Why not take action then? Everybody knows who are the men doing all this. In fact we have now appointed an Income tax Investigation Commission. Years have passed and we have to deal with the culprits now. I do not know what will happen. But the real point is that you must be ruthless against corruption. So long as you don't suppress corruption there is no use of these Bills. Let the punishment be three years or seven years or even twenty years. But if not a single man is punished or sentenced, what is the use of the provision for punishment? I would therefore like the Honourable Minister to give us in his reply the number of convictions which have been secured during the last one year since the Government took office of black-marketeers—of industrialists who own mills or of wholesalers dealing in crores of rupees of business who were guilty of black-marketing. I wish that he should also tell us how many people's properties were confiscated, and how many mills were sealed and the cloth seized by Government. Under the law they could have done both.

In regard to the second part about food, I have tabled one amendment, which provides for giving the courts authority either to confiscate the whole or a part of the food that the people were caught taking away. I want to be lenient to them, particularly to the poor people. The ordinary peasants are put in jail or punished, and the grain they carry is forfeited to the Government. But they do not know the law. If a man carries 20 seers of rice from Gorakhpur to Bihar, crossing the border, all the foodstuffs he carries is forfeited and sometimes he will have to go to jail. The court will not have the discretion even to release the grain which he carried, though it may be convinced that the man brought it due to his ignorance of the law. The rules are sometimes so foolish that it is not possible to follow them. I want that there should be some machinery in this country which should see that the orders which are made are sensible and then they are ruthlessly enforced. I would have wished that the courts were given more responsibility, that at least the High Court were given the discretion of punishing according to the guilt particularly in the case of foodgrains and particularly in regard to small offenders like a man crossing the border with twenty seers of rice when there is no rice on the other side. What I really want in this Bill is, more details of the machinery to control black-marketing, both cloth and food. We want to promise from Government that they would see that the orders are ruthlessly enforced and that those who infringe them will be brought to book and not left scot-free. Particularly I want regular monthly statistics to be given to the House giving details of the number of black-marketeers convicted—big merchants and mill-owners who are guilty of this. So long as we do not do it there is no use of planning, of discussing economists' reports and trying to formulate our policy. The country is tired of all this. Everybody knows that corruption is going on before our own eyes, but nobody will do anything to root it out. I wish that things are enforced rather than that we should pass this Bill. Sir, subject to these few words I support the Bill.

پنڈت تھاکر داس بہارگو : مانڈیہ سپیکر صاحب ! جب ۱۹۴۶ء میں یہ بل پیش ہوا تھا تو اس وقت میں نے اس سیکشن کے بارے میں جناب کے روبرو اعتراض کیا تھا مجھے افسوس ہے کہ آج مجھے اس اعتراض کو پھر دہرانا پڑتا ہے آج جو یہ Amending Bill پیش کیا جاتا ہے اس کے بارے میں جناب نے تقریریں سنی ہیں۔ مسٹر کامتھ تو یہ چاہتے ہیں کہ ان لوگوں کو گدھے پر چڑھا کر پھرا دیا جائے اور سخت سزا دی جائے۔ یہاں تک کہ ان کو بیت (Flogging) لگائی جائیں۔ ایک طرف تو یہ کہا جاتا ہے۔ اور دوسری طرف یہ کہا جاتا ہے کہ ان لوگوں کو پھانسی دی جائے۔ تاکہ اور لوگ دیکھیں کہ ایسے آدمیوں کو کیسی سزائیں ملتی ہیں اور وہ ایسا کرنے سے گریز کریں۔

میں اس چیز کو ایک دوسرے نقطہ نگاہ سے پیش کرنا چاہتا ہوں۔ وہ یہ کہ اس دفعہ نمبر ۷ جس کی ترمیم کی جاتی ہے۔ میں یہ درج ہے کہ جو آدمی اس آرڈر کی خلاف ورزی کرے اس کو تین سال کی سزا دی جا سکتی ہے۔ اور جرمانہ بھی کیا جا سکتا ہے۔ میری گزارش یہ ہے۔ کہ ان لوگوں کو ہر صورت میں سزائے قید دینی لازمی ہے۔ لیکن اس Amending Bill کے تحت "Court shall direct" کہ اُسکی ساری کی ساری کچھ حد تک جائیداد ضبط کی جائے۔

[پلڑت تھا کرداس بہارگو]

جناب والا! میں بلیک مارکٹ کرنے والوں سے اتنی نفرت کرتا ہوں جتنی کہ دوسرے اصحاب کرتے ہیں اور میں یہ بھی نہیں چاہتا کہ ان کو کم سزا دی جائے۔ لیکن میں یہ بھی نہیں چاہتا ہوں کہ تصور کرے کوئی اور سزا دی جائے کسی اور کو۔ اگر چند حصے دار ہیں تو ضبطی میں سب کی جائیداد آویگی کو مجرمیت میں ایک شخص ہی ذمہ وار ہو سکتا ہے۔

جناب! مجھے ایک بات یاد آئی ہے۔ میں چھٹی جماعت میں پڑھتا تھا اور وہاں پر جو کتاب پڑھائی جاتی تھی اس میں ایک کہانی درج تھی جسکی Heading تھی Five blind men of India۔ پانچ آدمی ایک ہاتھی کو دیکھنے جاتے ہیں ایک اُسکا منہ دیکھ کر اپنا تجربہ ہانپی کے متعلق بتاتا ہے۔ دوسرا اُس کے جسم کو دیکھتا ہے اور تیسرا پونچھ کو دیکھتا ہے۔ وہ کہتا ہے کہ ہاتھی مانند رسہ کے ہے اور چوتھا اس کے کان دیکھ کر بتاتا ہے کہ ہاتھی چھانچ جیسا ہوتا ہے غرضیکہ ہر ایک اپنے طریقہ پر دیکھ کر ہاتھی کا تجربہ بتاتا ہے۔ ایک طرف بلیک مارکٹ کو دیکھ کر میرے دوست، مسٹر کامٹھ کا قصہ ۱۰۸ درجہ کا ہو جاتا ہے۔ اور دوسری طرف میرے دوست مسٹر ہمت سنگھ کا کہتے ہیں کہ اگر ایک انسپکٹر کسی دوکان کے اندر جاتا ہے اور وہاں پر دیکھتا ہے کہ اس آرڈر کے مطابق rates کا list نہیں رکھا گیا ہے یا رجسٹر میں کوئی اور اندراج نہیں کئے جاتے ہیں تو اُس کے عدم اندراج پر اس دوکاندار کو سزا دی جا سکتی ہے۔ اور یہ جو سزا رکھی گئی ہے وہ بہت زیادہ رکھی گئی ہے۔

میں جناب والا کی توجہ نہایت ادب سے سکشن نمبر ۳ کی طرف دلاؤں گا۔ جس کے تحت کہ کنٹرول عاید کیا جاتا ہے۔ اس دفعہ نمبر ۳ کے ضمنی دفعات (h) اور (i) کو جناب ملاحظہ فرماویں۔ اس میں درج ہے۔

“(1) The Central Government, so far as it appears to be necessary or expedient for maintaining or increasing supplies of any essential commodity, or for securing their equitable distribution and availability at fair prices, may be notified order provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;”

And (i) is very important—

“(i) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;”

میری گزارش یہ ہے کہ اس بل میں سب جرائم کے واسطے ایک ہی قانون بنا ہے اور ایک ہی سزا مقرر کی گئی ہے۔ یہ ایسی ہی بات ہے۔ اندھیر نگر چوپٹ راجہ۔ تھک سیر بھاجی تھک سیر کھاجا۔ یعنی ہر ایک چیز کی قیمت ایک ہی ہے دودھ بھی

دھی بھاؤ Vegetables بھی وہی بھاؤ اور دوسری دوسری انکی چیزیں بھی اسی بھاؤ سے بکتی ہیں۔ ان میں بھانپ پو کوئی تمیز نہیں رکھی گئی ہے۔ یعنی اس بل میں اس بات کا کوئی امتیاز نہیں ہے کہ دراصل جرم کرنے والے کو سخت سزا دی جائے اور Technical جرم کرنے والے کو کم سزا دی جائے۔

جب یہ بل پہلے پیش ہوا تھا تو اس وقت بھی میں نے Benthams کی پرار زیشن Quot کی تھی۔ اور کہا تھا کہ جس جرم کے واسطے کیا جی سے کام چلتا ہے اس کے واسطے hammer استعمال نہیں کرنا چاہیئے۔ اس میں یہ درج تھا کہ اگر آپ ہر ایک چھوٹے اور بڑے جرم کے لئے ایک ہی سزا دیں گے تو ہر ایک کو یہی Temptation ہوگی کہ وہ بڑا جرم کرے۔ اگر ایک شخص کو محض اس لئے تین سال کی سزا دی جا سکتی ہے کہ اس نے رجسٹر نہیں رکھا ہے تو وہ صرف اتنے ہی جرم پر آمیزدہ اکتفا نہیں کریگا بلکہ اور بھی کچھ کر دینا۔ اس لئے میری گزارش یہ ہے کہ یہ سارا بل Misconceived ہے۔ اور جیسے کہ میں نے پہلے بھی گزارش کی ہے اس سارے بل کو اچھی طرح سے Overhaul کرنے کی نہایت ضرورت ہے۔ اگر آپ آج اس Amendment کو قبول کرتے ہیں تو اس کا مطلب یہ ہوگا اگر کوئی دوکاندار رجسٹر ٹھیک نہیں رکھتا تو اس کے لئے عدالت حکم دے سکتی ہے کہ اس کی جائیداد چاہے وہ دس لاکھ روپیہ کی ہی کیوں نہ ہو ساری کی ساری ضبط کی جائے۔ اب تک تو جرمانہ کی سزا تھی مگر اب مال کی ضبطی کی بھی سزا رکھ دی گئی ہے۔ یہ قاعدے اور قانون اس واسطے نہیں بنائے جاتے ہیں کہ بے گناہ آدمیوں کو سزائیں دی جائیں۔ جیسا کہ میرے دوست مسٹر حسن امام نے اور مسٹر سکسینہ نے کہا ہے۔ اور دیس میں جو پبلک Opinion ہے اسکو ظاہر کیا ہے۔ جو لوگ دس ہزار قسم کی بد معاشیاں کر کے ملک میں Unrest پھیلاتے ہیں ان کے لئے تو یہ سارا ایکٹ بھی نا کافی ہے۔ اور جو غریب ہیں اور اصطلاحی جرم کرتے ہیں ان کے لئے ضرورت سے ذی دہ سخت ہے۔

بڑے آدمیوں کو تو سزائیں نہیں دی جاتی ہیں اور چھوٹے چھوٹے آدمیوں کو اس لئے پکڑا جاتا ہے کہ پانچ سیر گیہوں یہ لے گیا ہے۔ یا پانچ سیر گیہوں چھپا رکھا ہے۔ جب ایسے مجرموں کو کورٹ کے سامنے لایا جاتا ہے تو کورٹ یہ خیال کرتی ہے کہ بڑے آدمیوں کو سزائیں نہیں دی جاتیں چھوٹے آدمی کو سزا دینے سے کیا فائدہ۔ اس لئے کورٹ ان سے نرمی کر کے انکو چھوڑ دیتی ہے۔

جناب والا! میں چاہتا ہوں کہ یہ جو بلیک مارکٹنگ یا پرائیویٹنگ اور ہر رنگ کا جرم ہے یہ نہایت بڑا جرم ہے۔ اور مجھے ایسے آدمیوں سے ہرگز کوئی

[پندت تھاکو داس بھارگو]

ہمدردی نہیں ہے۔ اس بل میں یہ ترمیم کی جائے کہ کورٹ کو اتنے اختیارات نہ دیئے جائیں جتنے کہ آپ دے رہے ہیں صرف ان ہی لوگوں کو سزا دی جائے جو کہ دراصل مجرم ہوں اگر اس میں صاف طور سے درج کیا گیا ہو کہ سزا قید صرف اسی کو دی جائیگی جو دراصل black marketing کا مجرم ہو تو میں اس کے حق میں ہوتا۔ لیکن موجودہ صورت میں اس سے اتفاق کرنے کو تیار نہیں ہوں۔ اگر اس کو قبول کیا جائے تو نتیجہ یہ ہوگا کہ بہت سے ان لوگوں کو جیلوں میں سزائیں نہیں ملنی چاہئیں تھیں۔ انکو سزائیں مل جائیں گی۔ اسلئے اگر میں اس بل کو support کروں تو یہ میری ایک غلطی ہوگی۔ اس بل کی رو سے کورٹ کو یہ اختیار دیا جا رہا ہے کہ وہ Textile order کے خلاف ورزی کرنے والے کے جرم کو بڑی سے بڑی سزا دے۔ اور اسی وجہ سے آنریبل منسٹر نے یہ بل پیش کرنے کی ضرورت محسوس کی ہے۔

میں یہ پھر گزارش کرنا چاہتا ہوں۔ گزشتہ دو سال میں اس ایکٹ کو اچھی طرح سے ایڈمنسٹر نہیں کیا گیا ہے۔ اور مجرموں کے ساتھ بہت ہی نرمی کی گئی ہے۔ اس ایکٹ میں کوئی ایسا مصالحہ یا تجویز نہیں ہے جس سے کہ ہمارے دیش میں اس جرم کا پورا پورا سدباب ہو۔ ہمارے اس دیش کو اس بلیک مارکیٹ سے اور ان بلیک مارکیٹ کرنے والوں سے بہت نقصان پہنچ رہا ہے۔ اسلئے ان کو ضرور قرار واقعی سزا دی جائے۔ لیکن یہ نہیں ہونا چاہئے کہ کورٹ کو یہ اختیار دیا جائے کہ وہ اسکی جائداد کو بصورت کہ مجرم نے اصطلاحی جرم عدم نقشہ پوری یا لٹکانے فہرست قیمت جو سب کیا ہو تو اس کی ساری جائداد ہی ضبط کر لیجاوے اور وہ بھی لازماً میں اس measure کو support نہیں کرتا ہوں۔ میں تو یہ کہتا ہوں

original measure ہو۔ غلط ہے۔ اور یہ دوسرا measure بھی غلط ہے۔

۱۹۴۶ میں میں نے ہر ایک بل کے متعلق یہی کہا تھا کہ جب تک آپ

ہر ایک قانون بناتے وقت اسباب کا خیال رکھیں کہ اگر کوئی جرم کرتا ہے

تو اُسکو اس جرم کرنے کی سزا اتنی ہی ملنی چاہئے جتنی کہ اُس کے لئے

مناسب ہو۔ میں اس واسطے نہایت ادب سے عرض کرتا ہوں کہ یہ بل اس قسم

کا ہے کہ آنریبل منسٹر صاحب کو یہ واپس لینا چاہئے۔ اور اس کے بجائے ایک

اس قسم کا بل لایں جو مناسب اور قرار واقعی سزا دینے والا ہو۔ اُسکو ہاؤس support کرینا اس بل کے enact ہونے سے بہت بے انصافی ہونے کا قدر ہے۔

(English translation of the above speech).

Pandit Thakur Dass Bhargava (East Punjab: General): Mr. Speaker, Sir, when this Bill was brought up in 1946, I raised an objection in regard to this Section. I am sorry I have again to repeat the same objection today. Sir, you have heard the speeches delivered in connection with this amending Bill which has been moved today. On the one hand Mr. Kamath wants that such persons should be taken round on donkeys in the streets and given a deterrent punishment. He even suggests that they should be flogged and on the other hand it is suggested that such persons should be hanged so as to serve as an example to others to desist from committing such anti-social offences.

I would like to explain this thing from a different angle of vision, viz., that Section 7 which is being amended lays down that a person who contravenes this Order is liable to be sentenced to three years imprisonment and in addition to a fine. My submission is that these persons should in all circumstances be sentenced to imprisonment, but under this amending Bill "the Court shall direct" that any property, whole or a part thereof belonging to that person should be forfeited. Sir, I hate the black-marketeers as much as other persons and I also do not want that they should be given a light punishment. But I do not also like that an innocent person should be punished and the real culprit let off. If two partners are involved, then the forfeiture will cover the whole of their property, although only one person may be held to be guilty of the offence. Sir, I remember when I was studying in the sixth class a book which we read contained a story with the heading "Five Blindmen of India". Five persons go to see an elephant—one of them explains his experiences after touching the elephant's trunk—the second looks at his body, the third to his tail—each one of them describes the elephant according to his own experience; and the fourth one after having seen his ears describes him to be like a *chhaj*—a winnowing basket. Everyone gives his own version about the elephant. The indignation of my honourable friend Mr. Kamath rises to 108 degrees when he sees a black-marketeer and my friend Mr. Himatsingka says that if any Inspector visits a shop and finds that the list of rates has not been exhibited in accordance with this Order or no entries are made in the Register, then a person is liable to be punished in default thereof, and the punishment which has been provided for such a breach is very severe. Sir, I would respectfully invite your attention to Section 3 in pursuance of which the control is imposed. Sir, you may go through Sub-sections 2(h) and (i) of Section 3, which lays down:

"3. (1) The Central Government, so far as it appears to be necessary or expedient for maintaining or increasing supplies of any essential commodity, or for securing their equitable distribution and availability at fair prices, may by notified order provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

And (i) is very important—

"(i) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;"

My submission is that this Bill prescribes similar punishment for all sorts of offences—the offence may be trivial or serious, but there is one punishment for all offences. This is "confusion worse confounded". In other words, a

[Pandit Thakur Das Bhargava]

uniform rate has been fixed for all articles be they milk, vegetables or other sundry articles all sold at the same price. All these articles have been treated alike and this Bill does not make any distinction between a real culprit who should be awarded a severe punishment and a person committing a technical offence who should be given a light punishment. At the time when this Bill was first brought up, I quoted Bentham and pointed out that if you can manage with lighter punishment you should not resort to drastic measures. He says that if you provide the same punishment both for the serious and the trivial offence, everybody will be tempted to commit the bigger offence. If a person is sentenced to three years imprisonment simply for the simple reason that he has not maintained the register properly he will not only confine himself to the commission of this particular offence, but will do something more. Therefore, my submission is that this whole Bill is misconceived, and as I have stated it requires to be overhauled thoroughly. If you accept this amendment it would mean that if any shopkeeper does not properly maintain the Register, the Court can direct that his whole property which may be worth ten lacs shall be forfeited. Uptil now fine was imposed, but now the forfeiture of property has been provided. These rules and regulations are not framed with a view to punish innocent persons. As my honourable friends Mr. Hossain Imam and Prof. Shibban Lal Saxena have stated and have given expression to the public opinion in the country that this Bill is quite inadequate to deal with people who commit all sorts of offences and spread unrest in the country, whereas it will prove very harsh for those who are poor and commit only technical offences. Big persons are not punished whereas ordinary persons are prosecuted for petty offences as for carrying 5 seers of wheat or hiding 5 seers of wheat. When such offenders are produced before the Court, the Court thinks that when big persons are not proceeded with, what is the use of punishing the ordinary people? Therefore the Court deals with them leniently and acquits them.

Sir, I realize that the offences of black-marketing, profiteering and hoarding are very serious and I have absolutely no sympathy for such people. The Bill should be so amended as to give less powers to the Court. Only those persons who are the real culprits should be punished. If it had been specifically provided for that imprisonment would be awarded to that person only who is actually found guilty of black-marketing, then I would have supported it. But I am not inclined to agree to it in its present form. If it is passed, then the result would be that many such persons who should not have been punished will be convicted. Therefore I would be wrong if I support this Bill. Under the provisions of this Bill, the courts are being empowered to give severest possible punishment to the person who contravenes the Textile Order and for this reason the Honourable Minister has felt the need to bring forward this Bill. I would again like to submit that during the past two years this Act was not properly administered and the offenders were treated very leniently. This Bill does not contain any such provision which will deter people from indulging in black-marketing which has done very serious injury to the interests of our country. Therefore such black-marketeers should be awarded suitable punishment. But it should not be obligatory on the Courts to forfeit the whole property of a person in default of his having committed a technical offence in not submitting the returns or in not exhibiting the rate-lists. I do not support this measure. I would even go to the extent of saying that both the original Act as well as this Bill are unsuitable.

In 1946, I had expressed these views in regard to each and every Bill that while framing a legislation, it should be borne in mind that punishment commensurate with the gravity of the offence should be awarded. I would, therefore, very respectfully request the Honourable Minister to withdraw this

Bill and introduce a fresh one, prescribing suitable and proper punishment. The House will support that. It is feared that the enactment of this Bill will result in injustice.

श्री लक्ष्मीनारायण साहू : वाचस्पति जी, इस बिल का मैं स्वागत करता हूँ, लेकिन स्वागत करते हुए भी मैं दो चार बातें असेम्बली के ध्यान में लाना चाहता हूँ। पहली बात यह है कि जितना गड़बड़ देश में होता है इसके लिए जवाबदेह कौन है? तो सुनता हूँ कि पहले तो गवर्नमेंट जवाबदेह है क्योंकि जब गवर्नमेंट ठीक तौर से कारोबार करेगी तो साधारण आदमी को इतनी तकलीफ नहीं होगी। लेकिन बहुत आदमी कहते हैं कि जिस देश का जैसा आदमी होता है उस देश की वैसी ही गवर्नमेंट भी होती है।

इस लिए कभी कभी यह शक होता है कि जब हम लोगों की गवर्नमेंट खराब है और यहां का आदमी भी खराब है इसी लिए गवर्नमेंट कुछ कर नहीं सकती। गवर्नमेंट कहाँ से आये। यह जो आदमी हैं उन्हीं के भीतर से गवर्नमेंट आती है। इसी लिए यह बात ठीक है कि गवर्नमेंट वैसी होती है जैसे कि किसी देश के आदमी होते हैं। और इसी लिए यह मालूम होता है कि हम लोगों के देश के आदमी ठीक नहीं हैं इसी लिए हम लोगों की गवर्नमेंट भी ठीक नहीं चल पाती है यह तो मैं मन्ता हूँ, लेकिन यह होते हुए भी देश में जो भले आदमी रहते हैं उनको चुन कर ही गवर्नमेंट बनाई जाती है और लोग समझते हैं कि उस गवर्नमेंट से हम लोगों को कुछ फायदा होगा। लेकिन अभी तक गवर्नमेंट ने जो काम किया है उससे साधारण आदमी यही समझता है कि गवर्नमेंट ने कोई फायदा नहीं किया। मैं तो एक बात कहना चाहता हूँ जो मैंने खुद भोगी है। मैं पहले कहना चाहता हूँ कि ब्लैकमार्केटियर कौन है? जो बेचता है वह ब्लैकमार्केटियर है पर जो खरीदता है क्या वह नहीं है? मैं समझता हूँ कि वह दोनों ही ब्लैकमार्केटियर हैं। लेकिन अवस्था ऐसी है कि जिसको ज़रूरत होती है वह खरीदता ही है—अगर नहीं खरीदेगा तो कैसे काम चला सकेगा। इसी लिए गवर्नमेंट को देखना चाहिए कि जो खरीदने वाले हैं, वह जो ब्लैकमार्केटिंग करते हैं उनको तकलीफ नहीं देनी चाहिए। मेरे मित्र पंडित भागव जी ने कहा कि जो छोटा काम करता है उसको भी उतना ही दंड होता है जितना कि उसको जो बड़ा काम करता है। मेरे मित्र शिबन लाल जी ने ठीक कहा कि असल में जो दोषी है वह भाग जाता है और दूसरे आदमी जो उनके अंडरलिंग (Underlings) होते हैं वह पकड़े जाते हैं और जेल भेजे जाते हैं। मैंने देखा है कि बिजनेसमैन के बहुत अंडरलिंग रहते हैं और वह उन्हीं से कारोबार करते हैं। एक दफा ऐसा हुआ कि जब चावल बालासोर (Balasore) से कलकत्ता जाने की मनाही थी तो बिजनेसमैन काफी चावल भेजते थे। एक आदमी एक बिजनेसमैन का अंडरलिंग था। वह डरता था, लेकिन बिजनेसमैन कहता था कि तुम क्यों डरता है, महात्माजी जेल गये हैं और तुम को डर लगता है। अगर एक दो बरस के लिए जेल हो जायगा तो उसमें क्या है? मैं वहां बैठा था। उस आदमी ने अभी तक दंड नहीं पाया है। मैं उड़ीसा से आता हूँ। एक बार मैंने एक दूकान से कागज खरीदा। मैं ने गवर्नमेंट को लिखा था कि मुझ को ऑफिस वगैरह चलाने के लिए कागज की

श्री लक्ष्मीनारायण साहू

जूरत है। लेकिन इतना करप्शन (corruption) है कि ऊपर से नीचे तक, कि जो मैंने कभी नहीं पाया। आखिर मैं एक दफा नहीं पर तीन चार दफा सिविल सप्लाय अफसर के पास जाने से ६ दस्ता कागज पाया। इसमें मैं क्या कर सकता था? इसलिए मैंने एक ब्लैकमार्केटियर के पास जाकर ४५ रुपया रीम में एक रीम कागज खरीदा। वह कागज बहुत पतला था। मैंने सिविल सप्लाय अफसर को लिख दिया कि मैं कागज नहीं पाता हूँ और इसलिए मैंने ४५ रुपया में एक रीम कागज खरीदा है। जो सिविल सप्लाय अफसर थे उन्होंने मुझको लिखा कि आपने कोई वाउचर पाया है। सौभाग्य से मैंने उसी ब्लैकमार्केटियर से एक वाउचर ले लिया था क्योंकि मैंने उसको कहा कि आपने ४५ रुपये लिये हैं—मैं तो सर्व साधारण का काम करता हूँ। अगर वाउचर नहीं होगा तो दफ्तर वाले शक करेंगे कि मैंने कुछ पैसा अपनी जेब में डाल लिया। इसी लिए आपको वाउचर देना चाहिए। तो उन्होंने दूसरे अंडरलिग को बोल दिया कि वाउचर दे दो। उसने वाउचर दे दिया। उसी वाउचर को मैंने सिविल सप्लाय ऑफिसर (Civil Supply Officer) के पास भेज दिया और कहा कि देखिये यह वाउचर है। उन्होंने कहा कि मैं जूरर उसको दंड दूंगा और उन्होंने केस भी स्टार्ट (start) कर दिया। लेकिन क्या हुआ? कुछ रोज़ में यह हुआ कि उनका ट्रांसफर (transfer) बिहार को होगया। फिर हम लोगों ने बहुत कोशिश करके गवर्नर को तार दिया और कहा कि यह आदमी तो अच्छा है इसको और कुछ दिन रखना चाहिए। तो दो महीने उस अफसर को रखा गया। केस स्टार्ट हुआ लेकिन फिर ट्रांसफर कर दिया। उस केस में कुछ भी नहीं हुआ और जो वाउचर है वह अभी तक आफिस में पड़ा हुआ है। अभी तक वापस नहीं आया। इसी से तो मैं कहना चाहता हूँ कि हम लोगों की गवर्नमेंट बहुत ब्लैक मारकेटियर है।

एक बात मैं और कहना चाहता हूँ कि उड़ीसा में एक सत्यनारायण लाइब्रेरी है। उसके नीचे कपड़े के बेल (bales) मिले। सी० आई० डी० (C.I.D.) ने बहुत कोशिश करके उसको पकड़ा और यह सब जानते हैं कि कौन ब्लैकमार्केटियर है और यह माल किसका है, लेकिन दो बरस हो गये अभी तक कुछ भी नहीं हो सका और वह माल रखा हुआ है और गवर्नमेंट केस नहीं चलाती क्योंकि वह कहती है कि कोई क्लेमैंट (claimant) नहीं है। आपके हाथ में पुलिस है जासूस हैं पर फिर ऐसा क्यों होता है। मैं तो कहता हूँ कि यह परपज़ली (purposely) हो रहा है और इसका सबब भी मैं कह देना चाहता हूँ वह यह है कि जब तक कांग्रेस गवर्नमेंट जो कि अभी गवर्नमेंट चला रही है जब तक वह बिज़नेसमैन के पास से सब काम के लिये रुपया लेती रहेगी तबतक बिज़नेसमैन ठीक तौर पर नहीं चलेंगे। होता यह है कि जब हम इन्कमटेक्स लगते हैं तो जो चैरिटीज़ (charities) के लिए कुछ देता है और उस पर रियायत करते हैं। ऐसा होता है कि जैसे गांधी फंड में कुछ अड़चन (Difficulty) होती है तो बिज़नेसमैन से पैसा लिया जाता है। हम लोग यहां इस तरह बिज़नेसमैन के पीछे पड़े हैं और जो कुछ बातें हम लोग यहां करते हैं उनपर बिज़नेसमैन हँसते हैं। वह कहते हैं कि अगर उनके पास एक डिवाइस (devise) है या सौ डिवाइसिज़ (devises) हैं तो हमारे पास १००० डिवाइसिज़ (devises) हैं।

मैंने बिज़नेसमैन से पूछा और वे साफ़ साफ़ कहते हैं कि यह गवर्नमेंट हमारे साथ क्या कर सकती है, लेकिन मैं पूछता हूँ कि जब हमारे देश की ऐसी अवस्था है तो हम लोगों को ज़रा सा यह ब्याल

नहीं करना चाहिये कि सभी मिलों को नेशनलाइज़ (nationalize) कर दिया जाय—अभी और फ़ौरन। कोई कहता है कि ऐसा करने से बहुत अड़चन पैदा हो जायगी और दुःख सहन करना पड़ेगा, लेकिन मैं तो कम से कम राजी हूँ।

जब से उड़ीसा में गवर्नमेंट ने यह पोलिसी कर दी कि चावल गवर्नमेंट लेगी और बाहर की मांग को पूरा करेगी तब से इतना भद्दा चावल उड़ीसा के लोगों को खाने को मिल रहा है कि कहा नहीं जा सकता है। उड़ीसा से चावल बंगाल को जाता है, बिहार को जाता है, मालाबार को जाता है—तो जहां भी उड़ीसा का चावल बाहर जाता वहां अच्छा चावल भेजा जाता है और उड़ीसा के लोगों को भद्दा चावल खाने को दिया जाता है। मैंने इसके बारे में मैजिस्ट्रेट (magistrate) से कहा कि उड़ीसा के लोगों को इस तरह का चावल क्यों दिया जाता है। उन्होंने कहा कि वह इस बारे में कुछ नहीं कर सकते हैं और यह काम सप्लाय डिपार्टमेंट का है और वही बाटने से ताल्लुक रखता है। शायद अच्छा चावल कभी न रहा हो।

जहां तक कंट्रोल का ताल्लुक है उसके बारे में मुझे बहुत दुःख है और मैं कहता हूँ कि वह कंट्रोल एक दम खत्म होना चाहिये। मेरी सोसाइटी के सभापति श्रीमान् पण्डित हृदयनाथ कुंशरू जी की राय है कि कंट्रोल रहना चाहिये। लेकिन वह मेरे सभापति होते हुए भी मैं इतना कहना चाहता हूँ कि कंट्रोल एकदम हटा दिया जाय, क्योंकि इसकी वजह से आदमियों को इतना खराब कर दिया है कि आदमी कुछ आदमी नहीं रह जाता है और नरक में यह चीज़ आदमी को पहुंचा देती है। इसलिए मैं कहता हूँ कि कोई और उपाय नहीं है कि कम से कम हम सब मिलों को नेशनलाइज़ कर दें लेकिन गवर्नमेंट इससे डरती है। गवर्नमेंट को दूसरे प्लैनों (plans) की तरफ़ ध्यान देना चाहिये। महात्मा गांधी जी ने चर्खा चलाने की प्रथा सब जगह चलाई थी और महात्मा गांधी जी के जीवित समय तक तो खदर सब बनाते थे। आज हमारे प्रान्त में जो वीवर्स (weavers) हैं वे कहते हैं कि महात्मा गांधी जी के मर जाने से यह सब चीज़ मर गई है। कम से कम ३ लाख से ज्यादा वीवर्स (weavers) जो कपड़े बनाते थे आज उन्होंने दूसरा प्रोफ़ेशन (profession) शुरू कर दिया है। वे लोग इतना अच्छा काम करते थे कि जैसा कि मेरे मित्र श्री० विश्वनाथदास जी ने अभी कहा—गवर्नमेंट ने उनको किसी प्रकार का इनकुरेजमेंट (encouragement) नहीं दिया और वे वीवर्स इसी हालत में रहे और कोई भी मदद सरकार की ओर से नहीं दी गई तो वे मर जायेंगे।

Mr. Speaker: The honourable member is drifting into something very wider. His point is that mere controls won't do; and that Government must move in some other directions, that seems to be his point; he has sufficiently made that out. Will he come to the Bill now? There are only three or four minutes left.

श्री लक्ष्मीनारायण साहू : वाचस्पति जी, मैं इस बिल का स्वागत करता हूँ लेकिन स्वागत करते हुए मैं इतना कह देना चाहता हूँ कि गवर्नमेंट को जोर देना चाहिये जैसा कि अभी मेरे मित्र श्री० शिवन लाल जी ने कहा कि पं० जवाहरलाल नेहरू जी ने कहा था कि जितने भी बड़े लोग, और कोई भी ब्लैकमार्केटिंग करते हैं उनको फांसी दी जायगी। मगर मैं कहना चाहता हूँ कि आजतक किसी को भी फांसी नहीं दी गई है। इसलिए इस बिल की सिफ़ारिश करते हुए मैं गवर्नमेंट का ध्यान इस ओर दिलाना चाहता हूँ कि जो आदमी दोषी हैं और जिसके बारे में गवर्नमेंट को मालूम है उसको पकड़ना चाहिये और उसको पूरी सज़ा मिलनी चाहिये।

(English translation of the above speech).

Shri Lakshminarayan Sahu (Orissa: General): Mr. Speaker, Sir, I welcome this Bill. But while doing so, I would like to bring to the notice of the House certain matters. Firstly, who is responsible for all this trouble in the country? It looks as the Government is answerable, because if it properly runs its administration, people will not be put to any trouble. The proverb is "As the people, so the Government." Sometimes therefore it is felt that our Government is defective; if our people are blame worthy what can the Government do? Government is formed out of the people and therefore the proverb "as the people, so the Government" is quite true. It is therefore evident that the people of our country are not good and for this reason our Government too cannot function properly. I do admit this, but after all the Government is formed of the good and chosen people of the country and people expect some benefit from that Government. The impression of the common man about the work which the Government has so far done is that it has not done anything useful. I will narrate my own personal experience. First of all I would like to ask who are the black-marketeers? Is the seller alone a black-marketeer and not the buyer also? To me both of them are black-marketeers. The position is that one who needs does buy. If he does not, how can he otherwise do? Therefore, the Government should see that those who buy—who indulge in black-marketing are not harassed. My honourable friend Pandit Bhargava has stated that a person who commits a minor offence is also awarded the same punishment as is awarded to those who commit a major one. My honourable friend Professor Shibban Lal Saxena has rightly observed that the real culprit usually escapes, and the other persons who act as his underlings are arrested and sentenced to imprisonment. I have noticed that the businessmen have got a good number of underlings and they carry their business through them. Once it so happened that when a ban was imposed for the transport of rice from Ballasore to Calcutta, the businessmen used to smuggle rice in large quantities. Every businessman had employed an underling who was afraid of imprisonment, but the businessman exhorted him not to be afraid as Mahatma Gandhi himself had undergone imprisonment and therefore why should he be afraid?—What was there if he was awarded imprisonment for an year or so? I was hearing this talk. The person concerned has not yet been convicted. I come from Orissa. Once I bought paper from a shop. I had written to the Government that I required paper for running my office, but corruption is rampant from top to bottom, and I could never conceive of such a state of affairs. Ultimately I was able to secure six quires of paper after seeing the Civil Supplies Officer not only once but three or four times. What could I do then? I had to contact a black-marketeer and managed to purchase one ream of paper for Rs. 45. The quality of that paper was very thin. I wrote to the Civil Supplies Officer that since I could not get the paper, I had purchased a ream for Rs. 45 and on this he enquired from me if I had obtained any voucher in this connection. Fortunately I had obtained a voucher from that black-marketeer because I told him that he had charged me Rs. 45 and I being a public worker in the absence of any voucher, the office would doubt that I had kept something in my pocket. On these considerations I prevailed upon him to issue a voucher and he directed his other underling to issue a voucher. I was given a voucher. I sent the voucher to the Civil Supplies Officer for his information. He told me that he would surely prosecute the person and started a case against him. But what happened? After a few days the officer was transferred to Bihar. Thereafter we did our best and sent a telegram to the Governor asking for the postponement of his transfer order for sometime. As a result of this, he was detained for two months. The case was started but again he was transferred. No action was taken in that case and the voucher in question is still lying in the office. It has not as yet been returned. It is for this reason that I say that our Government is a black-marketeer.

Another matter which I would like to mention is that there is a 'Satyanarayan Library in Orissa from where several bales of cloth were recovered. The C.I.D. detected this after frantic efforts and everybody knows the black-marketeer and who is the owner of these goods. But a period of two years has elapsed and no action has since been taken. Goods are still lying and the Government does not institute a case for want of a claimant. Why does this happen at all when you have got the Police and the Investigation staff? I do say that this is being done purposely and would also tell the reason for it. So long as the present Congress Government continues to receive money from the businessmen for conducting all its affairs, the businessmen will not mend their ways. When we levy Income-tax, we have to give some relief to the person who contributes towards charitable institutions. Just as whenever any difficulty is experienced in the collection of money for Gandhi Fund, then the assistance of businessmen is invoked. The businessmen laugh at us for what we talk about them here. They claim to have many ways of escape. They frankly admit that they are very well aware of the methods in which this Government can deal with them. But may I know when our country is passing through such a crisis why should we not consider for a moment that all the mills should be nationalized forthwith? Some say that such a course will entail a good deal of difficulties and hardships but I for myself am quite agreeable. Since the time the Government of Orissa declared its policy that the rice crop shall be procured by it for meeting the demands from outside, the people there are getting such an inferior quality of rice as beggars description. Orissa supplies rice to Bengal, Bihar and Malabar. Wherever the Orissa rice is exported, fine quality is sent while on the other hand the people in Orissa are given inferior rice to eat. I brought this to the notice of the Magistrate as to why such a quality of rice was given to the people of Orissa? In reply he told me that he could not take any action in the matter as this work related to the Supply Department who were responsible for its distribution. Possibly fine quality of rice was not available.

So far as control is concerned, it pains me very much and I would urge that this should be removed immediately. In the opinion of Pandit Hirday Nath Kunzru, Chairman of my Society, controls should continue. But with due deference to him I would like to say that controls should go at once. This should be done because its existence has demoralized the people to such an extent that they have lost all sense of humanity and morality has gone down to its lowest ebb. I would therefore, assert that in the absence of an alternative, why should not the mills be nationalized? But the Government hesitates. The Government should consider other plans. Mahatma Gandhi introduced the *Charkha-spinning* everywhere and everyone produce *Khaddar* during his life-time. To-day the weavers in our Province say that all these things have vanished with Gandhiji's death. More than 3 lacs of weavers have taken to other professions. As has been stated by my honourable friend Mr. Biswanath Das, these people used to produce fine work. The Government have not given these weavers any sort of encouragement and they continue to live in the same conditions. If no help is given by the Government, they are likely to perish.

Mr. Speaker: The honourable member is drifting into something very wider. His point is that mere controls won't do; and that Government was moved in some other directions, that seems to be his point; he has sufficiently made that out. Will he come to the Bill now? There are only three or four minutes left.

Shri Lakshminarayan Sahu: Sir, I welcome this Bill. In addition, I would like to emphasize this too as my honourable friend Prof. Shibban Lal Saxena has stated that the Honourable Pandit Jawaharlal Nehru once went to the

[Shri Lakshminarayan Sahu]

length of saying that those big people indulging in black-marketing would be hanged. But the fact is that none has so far been hanged. Therefore, while supporting this Bill, I would like to invite the attention of the Government to the fact that the person who is guilty and it is in the knowledge of the Government, should be given the maximum punishment.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Shri B. P. Jhunjhunwala (Bihar: General): Mr. Speaker, Sir, this Bill is being introduced in order to increase the punishment that is already being meted out to the black-marketeers whenever they are arrested or sentenced. Sir, I have full sympathy for the sentiments which have been expressed by my honourable friends Professor Shibban Lal Saxena, Mr. Sidhva and Mr. Kamath. I shall not be sorry if the black-marketeer is punished in the way as has been provided in this Bill. But the whole question is as to whether there is any necessity for this increase in punishment. What are the materials before the Government on which they have come to the conclusion that the present Act which is in existence was not sufficient to prevent black-marketing? Have they been able to find any person who has been punished lightly and who repeated the black-marketing and therefore there was a case for a higher punishment. I would like to have such instances from the Honourable Minister for Industry and Supply, who is going to move this amendment.

Sir, I had no mind to speak on this Bill; but after hearing and being reminded of the instances to which I was an eye witness, I thought of enquiring from the Honourable Minister whether he thinks that in these cases there is sufficient reason for inflicting a higher punishment in order to prevent black-marketing. In the year 1943, when the anti-corruption drive was taken up by the Government, I was in one Sugar Factory. There was a Rice Mill there. There was very great difficulty in getting rice at a proper price. We made a complaint to the District Magistrate and the higher authorities concerned, stating that black-marketing is going on in rice with the result that the poor labourers are not getting rice at the proper price. As a result of our representations and requests, an officer was sent. He was an officer of the rank, I do not remember whether he was a Deputy Magistrate or a Sub-deputy Magistrate. He came and went round the place. We thought that he will detect something. In the evening, he went to a place in the villages *hats* are held every week or twice a week and all sorts of things, oil, matches, salt such other requirements and also rice, are sold to the people who live in these places. He caught hold of a woman aged 50 years, who was selling matches at half a pice higher than the control rate. She purchased them at three pice from the shop-keeper and she was selling at three and a half pice to the people and her profit was half a pice only. That was her profession. She used to come to every *hat*, sell these things and she was making her living thereby. In the evening, I enquired as to what the officer had done, so that we could get rice at the proper rate. That officer also came to see me. He said that he had caught hold of a few black-marketeers and one of them was the old woman mentioned already. I felt annoyed and enquired from him whether he had done anything as regards the rice mill man who is selling rice at a higher price. His reply was that he could not get any evidence against him. I said to him, did he not go to the market and enquire at what rate rice was being sold in the *hat*? He said, it was being sold at a higher rate and therefore he had caught hold of two or three peoples, of whom one was the old woman. I asked him, why did he not enquire at what rate they purchased the rice, where did they bring the rice from and why did he not try to locate the man from whom they

had purchased the rice. Then, he kept quiet. I reported this case to the Sub-Divisional Officer saying that these are the things which are going on and the poor old woman has been caught hold of and fined though he was sent for a much better work. He said that law is not a respecter of persons. The District Magistrate happened to meet me one day and I told him these things. He was a European and at about eight o'clock in the night we were sitting and chatting amongst ourselves. He said that while we are not afraid of our superior officers, we are afraid of our subordinates and he was very sorry and would see if he could do any thing of which there was little hope. That is how things go on. I should like to know from the Honourable Minister whether the sentence of that old woman is going to be increased. I can give other cases within my own knowledge. In Bhagalpur a widow's home was searched at midnight, six or seven *saris* were found. Another evening a priest's house was searched and some *dhoties* given to him in *pitripaksha* were found and he was charged. But I intervened and no action was taken against them. Recently a friend of mine with three or four other people were going from Bhagalpur to Calcutta with 20 seers of ghee for their personal consumption. At Pakur station some police officers came and asked about it and they said that it was meant for their personal consumption. They said they were under the impression that one person could carry ten seers of ghee. The police officer, however, would not listen to them. The gentlemen said the police officer could take the ghee with him but he should give them a receipt. This the police officer would not give and there was an altercation. My friend pulled the chain and the Guard and other people came. The police officer wanted to arrest him but the Guard intervened and so these people were allowed to go, but no receipt was given for this ghee. They tried to find out what the present law is; I myself tried to find out from my friend Mr. Prabhu Dayal Himatsingka who is a Solicitor but he could not tell me. In Bhagalpur I tried to find out from the Magistrate and other officials but they also could not tell me. Sir, I will not cite other cases. I support the sentiments expressed by my friend Mr. Sahu who said that if a few real black-marketeers are hanged we will be happy. The real question is whether the actual black-marketeers are caught or whether these Acts and amendments are a mere show. Government go about telling people that they are passing laws and doing all that they can to stop black-marketing but the public must co-operate with them. Yes, it is the duty of the public to co-operate with Government and without that co-operation of the public they cannot do anything. But in the public are included the Government officials also.

Sir, I neither oppose the Bill nor support it.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I am thankful to the honourable members, who have spoken, for having placed before the House and Government their viewpoints so frankly and fully. I realise how anxious every honourable member is to see that Government take adequate steps to put an end to the present state of affairs which is not creditable either to Government or to the interests concerned or to the public at large. As I said while moving my motion, it is far from my intention to suggest that this simple amendment will secure all that we want to see done in the near future or in the distant future. This is only one of the steps which Government have thought fit to propose to the House for acceptance. I have not dealt with the question of control of other commodities; I have not dealt with foodgrains, and that for obvious reasons. At present foodgrains are not controlled; where they are controlled they are only partially controlled. What the policy of Government will be with regard to foodgrains is yet to be determined; and therefore it will be a mistake suddenly to come before the House with any amendment of the present provisions regarding the punishment of offences relating to foodgrains. I have therefore confined myself only to textile control.

[Dr. Syama Prasad Mookerjee]

Now it is not possible, nor is it necessary, to refer to every speaker separately, but I may just analyse the three or four main lines of criticisms which have been put before the House. The first is that this is a half-hearted measure, that this is not an adequate measure. Simultaneously it has been suggested that this may prove to be too drastic a measure. I believe what Government have done is something like a golden mean. Whether the measure is too drastic or not or whether it will be too inadequate or not will depend on how it is actually enforced in practice. Now it has been pointed out that there may be many cases where perhaps a sentence of imprisonment will not be necessary. There may be small offenders; there may be persons who may be guilty of only technical offences, and they should not be punished. We should rather concentrate our attention on those who commit big offences. I would ask the House to remember that there are a variety of things which Government or their officers may call upon the interests concerned to do under the Act. One honourable member in fact referred to section 3 which lays down the various matters in respect of which an order may be passed. You will see from the details of section 3 that this is more or less control of an integrated type; you cannot treat each matter separately. One particular obligation may look rather unimportant, but if you take the entire chain you will find that each link of it is of sufficient importance. For instance, my honourable friend Mr. Himatsingka said that there may be people who may be called upon only to put up in their shops a price-list. Suppose one fails to do it, is that a serious offence? There may be persons who may be called upon to disclose their entire stocks. He may be a small shopkeeper. Suppose he fails to do that; is it a big offence? Taken by itself neither of this is a big offence. But suppose hundreds and thousands of shopkeepers refuse to comply with the orders and refuse to let the public know what the prices are that Government have fixed. Obviously it then becomes a serious matter and if this is done in a deliberate fashion, then practically it may render the enforcement of the control order, nugatory. Supposing you find a large number of people refusing to disclose their stocks. Perhaps if it is one case, it does not matter. But if hundreds and thousands do that.....

Srijut Rohini Kumar Chaudhuri: All of them will be treated alike and sent to jail.

The Honourable Dr. Syama Prasad Mookerjee: We do not want anyone to be sent to jail for nothing. We want all those who come into the scheme to remember that Government means business; that Government would like that every one, whether a merchant or a millowner, a retailer or wholesaler, should try to follow the directions issued by the Government and co-operate with the Government. We have no intention of harassing any one or of preventing the ordinary channels being completely immobilized. If everything is done honestly and in a straightforward fashion, there is no reason to suppose that Government will come forward and create difficulties for those who are trying to help the State and the Community.

What we want to say is this. There will be no scope for anyone to get away by paying some fine. If you commit an offence, an offence which is proved before a Court of law, then imprisonment will be a compulsory punishment. Then confiscation will also come, fine may come if the Court considers that a fine in addition is necessary.

Some members asked, and rightly asked: supposing it is a minor technical offence. Would you send a person to jail? The reply was given by one member that it is not intended that that person should be sent to jail for punishment but may be detained till the rising of the Court. In cases of a trivial

nature proceedings will not be started. The person concerned will receive a warning and will be told: "Now look here, you have not complied with this order. We are not taking any action against you this time. We hope you will behave better next time." If the man fails again, proceedings may start. If in a case proceedings are not started because of the minor nature of the offence committed, then of course the matter does not come to a Court of law. But when proceedings start and the matter comes to a Court of law; the accused will be given facilities for putting forward his defence, and when the Court is convinced that it is a case which is genuine, then the punishment to be awarded will follow the provisions of the Act. With regard to textile control, the Government and the Legislature want that the punishment shall be imprisonment. There will be no question of discretion being exercised.

Some members asked: What is the total number of cases that have taken place during the last few months? As the House is aware, from the 20th January up to 31st July, there was no control. So during the last eight months there has not been any case. Cases took place at an earlier period in the provinces. I have not the record here. But it is common knowledge that many cases have taken place where the Court has just given a small sentence of a fine and has let the culprits go away. Take cases of smuggling. They were all offences against the Textile Control Order. Now, there, the punishment that the Court awarded in each case was some fine, or in some cases some stocks were frozen. But if the Court knew that the policy of the State is that the severest notice should be taken of such offences, I am sure the whole atmosphere might have changed to the advantage of the people and the country. It is not the intention of Government to harass honest dealers. But it is the intention and policy of Government, which I hope has the unanimous backing of all sections of the House, that punishment should be such that those who want to commit these offences will think twice before they go and commit such an offence.

Members ask if this will affect the big millowners? It will affect everyone. If you will look at section 3 you will see that all the orders which can be issued under this Act will be covered by this. If there is a particular millowner who deliberately flouts the order then he cannot merely pay Rs. 10 lakhs and run away. The sentence of imprisonment will come automatically and there are classes of people who are still afraid of going to jail because of a certain stigma which will attach to them for having committed an offence against public order and public morality.

Mr. Prabhu Dayal Himatsingka raised one important point, namely, that these orders are not easily available. Well, I believe that it is so. The orders may not be available. I shall however see to it that whatever orders are issued and the statutory rules which are framed thereunder intended for public notification, they are printed and made available. We shall write to the provinces about this also.

Prof. Shibban Lal Saksena: Will they be laid on the table of the House?

The Honourable Dr. Syama Prasad Mookerjee: It will be available to every member of the House interested in them. It may be placed on the table of the Library.

There was one suggestion about confiscation. It is proposed that the entire stocks will be confiscated. It has been suggested to me that it may be that even for some offence which may not be of so serious a nature, the Court will find it obligatory to confiscate the entire stocks, and perhaps with regard to this matter, the Court might be given an option. The Court may confiscate either the stock in its entirety or a part of it. When the amendment comes up and it is proposed, I am prepared to consider it. With the exception of that,

[Dr. Syama Prasad Mookerjee]

I would ask the House for full co-operation not only in placing this Bill on the Statute Book but in giving effect to it.

Srijut Rohini Kumar Chaudhuri: What about section 562 of the Criminal Procedure Code which gives the court a discretion to take action instead of sending a person to jail?

The Honourable Dr. Syama Prasad Mookerjee: I do not know whether section 562 will apply in this case.

Srijut Rohini Kumar Chaudhuri: Sub-section (1) will apply.

The Honourable Dr. Syama Prasad Mookerjee: That will have to be argued in a court of law. I am not in a position to give a ruling. However, if it is legal, it will be; if it is not, it will not be applicable.

Srijut Rohini Kumar Chaudhuri: My point is this: if you are really interested in sending every offender to jail, you must make it clear that section 562 will not be applicable. If you want to leave a loophole you can keep the law as it is. If your intention is that every one is liable to a sentence of imprisonment you must make it clear.

The Honourable Dr. Syama Prasad Mookerjee: I do not think we can amend.

Shri H. V. Kamath: The minimum sentence will be till the rising of the court.

Mr. Speaker: I think we are not amending the Criminal Procedure Code. The law as it is will apply.

The Honourable Dr. Syama Prasad Mookerjee: There is no intention to amend the Criminal Procedure Code.

One question was raised which was of some importance. I need not go into the details here. It is the question of policy in regard to textile control. It is suggested that Government should take steps to secure that there is full control imposed at the production stage. This is a matter which Government have taken into consideration and I am sure when the steps which the Government have taken are announced for the information of the public and members of the House, they will be satisfied that Government have not lagged behind in implementing the textile policy which has been already announced.

Mr. Speaker: The question is:

"That the Bill to amend the Essential Supplies (Temporary Powers) Act, 1946, be taken into consideration."

The motion was adopted.

Mr. Speaker: In view of the very elaborate discussion that we have had on the general policy and the desirability or otherwise of enhancing 3 P. M. the sentences proposed, I do not propose to allow any speeches on the amendments. The amendments may simply be moved and I shall immediately put them to vote. That is the procedure which I propose to follow.....

Shri H. V. Kamath: What about the other amendments.....

Mr. Speaker: All that has been referred to in the speeches. We have practically had a discussion on them also. I was proposing discussion either at the amendments stage or at the consideration stage. Honourable members preferred to have the discussion at the consideration stage; and so if we have speeches again, we shall be having discussions twice over. There are two amendments one by Mr. Naziruddin Ahmad and another by Prof. Shibban Lal Saksena and there are also two amendments by Mr. Kamath on two different parts of the clause regarding the use of the words "His Majesty". I would just invite the attention of honourable members to the fact that the words

"His Majesty" are used in the main section itself in sub-section (1) and this is a proviso to that sub-section. I do not see any escape from the use of that expression and so the need is quite clear. Honourable members will see that sub-clause (1) reads:

"If the order so provides, any court trying such contravention may direct that any property in respect of which the court is satisfied that the order has been contravened shall be forfeited to His Majesty."

So the phraseology used in the main clause is "forfeited to his Majesty".....

Mr. Naziruddin Ahmad: Sir, the existing part of sub-section (1) was enacted in 1946. At that time the expression "forfeited to His Majesty" would have been perfectly proper. Today we are enacting a proviso. The question is whether in the present-day context the expression should be "forfeited to His Majesty". The effect of passing the sub-section in 1946 would be that it should be forfeited to the successor of His Majesty.

Mr. Speaker: The point is very clear. Even though the situation has changed, constitutionally we are still a Dominion and the expression "forfeited to His Majesty" does not conflict even with the constitutional position today. Later on if and when we cease to be a Dominion, we shall adapt legislation suitably. The point is not worth arguing at all. As I said, you cannot use different expressions and if honourable members should persist, I think I shall have to rule the amendments out of order as being inconsistent with the first part of the section.

The Honourable Dr. Syama Prasad Mookerjee: May I point out one thing, Sir. In the Government of India Act as adapted Section 174 deals with forfeiture of properties which vest in the Government and there the expression used is "His Majesty" and that is why we had to use it.

Mr. Speaker: The point is more sentimental than substantial and if honourable members' sentiment is not satisfied even after the explanation, I am prepared to rule the amendments out of order as being inconsistent with the main clause.

Shri H. V. Kamath: On a point of information, Sir, suppose we bring an amending Bill after we go out of the British Commonwealth, what will be the position then?

Mr. Speaker: I shall dispose of the question by saying that the question is hypothetical and we will decide it, when it arises. So I take it that honourable members will not move their amendments about the use of the words "His Majesty."

Shri H. V. Kamath: Sir, as regards part (b) of clause 2, the Honourable Minister stated that regarding foodstuffs the position will not be changed now and that Government is examining the position. Therefore at this stage I would not press my amendment.

Mr. Speaker: The other amendment of Mr. Kamath seems to be unnecessary. He will see that even under clause 6, the court has power of making an order in respect of only a part of the property.

Shri H. V. Kamath: I want to know from the Honourable Minister whether the construction in my amendment is not better than the original wording.

Mr. Speaker: Mr. Kamath is not a draftsman and therefore it is not likely that his amendment will be accepted. In any case, it will not be moved. Then Prof. Saksena's amendment remains relating to part (b) which refers to food

Prof. Shibban Lal Saksena: Sir, the Honourable Minister said that they have not made their decision about the food policy. I do not know whether part (b) will remain on the Statute Book as it is and will be enforced or it will be changed.

The Honourable Dr. Syama Prasad Mookerjee: So far as foodstuff is concerned the present law is to continue.

Prof. Shibban Lal Saksena: May I know when it is likely to be changed?

The Honourable Shri Jairamdas Doulatram (Minister for Food and Agriculture): Since the whole food question is under review, all these changes might be suggested when the matter comes up for consideration.

Mr. Speaker: Any infringement in connection with the control of foodstuffs might be considered after the Government has considered and announced its food policy.

Shri H. V. Kamath: When can we expect that legislation?

The Honourable Shri Jairamdas Doulatram: It is difficult for me to say but I suppose it will not take long before a decision on policy is made.

Prof. Shibban Lal Saksena: In view of that, Sir, I do not propose to move my amendment.

Mr. Speaker: Then there is the other amendment of Prof. Shibban Lal Saksena, amendment No. 5. It seems that there is some misunderstanding on his part.....

Prof. Shibban Lal Saksena: Sir, I will not move it.

Mr. Speaker: That disposes of all the amendments except one which is in the names of Messrs Santhanam, Krishnamachari and Ramalingam Chettiar. I understand that the Honourable Minister has promised to consider the amendment. If it is a substantially agreed amendment, I shall put it to the House.

Shri T. T. Krishnamachari (Madras: General): Sir, I move:

"That in clause 2 of the Bill, in part (a) (ii) of the proposed Proviso to sub-section (1) of section 7 of the Essential Supplies (Temporary Powers) Act, 1946, after the word 'contravened', the words 'or such part of it as the Court may deem fit' be inserted."

Actually the sub-clause would read like this:

"direct that any property in respect of which the order has been contravened or such part of it as the Court may deem fit shall be forfeited to His Majesty."

Mr. Speaker: Amendment moved:

"That in clause 2 of the Bill, in part (a) (ii) of the proposed Proviso to sub-section (1) of section 7 of the Essential Supplies (Temporary Powers) Act, 1946, after the word 'contravened', the words 'or such part of it as the Court may deem fit' be inserted."

If the amendment is accepted the sub-clause will read like this:

"direct that any property in respect of which the order has been contravened or such part of it as the Court may deem fit shall be forfeited to His Majesty."

The idea is that the Court shall give a sentence of imprisonment which may extend to three years; and the other compulsory part, as the section stands now, is a forfeiture of the entire property in respect of which there has been a contravention. The amendment seeks to give the Court the power that, the forfeiture may be of the entire property or a part of the property.

The difficulty seems to have been, as pointed out during the course of the discussion by one of the members that, supposing a board of rates is not hung up in a shop which consists of goods of the value of a lakh of rupees, if the section stands as it is today, the Court must order the forfeiture of the entire stock in the shop extending to the extent of Rs. 1 lakh, for the little fault of failure to hang up the rates. The amendment seeks to give the Court a discretion to see whether the particular offence deserves the forfeiture of the entire stock of Rs. 1 lakh or a part of it. That seems to be the object of the amendment.

Shri T. T. Krishnamachari: Yes, Sir.

Pandit Thakur Das Bhargava: There is no doubt that the amendment is an improvement upon the present position as you have pointed out, Sir. But at

the same time there are many offences in respect of which no property should be confiscated.

Mr. Speaker: I may state to the honourable member that the expression "or such part of it as the Court may deem fit" will cover it and the forfeiture may extend from one rupee to a lakh of rupees.

Mr. R. K. Sidhva: What you say is absolutely correct and there is no doubt that it is an improvement upon the present position. But there may be a loophole. The Court may feel that the intention of the Government is that they may not confiscate the whole property even in a serious offence and they may confiscate a part of it. It might cut both ways.

An Honourable Member: You must trust your own officers.

Mr. R. K. Sidhva: It is not a question of trusting the officers.

Shri T. T. Krishnamachari: There might be a departmental store where several kinds of goods are kept and they might keep, several kinds of textiles as well. If they commit an offence under the Textile Control Order there will be no discretion left to the Magistrate to seize only those class of textiles that are concerned in the offence and not to seize all the other goods in the shop.

Shri M. Ananthasayanam Ayyangar (Madras: General): Mr. Sidhva feels that the Magistrate may impose only a nominal fine. We will assume that he has made up his mind. But Mr. Sidhva stands in his way, and he will acquit him. It will be worse.

Pandit Thakur Das Bhargava: Imprisonment is compulsory under the previous part. In a typical case, suppose a person is asked to produce his accounts before a particular officer. Suppose the order is that the accounts or some statistical information should be produced and the shopkeeper has failed to produce it. Even then it will be necessary to confiscate some part of his property. My humble submission is that this provision, so far as it goes, gives the Court power to do justice; but at the same time it obliges the court to do more than justice i.e. tyranny. The sentence of imprisonment is more than enough. In my opinion, in a technical case of this nature, when it is mere omission to produce certain accounts, even the award of imprisonment is harsh. And when there is already a provision like this, there is no reason why we should provide that the property should be confiscated—which property was never used in connection with this matter and which has no relation to the offence in question. The proper course in my humble opinion is not to make an amendment of this nature but to keep the Bill over till Monday so that the right thing may be done in this matter. We cannot arm the court with such a power. The textile order may be of a varied character. It may contain many other orders which may be absolutely technical in their nature. When you are making the award of imprisonment compulsory, you should not make it compulsory that the property also, in part or substantially, should be confiscated.

Prof. Shibban Lal Saksena: I strongly oppose the amendment. I do not see the argument and the reasons given by my honourable friend Pandit Thakur Das Bhargava that this kind of provision is needed. What will happen is this. If the Court is given the discretion in the matter, there will be cloth traders who will employ agents to bring cloth; while they will be convicted and they will go to jail, the cloth smuggled will not be forfeited by obliging Magistrate and the traders will get much more profit by importing smuggled cloth.

Mr. Speaker: I do not know whether the honourable member, Professor Shibban Lal Saksena, has ever practiced law. I think he is not conversant with the Courts.

Prof. Shibban Lal Saksena: I am conversant with the Courts.

An Honourable Member: He has had many convictions.

[Dr. John Matthai.]

Another important change that the Select Committee has made is in regard to the power that the draft Bill vested in the Tribunal in respect of increases in freight rates on commodities. This is a point which was raised in the discussion on the original motion, by my honourable friend Pandit Kunzru who took the line that it was not altogether in the public interest that Government should divest themselves of the power to increase freight rates on commodities because occasions may arise when it might be necessary, for financial reasons, that the Railways should be in a position to raise more revenue, and that it should not be left to an external authority like this Tribunal to determine the question. It is for Government and the Legislature to decide whether increases under those circumstances should be sanctioned or not. The grounds on which Government decided to introduce the relevant provision in the draft Bill were explained by me in the House, and I made it perfectly clear that I kept an open mind on that issue. The Select Committee on the whole accepted the considerations put forward by Pandit Kunzru and therefore a change has been made in the Bill as revised by the Select Committee.

Briefly, the position, as the Bill has emerged from Select Committee, is that in regard to questions relating to variations in the general level of freight rates, power is vested in the Central Government alone. But where the question is one of increasing the rate on a particular commodity, power is vested in the Tribunal, of course on application by the Central Government. Therefore, at present the provision in the draft Bill is briefly that both the Central Government and the Tribunal can consider lowering rates, but it is only the Central Government who can increase the general level of class rates or schedule rates or other rates. But when it comes to the question of re-classifying a commodity in a higher class, that is to say, transferring a commodity from a class that bears a lower rate to a class that bears a higher rate, it can be determined only by the Tribunal. That is roughly the position.

Then Pandit Kunzru in the course of the debate raised also the question of terminal charges. The point that he made was that terminal charges as they stand at present are standardised, that is to say, have been placed on a uniform basis independently of local considerations. Terminal charges bear a certain proportion to the general level of rates. The question therefore arises whether it is possible to raise the issue of unreasonableness in regard to terminal charges which have been fixed on a uniform basis independently of local conditions, and if the point were raised whether it would be possible for a Tribunal to decide the point on a logical basis. That point was put before the Select Committee and the Select Committee accepted Pandit Kunzru's proposal. Therefore, in the Bill as it stands the provision in regard to terminal charges, namely, Section 41(c) excludes terminal charges which are or may hereafter be standardised. That is an important change which the Select Committee have made in the draft Bill.

I should like to refer to a few other matters in which the Select Committee have made changes. The members of the Tribunal are to be assisted in these investigations by assessors. The way in which the assessors are appointed is that a Panel is drawn up, consisting of people representing trade and industry, as the provision stood in the draft Bill, and another Panel consisting of people with railway experience. The point was raised in the Select Committee whether agriculture should not receive representation on this Panel and the Select Committee, on careful consideration, decided that agriculture also should be represented on the Panel. The revised provision therefore is that the Panel is to consist of members representing trade, industry and agriculture in equal numbers.

Another provision in regard to which a change has been made is that in the draft Bill it was suggested that where a question did not involve an issue of

principle, it might be disposed of by a single member. The question arose as to what exactly would be the position if after a single Bench had started investigation and in the course of the investigation found that there was a question of principle which was missed when the first reference was made. It was decided, in order to meet a situation of that kind, that where a single Bench finds in the course of its investigation that there is a question of principle involved, it would be open to that single Bench to refer the matter to the president of the Tribunal for him to determine whether there is a question of principle, and if he so determines it, to refer it to a full Bench.

The last point in regard to which a substantial change has been made is with regard to the provision for appeal. In the draft Bill the decision of the Tribunal was final. In the Bill as it has been revised by the Select Committee there is provision for appeal to this extent that from the decision of a single Bench it is open to a party to ask for an appeal to the full Bench. It is for the single Bench to determine whether there is a case for appeal and if it certifies there is, an appeal would lie to the full Bench.

Now, Sir, that substantially is the position as it has resulted from the discussions in the Select Committee. Since the report was drawn up and submitted to the House, on a further review, it was found by the Ministries concerned—the Ministry of Law and the Ministry of Railways—that there were certain verbal changes and certain changes of a purely technical character which require consideration by the House. These verbal and technical changes have been put together in the form of amendments which have been tabled by my honourable friend, Mr. Santhanam. They are all verbal changes and changes of a technical character which do not affect the substance of the Bill. I may say in advance that it is my intention to accept them *in toto*.

With these few words, Sir, I would commend the Bill for the consideration of the House.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Indian Railways Act, 1890, (Second Amendment), as reported by the Select Committee, be taken into consideration."

Shri Biswanath Das (Orissa: General): Sir, my honourable friend the Minister in charge of Transport and Railways has just now explained to the House the various changes and specially the important ones brought in by the Select Committee. I have appended a Minute of Dissent stating clearly therein the reasons why I have dissented from the views of the Select Committee. I feel very strongly that a Rates Tribunal in the nature of a Tribunal is unnecessary and undesirable. Railways are one of our most important industries in India. It has given us very little return for the last twenty years or more despite the recommendations of Committees and Commissions. What to speak of return, just a few months back we have accepted and approved a proposal from the Railway Ministry for enhancement of taxation in the sense that we have agreed to an enhancement of fares and rates. That being the position, I strongly appeal to honourable members of this House that nothing in this regard should be done by us to open any fresh channel for the Administration to detract from its responsibility which they owe to this House. Railways in India, unlike Railways in England or U. S. A. or other countries, are State-managed and State-owned. They are full-fledged national industries. Therefore, the conditions that exist in England or America may not be applicable to Indian conditions or Indian Railway Administration. The Railway Administration has to be seen from a distinct and different point of view, because you have got a Railway Board which is responsible for the Administration of the Railways and the Railway Ministry supervises the Railway Administration and through the Railway Ministry we exercise our influence to make it popular and responsible to the needs of the people of this

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country. The Railway Rates Tribunal is an institution for which agitation was going on since 1930 and I find there was certainly need in those days for one, because the Government of the day was not responsible. I find from the report of the Acworth Committee that they have recommended a Tribunal more or less on the lines of Great Britain, namely, that while the Rates Tribunal in England is practically a court having original jurisdiction and people have a right to make an appeal to appellate courts, in the case of the Tribunal recommended by the Acworth Committee they desired to have it as the court of records and then appeal may lie not to any superior Tribunal or court but to the Governor General-in-Council. That was the recommendation of the Acworth Committee. Sir, after that another Committee has sat over the administration of the Railways and they have also recommended certain things, and their recommendations do not of course justify the constitution of a Tribunal, as it is proposed today. My objection against the constitution of the Tribunal are two-fold. The first is, as has been stated by my honourable friend Pandit Kunzru with his ability and eloquence, the undesirability of the step undertaken, because it is practically yielding to an outside authority the power and responsibility which the Government themselves ought to exercise. Sir, my second objection is that this opens a wide escape channel, if I may call it, for the Ministry. I do not go so far as to say that my honourable friend, Dr. Matthai would take recourse to such a channel, but it cannot always be that Dr. Matthai will be always with us as a Minister for Transport and Railways. Therefore, whosoever be the Minister or the party in power, the fact remains that railways are the national property and as such a concern of the nation and of the National Government. Under these circumstances, I do not see any reason why a Tribunal should be appointed for this purpose. Sir, whatever the decision may be for the constitution of a Tribunal before, now the Railway Administration has shown its anxiety and sincerity to help trade and business in this country by bringing forward standardized rates. After the drawing up of standardized rates, to me it seems that a Rates Tribunal, as is contemplated in this Bill, is not only unnecessary, but highly expensive and will delay matters to an enormous extent. Sir, it is not only a question of a Tribunal. The Select Committee has evolved a procedure for appeals, appeals not to any superior court but to the very body and in attempting to draw a distinction between single member decisions and a full Tribunal decision, they have made the process cumbersome complex, and dilatory.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar.)]

Under these circumstances, I feel, Sir, that the Tribunal as it is constituted under this Bill is neither necessary nor helpful nor could it be conducive to the well-being of trade or industry in this country. Sir, if trade and industry in this country has to be helped, it is and bound to be the concern of the National Government. The British Government has gone, has gone for good and no more outside influences are at work, or at all to be hoped to be at work. Therefore in this country the national trade and industry is to be developed, it is and bound to be the concern of the National Government, and more so of the Ministry of Railways and Transport. Therefore, if reduction of rates anywhere is necessary, it should receive representations from the concerned trade and industry and must take necessary decision. Their anxiety has been apparent from the very fact that soon after the inception of responsibility, they have come forward with standard rates. Therefore, while taking note of their sincerity of purpose to help trade and industry and also business, I would join issue with them and with the Honourable Minister in charge of the Department when he proposes to come forward with a bill for handing over the authority and responsibility of the Government to an outside body, the setting of a

Tribunal whose decisions shall be binding both on the Government and on the trade and industries. Sir, I do not know how such a Tribunal will be useful and helpful to the industries and trade. It may be that trade and industries may not get any relief whatsoever from this Tribunal.

And then if the costs of operations have to be taken into account, then, I am afraid this Tribunal will have to go through the budget of the entire Railways. Otherwise it will not be possible for them to have a full idea as to the costs of operations in the Railways. Sir, I have already stated and I repeat that Railways in this country have not at all been useful to the people of the country. Sir, they have neither been useful to agriculture nor have they been useful to trade and industry, so far. Of course, I expect my honourable friend to evolve altogether a different policy and line of action. Today if you examine the conveniences—of course I am yet to see the standard rates—from the past rates I have known that countries outside India were getting all the preferences and advantages that they could possibly have. Even the agriculture in Australia, the food cultivators in Australia are far better off. The wheat growers of Australia, Canada and all other Dominions were far better off than the cultivators in India. That was past history and the sooner we forget, the better. Therefore, under the new dispensation, I wait to see a better state of things under the changed conditions and in the new set up. That being the position, I find there is absolutely no justification for a Rates Tribunal.

Having stated my objections, I now proceed to say that the Tribunal that is proposed may be acceptable and useful if its constitution is modified in a manner which would be acceptable to the House. Now, let me indicate the manner in which I would like the constitution to be amended. Let them give free thought to any representation they may get from trade and industry at the first court; let the appellate decision lie with the Governor General, so that the Minister in-charge of Transport will be in fact, though not in law, the appellate authority, the Ministry which is responsible to this House and through this House to the people of India in general. Sir, I could give all my confidence to the Ministry rather than to a Tribunal, because the Ministry is responsible to me. I can bring the matter before the Ministry or before the Standing Railway Advisory Committee, failing which in the last resort before this House. Under these circumstances, I do not see why the cumbrous process of appeals should be accepted as has been designed by the Select Committee. You cannot have two forums unless you want unnecessary waste of time and money: two forums in the sense, you have got already a forum the Assembly and a miniature body of this Assembly in the Standing Railway Advisory Committee. These are competent authorities and responsible bodies. We can place the grievances before the Ministry, the grievances of trade and industry as also of the travelling public. Day in and day out, we are thrashing on the floor of the House questions, important and unimportant and even unnecessary questions. Why should we think that that important issues will not be taken up by the honourable members in this House? In view of these facts, I appeal to the honourable members of this House to see that unnecessary Tribunals and expensive ways of disposing of matters should be avoided as far as possible, because we have to meet the expenses and pay the bill. Having got this important forums, why then go in for this Tribunal? I would appeal to my honourable friends to vote against this forum or in the alternative to do away with the cumbrous procedure of appeals and entrust the Governor-General with the final say in the matter.

One word more, Sir, and I shall have done. Let me state to the honourable members of this House that the British Acts are of no avail whatsoever, much less the American Acts. Because, in America all the railways are private owned, and therefore there is a just case for a Tribunal to adjudicate on

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matters between the ordinary citizen or trade and commerce as different from the Transport authority which is absolutely a private body, not under the direct or indirect control of the Government. Similar is the case in England where most of the transport services are still in the hands of private owners. Therefore, the British Acts and British precedents much less American Acts and American precedents do not help us in this regard. With these few words, let me hope that the Assembly will take a reasonable view of the matter.

Prof. Shibban Lal Saksena (U. P.: General): Sir, I was surprised at what my honourable friend Mr. Biswanath Das has said. He was a member of the Select Committee and has signed a minute of dissent. I, too, was on the Select Committee and have signed this report. I commend to the House the Report of the Select Committee and it is my duty to oppose the minute of dissent appended by my honourable friend Mr. Biswanath Das which he has placed before the House.

I could not understand the argument of my honourable friend when he says that there was a need for a Railway Rates Tribunal when India was not free, but now because we are free, there is no need for a Tribunal. I would read out some of the functions of the Tribunal. Section 41 runs as follows:

"Any complaint against a railway administration, or jointly against two or more railway administrations that such administration or administrations is or are—

- (a) contravening the provisions of section 28; or
- (b) charging—
 - (i) unreasonable rates, or
 - (ii) rates which are unreasonable by reason of any condition attached to them regarding minimum weight, packing, assumption of risk or any other matter; or
- (c) levying unreasonable charges excluding terminal charges which are or may hereafter be, standardised; or
- (d) unreasonably refusing—
 - (i) to quote a new station to station rate, or
 - (ii) to grant an alternative owner's risk rate; or
- (e) unreasonably placed a commodity in a higher class shall be heard and decided by the Tribunal in accordance with the provisions of this Chapter."

Sir, these are the main functions of the Tribunal. My honourable friend agrees that there is need for such a Tribunal in England and America because there the railways are privately owned. He thinks that because the Government here is national, there is no need for a Tribunal. Does he mean that the Honourable Dr. Matthai will always sit as the Tribunal to receive every complaint about the unreasonable rates or unreasonably refusing to quote a different rate and all these things. He has said that there is a miniature body of this legislature called the Central Advisory Council.

Shri Biswanath Das: May I say one word of explanation? After the standardisation of rates, all these objections would have disappeared.

Prof. Shibban Lal Saksena: Does he mean to say that the Central Advisory Council will always sit in session to receive complaints? I personally think that this tribunal will itself be a part of the Government. This National Government, People's Government will only be delegating some of its powers to the Tribunal which it has nominated, to give the public the fullest opportunity to place their complaints and their grievances before it. The Tribunal will therefore be only a wing of the Government and it will be helping the Government in the decision of the disputes so that people may have full confidence in the Government. I could not follow the argument that because in America the companies are privately owned, it is necessary there and not here. There too, I think there is perfect liaison between the

management and the Government. Here also, the Railway Board is to the public as much a privately owned company as in England. The same arguments which apply to the British Government to have a Bates Tribunal, apply here also. He has himself stated that the Acworth Committee in 1920 recommended a Rates Tribunal. It is only after 28 years that this House, after coming into its own, has given the public this much-needed forum to thrash out their grievances and to give them justice and to see that the administration of railways is efficient. At present, if this Bill is shelved, what would happen? The Honourable Dr. Matthai will have to appoint some officer to receive the complaints and he will have to decide them. The Minister cannot look into them. The Governor-General has got much more useful work to do than deciding appeals about Rates of Commodities. That officer whom he will appoint will act according to his whims, and the public will not have an opportunity of placing their facts, viewpoints and arguments before this officer. Here we shall have a judicial Tribunal with a High Court Judge on it; a body of great integrity and responsible to the Government which appoints it. It will receive evidence and sift it and look into things and then give a decision. That means that the railway law will be administered here in a proper way which will satisfy the public and win their confidence. I think the argument of my friend Mr. Biswanath Das is wholly misconceived. I do not know why he is so afraid of this Tribunal. He has talked of expense. I think any officer who will dispose of these cases will have to be paid; only in that case there will be dissatisfaction of the public who will have no opportunity of stating their complaints.

Then there will be assessors appointed, assessors of the railways knowing the administration as well as of trade, commerce and industry. All these people will be helpful to the Tribunal in doing justice and administering the law as this House wants it to be administered. I therefore think that this is a very important Bill. It has come 28 years after being recommended by the Acworth Committee. My Honourable friend Mr. Biswanath Das's objection is misconceived. Perhaps he thinks that this Tribunal will be a part of Government. But Government will only be appointing it; the Tribunal will be given full authority to decide cases according to their judgment. They will surely appoint the best men who will not make mistakes. Therefore there is nothing to fear about it. Government, like the democratic Government that they are, do not want to exercise power themselves but through this Tribunal. Sir, I support this Bill and I hope my friend Mr. Biswanath Das will withdraw his objections.

Srijut Rohini Kumar Chaudhuri (Assam: General): Sir, I find an innovation in this Bill and that is perhaps the reason why it has not been very clear to many of us. In all other Acts we find that the definitions come first but here they come last. So that after you have finished reading the Bill you have to read it again in order to understand it. I do not know what is the advantage of this innovation except that the Honourable Minister wants us to read the Bill fully.

Mr. Deputy Speaker: It is so in the Government of India Act.

Mr. Naziruddin Ahmad: (West Bengal: Muslim): It is done in all English Acts.

Srijut Rohini Kumar Chaudhuri: In other Indian Acts it is otherwise. Anyway, the complaint today is not so much about the rates as the proper adjudication of rates. The complaint throughout the country today is that you are taking high sums as railway fares; in the last two years the fares have twice been increased. And what have you given in return except a kind of invitation to see the new compartments and bogies and occasionally some tea to some fortunate members? You have not given better facilities for railway travel. Now that we cannot go against our own Ministers we should have

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expected that matter to be put under adjudication by some Tribunal independent of this Government. But what do we find? Under the proposed section 42 certain matters cannot be gone into by the Tribunal and the Central Government alone remains responsible for the inconvenience of high rates that passengers have to pay. Then what remains to be done by this Tribunal is to fix the rates or classifications of commodities. Is that the complaint now? The complaint now is that we do not get wagons to carry even the Government sponsored goods, not to speak of goods which the traders or private parties want to send. We do not quarrel about the rates now but we want more wagons for transport of goods; and that we are not getting. This is another instance of Government trying to lull us into the false belief that they are doing all that is possible by bringing in a piece of legislation which will perhaps remain a dead letter. How often will this Tribunal sit? How will you find the material to give this Tribunal to sit and consider? Are you going to change the rates and classifications every three months or two months or every day? They will have to sit very rarely and still you are appointing this Tribunal. What is the idea of giving the entire responsibility to them? The decision of the Tribunal is final and Government have no hand in it; even this House will perhaps not be competent to discuss it. When the rates are being considered by the Tribunal the matter will be *sub-judice* and the House, if it sits at that time, will not be allowed to make any comment on the rates that exist at that time or the rates which are being considered on the ground that they are *sub-judice*. And when the rates are finally determined by the Tribunal what will be the remedy left to this House and what will be the remedy of the public? None; they will have to abide by the decision of the Tribunal. I want the Honourable Minister to state this in his reply; in case the decision of the Tribunal is unsatisfactory, would it be competent on the part of this House to go into those rates and criticise them adversely and disapprove of them? Even if the House expresses that view it will be out of place because the Tribunal's decision will be final. What other course is left? The only thing that Government can do is to close this Tribunal and have another one. But even for that I think there is no provision. The Tribunal will sit for some years and before that period expires it cannot be replaced whatever may be the extent of injustice that the Tribunal may inflict.

Then I do not understand the logic of this position. I fully support the views of my esteemed friend Shri Biswanath Das. All the railway systems are under the charge of Government who are responsible for them. Why are they giving over this power to fix passenger and luggage rates to a Tribunal which will be appointed by them? The whole selection is left to the Central Government. They are the creatures of Government, and even then power is given to them. They may fix any rate they like. The opinion of this House may be different but they cannot say anything or criticise the rates fixed. I submit that this is not a satisfactory state of things and I ask the House to consider carefully the views which have been expressed by Shri Biswanath Das in his note of dissent.

The Honourable Dr. John Matthai: I have not much to say in reply to the criticisms which have been made by my honourable friends Mr. Biswanath Das and Mr. Rohini Kumar Choudhuri. The setting up of the rates tribunal is a measure which Government is taking in response to a demand which has been continuously made over a period of years by public opinion in the country. I am also convinced from such experience as I have had in the

Ministry of Railways, that there is a strong case for appointing an independent judicial body to investigate questions of rates affecting one group of interests as against another group of interests.

I think my friend, Mr. Biswanath Das rather misunderstood the implications of standardization of rates. However much you may standardise rates, you will not get rid of the possibility of serious conflicts arising as between different interests. It might be foreign interests against Indian interests. It might be one Indian interest against another Indian interest. Therefore, I do not think it is right that the Executive, however responsible to the Legislature, should retain in its hands the final decision on these matters which are essentially of a judicial character. I am quite willing to exercise all the authority that the House is prepared to vest in me, but I must say that the extent of the authority that Mr. Biswanath Das wants to give me is a little more than I can cope with. I feel that a judicial Tribunal for determining the fairness and reasonableness of the rates applicable to individual commodities is amply justified.

All the points Mr. Biswanath Das raised were effectively met by my honourable friend, Prof. Shibban Lal Saksena.

Mr. Deputy Speaker: The question is:

"That the Bill further to amend the Indian Railways Act, 1890, (Second Amendment), as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Naziruddin Ahmad: I have an amendment to move.

Mr. Deputy Speaker: Amendments 2 and 3 are only matters of arrangement. Amendment 2 which the honourable member wishes to move first is not one of substance. But let us first know the attitude of the Honourable the Minister. In clause 2 it suggested that section 46 shall be omitted and sections 41, 42, 42-A, 42-B, 43, 44, 45 and 46A shall be renumberedThe Honourable Minister will also see that the honourable member wants to transpose them to a later clause.

Mr. Naziruddin Ahmad: I want to restore the old position.

The Honourable Dr. John Matthai: What my honourable friend wants to do is to retain the existing set up and not to have any renumbering of the section. That is really what he is aiming at. I am sorry I must oppose it. I have consulted the law advisers of Government and they think it would be more convenient for purposes of reference if it is renumbered.

Mr. Naziruddin Ahmad: The difficulty is that I have not yet given the reasons on which my amendment is based. I shall shortly state the reasons which are behind this amendment. Let me first move the amendment. Sir, I move:

"That sub-clause (1) of clause 2 of the Bill be omitted."

Mr. Deputy Speaker: Amendment moved:

"That sub-clause (1) of clause 2 of the Bill be omitted."

Mr. Naziruddin Ahmad: Sub-clause (1) attempts a renumbering of certain existing sections, namely that 41 to 46A shall be renumbered as sections 26 to 33. I submit that it is never the practice to renumber the existing sections and give them other numbers. It is never done. The inconvenience of such a course is this. If a section is repealed and if the next following section is renumbered to bear the number of the repealed section, it leads to a considerable amount of inconvenience and confusion. I shall show that it is not done.

[Mr. Naziruddin Ahmad]

If a Bill enacts a new law and if in the House some sub-clauses are taken away it is a practice to renumber them. But in amending an existing Act, it is never the practice to renumber the existing sections because that would dislocate the arrangement.

The inconvenience is this. Courts, Tribunals, parties and members of Government and of the public are accustomed to associate a particular section or idea to a particular section-number, and if these are renumbered it will lead to a considerable amount of confusion. In fact when a section is to be interpreted by a Court of law, then its renumbering would lead to trouble and would require a research student to find out the number which number the renumber section bore. If there are rulings of a High Court on a section and if the old section number is changed, it would be difficult to follow the ruling and find out the new number; and if there is a ruling on a repealed section and another section is brought to bear that number it might be thought that the ruling relates to the other section which bears the new number.

Mr. Deputy Speaker: Is it not a fact that the honourable member is aware that in the new Criminal Procedure Code there are sections that correspond to the old Code and whose numbers are noted by way of reference in the new Code. I would request the honourable member that we are pressed for time. Unless he feels that there is some inconsistency or absolute inconvenience, such an amendment need not be pursued.

Mr. Naziruddin Ahmad: I feel that it would lead to inconvenience and I assure you that it is with a desire to remove that difficulty that I am moving it. You will be pleased to consider the Government of India Act as it is adapted. Sub-section 2 of section 46 has been omitted. There is sub-section 3 which has not been renumbered as sub-section (2). Then we come to another part. Sub-section (2) of section 68 has been omitted. Sub-sections (3) and (4) have not been renumbered as a result. Then we come to section 94. Sub-section (2) is omitted but sub-section (3) has not been renumbered. Then there are a number of other sections of the Government of India Act which have been omitted but the succeeding sections have not been renumbered.

Then coming to section 123. Sub-section (4) has been omitted but the other sub-sections have not been renumbered. There are a number of other things. I do not wish to take the time of the House with citing examples.

We now come to the Transfer of Property Act. You will be pleased to remember, Sir, that in 1929.....

Mr. Deputy Speaker: I agree. I believe the House knows that that procedure has been adopted. This procedure is also adopted. If the honourable member wishes I shall put his amendment to the House. I do not think any other member is willing to speak on it. I also believe that the Honourable Minister agrees that there is a case for both sides.

The Honourable Dr. John Matthai: It is entirely a point of legal technique. When I received notice of the honourable member's amendment, I naturally consulted the Ministry of Law and their opinion is that it is an advantage to renumber the sections. In this case the public will read a copy of the Act with all these amendments and it will be irritating to the layman if gaps are left. It is for these reasons that the draftsman has renumbered the sections.

Mr. Naziruddin Ahmad: I have not yet put the reasons of the authorities and the difficulties. I respectfully submit that the Honourable Minister is not a lawyer himself and is handicapped by the note of the Law Department. So he is at a disadvantage.

The Honourable Dr. John Matthai: I am a lawyer myself.

Mr. Naziruddin Ahmad: Then I think it is easier for him to follow.

Mr. Deputy Speaker: I will not say that the Honourable Minister has not followed, but he decidedly does not agree.

Mr. Naziruddin Ahmad: It does not matter. I have not yet spoken on this Bill. I find it is a difficult thing for me to rise and give some technical reasons which are distasteful to the House. It is equally distasteful to me so to speak but the course indicated is contrary to the established practice.

Take the Transfer of Property Act. Clause (a) of Section 22 was omitted in 1929 but (b) (c) (d) and other clauses were not renumbered.

Take the Criminal Procedure Code. There are a number of sections which were amended in 1923. There is section 4, sub-section (1) Clause (d) was omitted. Yet the later clauses were not renumbered. Section 117, sub-section (4) was omitted, yet sub-sections (5) and (6) were not renumbered. Part (a) proviso 5 to Section 408 was omitted, but part (b) and (c) were not renumbered.

This position is in conformity with well known and well established practice. If you dislocate the numbers it will lead to confusion and those who have to interpret them will be put to difficulties. There is no advantage gained by renumbering sections. We are going to transpose a number of sections to fill up vacancies which were created by the omission of other sections and we put in new sections in place of vacancies created. This would cause dislocation and on account of the inconvenience likely to be caused this well established practice has been continuing for a long time. This practice is always one sided. Is there any reason why we should disturb this uniform practice? Are we to establish new precedents to cause confusion and difficulty to those who are concerned? The Honourable Minister has already given his verdict and has found me guilty before he has heard my arguments. After all I have a duty to perform, viz., to point out the inconvenience caused. This well established practice is universally prevailing all over India and other countries. When you take away a section you do not renumber the others. Sir, you will consider the inconvenience caused or the illogicality of the position taken by the Honourable Minister. In fact he has put in a large number of sections and to be logical may I ask him to renumber them? If to be logical is a virtue he should renumber all the sections? I do not see why the opinion of draftsmen who, it has been seen are not experts nowadays in law and drafting, should be followed by him. It is not on my authority that I ask him to accept my suggestion but on the authority of well established practice. This raises an important technical question. You are unsettling a settled practice. I hope the Honourable Minister will yet find his way to accept the authority of a large number of ministers and members in that position here, his illustrious predecessors, Law Members and illustrious draftsmen of this country as well as others and to stick to the old practice and thus prevent confusion.

Mr. Deputy Speaker: The question is:

"That sub-clause (1) of clause 2 of the Bill be omitted."

The motion was negatived.

Mr. Deputy Speaker: The other amendments are consequential and do not arise.

The question is:

"That clause 2, stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Shri T. T. Krishnamachari (Madras: General): Sir, I move:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 41 of the Indian Railways Act, 1890,—

- (i) the words 'is or are' be omitted;
- (ii) in part (a) before the word 'contravening', the words 'is or are' be inserted;
- (iii) in part (b) before the word 'charging', the words 'is or are' be inserted;
- (iv) in part (c) before the word 'levying', the words 'is or are' be inserted; and
- (v) in part (d) before the word 'unreasonably', the words 'is or are' be inserted."

Sir, this is merely a drafting amendment and I hope the House will accept it.

The Honourable Dr. John Matthai: Sir, I accept it.

Mr. Deputy Speaker: The question is:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 41 of the Indian Railways Act, 1890,—

- (i) the words 'is or are' be omitted;
- (ii) in part (a) before the word 'contravening', the words 'is or are' be inserted;
- (iii) in part (b) before the word 'charging', the words 'is or are' be inserted;
- (iv) in part (c) before the word 'levying', the words 'is or are' be inserted; and
- (v) in part (d) before the word 'unreasonably', the words 'is or are' be inserted."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 41 of the Indian Railways Act, 1890—

- (i) part (d) (ii) be omitted; and
- (ii) in part (d) (i) the brackets and figure '(i)' be omitted."

Actually the position seems to be that any consignor is entitled to ask for his goods to be booked at owner's risk unless he chooses the goods to be booked at railway risk. It provides an alternative which already exists. The other part is a consequential amendment.

Mr. Deputy Speaker: The question is:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 41 of the Indian Railways Act, 1890—

- (i) part (d) (ii) be omitted; and
- (ii) in part (d) (i) the brackets and figure '(i)' be omitted."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in clause 3 of the Bill, in part (e) of sub-section (1) of the proposed section 41 of the Indian Railways Act, 1890, before the word 'unreasonably', the word 'has or have' be inserted."

It is a drafting amendment.

The Honourable Dr. John Matthai: Sir, I accept it.

Mr. Deputy Speaker: The question is:

"That in clause 3 of the Bill, in part (e) of sub-section (1) of the proposed section 41 of the Indian Railways Act, 1890, before the word 'unreasonably', the word 'has or have' be inserted."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in clause 3 of the Bill, in sub-section (2) of the proposed section 41 of the Indian Railways Act, 1890, the words, brackets and figure 'sub-clause (i) of' be omitted."

This is also a consequential amendment to this particular sub-clause.

Mr. Deputy Speaker: The question is:

"That in clause 3 of the Bill, in sub-section (2) of the proposed section 41 of the Indian Railways Act, 1890, the words, brackets and figure 'sub-clause (i) of' be omitted."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 44 of the Indian Railways Act, 1890, for the words 'carrying into effect its duties and powers', the words 'the effective discharge of its functions' be substituted."

This is also a drafting amendment.

Mr. Deputy Speaker: The question is:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 44 of the Indian Railways Act, 1890, for the words 'carrying into effect its duties and powers', the words 'the effective discharge of its functions' be substituted."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in clause 3 of the Bill, in the proposed section 45 of the Indian Railways Act, 1890, the words 'under the authority of the Central Government' be omitted."

This is the position which remains whether we put it there or not. It is always so. These words are therefore unnecessary. That is why I have moved this amendment.

Mr. Deputy Speaker: The question is:

"That in clause 3 of the Bill, in the proposed section 45 of the Indian Railways Act, 1890, the words 'under the authority of the Central Government' be omitted."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in clause 3 of the Bill, in part (a) of the proposed section 46C of the Indian Railways Act, 1890, before the word 'grouping', occurring in line one, the word 'the' be inserted."

Mr. Deputy Speaker: The question is:

"That in clause 3 of the Bill, in part (a) of the proposed section 46C of the Indian Railways Act, 1890, before the word 'grouping', occurring in line one, the word 'the' be inserted."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I move:

"That in clause 3 of the Bill, in part (a) of the proposed section 46C of the Indian Railways Act, 1890, the words 'with the approval of the Railway Board' be omitted."

Actually this refers to the Indian Railway Conference Association. The whole body is working under the Railway Board. So the question of approval of the Railway Board does not arise and the words are unnecessary.

Mr. Deputy Speaker: The question is:

"That in clause 3 of the Bill, in part (a) of the proposed section 46C of the Indian Railways Act, 1890, the words 'with the approval of the Railway Board' be omitted."

The motion was adopted.

Mr. Deputy Speaker: The question is:

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. John Matthai: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Deputy Speaker: Motion moved.

"That the Bill, as amended, be passed."

Prof. Shibban Lal Saksena: Sir, I have great pleasure in congratulating the Honourable Minister for having placed this important measure on the statute book. I only want to draw his attention to one or two important facts. My honourable friend Mr. Rohini Kumar Chaudhuri said that the people are not

[Prof. Shibban Lal Saksena] interested in the rates but they are interested in the wagon allotment. I do not agree with him there; they are interested in the rates also. But he was right in saying that they are much more interested in the wagon allotment. As has been pointed out on the floor of this House, the scandal about wagon allotment is so great and the question of wagon bottleneck is of such an importance to the country that I would wish that the Government—the Railway Board—appointed a similar Tribunal for hearing complaints against the allotment of wagons also. This Tribunal will of course hear complaints against railway rates, about goods which are sent in transit. But it is very well known that, much more than the amount of freight has to be paid for getting wagons. As pointed out the other day, Rs. 2,000 is the open quotation in Bombay to get a wagon. Similarly I know that in the O.T. Railway Rs. 1,000 is the ordinary quotation for getting a wagon. You cannot get it, but anybody who pays it can get the wagon. (An Honourable Member: "In U.P. it is Rs. 500"). Thank you. So while the Honourable Minister has done one great thing to the country by appointing this Tribunal I want that he should think of appointing another Tribunal almost immediately, which should be entrusted with the duty of hearing complaints against allotment of wagons. If that is done, this great slur on the Government will be removed. It is eating into the vitals of the nation. Black-marketing goes on like anything. I was told that one of the causes for the cloth black-marketing during the last four months was the wagon allotment. Even though cloth was released, the wagons were not allotted. That was one of the reasons why cloth went so dear.

This Tribunal is to hear complaints against rates. I hope he would very soon give us a Tribunal which will look into complaints about allotment of wagons and see that those responsible for this corruption in the Department about allotment of wagons are properly punished. The question of wagons is so important that I would request him to appoint a Committee of this House to go round the whole country to see how many wagons are there lying in the country which can be made serviceable. I have myself seen in the Sealdah yard three hundred wagons are lying which can be used and made serviceable for the use of traffic. I am told that 5,000 wagons are lying in various yards which can be so used. I have been told by people, by train examiners—I am President of the All-India Railway Train Examiner's Committee—and by people in the railway workshops that if an enquiry is made we shall be able to get 5,000 wagons which are serviceable and which can be made use of. Because my honourable friend is in urgent need of wagons and wants to break the bottleneck, I would request him to appoint a Committee of this House to investigate whether all the wagons which are lying as scrap are really scrap or they can be used for traffic.

Secondly I request that he may appoint a Tribunal to look into the complaints of the public about allotment of wagons and see that even if the highest placed officials are involved they are punished. This is responsible for the black-marketing. If they are responsible they must be brought to book.

I congratulate the Honourable Minister for having brought this measure which I wholeheartedly support.

The Honourable Dr. John Matthai: Sir, I am grateful to my honourable friend Professor Saksena for drawing pointed attention to what I myself feel is becoming a grave problem on the railways. The question of corruption on the railways has been brought home to me in a number of ways recently, and I am at present seriously considering whether it has not become necessary to adopt a procedure with regard to it different from the procedure that we have been

following hitherto. As I explained in answer to a question which was addressed to me the other day, what we have been doing so far has been to depend on the special police establishment which has been set up specifically for the purpose of enquiring in the case of corruption on the railways. And, as I told the House the other day the number of convictions that we have been able to obtain has been very small in proportion to the number of cases that we send up to court. The difficulty has been, all along, to secure evidence on which a legal conviction could be established. The real trouble that we are up against is that employees of our Railways—the Railways being State Railways—are subject to the same rules of discipline as other servants of Government. And the rules of discipline imply that there is a fairly elaborate formality to be gone through before the fact of corruption or misbehaviour could be brought home to an employee. What I am considering at present is whether the time has not come for Railways to be put on a different footing from other Departments. That is to say, if I as Minister of Railways am reasonably satisfied that a particular officer or employee on the Railways is involved in this business of corruption, I must have the authority to sack him. (Hear, hear). I am considering drawing up a procedure on these lines and I hope, if I do so and begin to act upon it, that honourable members will not.....

Shri H. V. Kamath: Take all the power.

The Honourable Dr. John Matthai:I hope honourable members will not take me to task in respect of individual cases.

Mr. Naziruddin Ahmad: Not for sacking bad characters.

Mr. Deputy Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

RESETTLEMENT OF DISPLACED PERSONS (LAND ACQUISITION) BILL.

The Honourable Shri Mohan Lal Saksena (Minister of State for Relief and Rehabilitation): Mr. Deputy Speaker, Sir, I move:

"That the Bill to provide for the speedy acquisition of land for the resettlement of displaced persons, be taken into consideration."

Sir, in making this motion, at the outset I would like to apologise to the House for having introduced this Bill at the far end of the Session. The reason is that as honourable members are aware, there is already an Ordinance promulgated which is likely to last till the end of January, 1949, and we were hoping that the Assembly might meet about the 20th of January when we will be able to introduce this legislation and get it through. But now it was brought to my notice that it is likely that the Assembly may not meet in January and we may not be able to pass the Bill through the House by the end of January. Therefore, to be on the safe side, I introduced it now in the hope that as it is a non-controversial measure it will be passed in no time.

Sir, the very fact that no amendments have been moved shows that this measure is welcome to all the sections of the House. I know that every section of this House is concerned with the resettlement of those countrymen and women of ours who have come from Pakistan. The sympathy of every one of us goes to them and they have suffered so much for no fault of theirs. It is indeed regrettable that they had not been settled so far, but if we take into consideration the circumstances which have prevented their rehabilitation, I think however much we may regret it, it will be understandable why they could not

[Shri Mohan Lal Saksena]

be rehabilitated so far. You know, Sir, it was indeed gigantic task which had to be undertaken for evacuating such a large number of men and women. It has been indeed unprecedented in history that evacuation has taken place on such a large scale. In September or sometime in August, 1947, it was decided that there will be exchange of population between East and West Punjab, but before the work of evacuation from West Punjab had finished evacuation from N.W.F.P. had to be taken up. Before that task could be finished we had to take up the evacuation of refugees from Kashmir and before that could be finished we had to undertake the task and responsibility of evacuating the refugees from Sind. Hardly before that had been finished there has been a large influx of refugees from East Bengal and from Hyderabad. So, that in itself was a great task which required considerable effort, and all the time and energy of Government had to be given to this great task.

After that came the work of relief. The very fact that today in our camps there are no less than eight lakhs of refugees shows what a tremendous task it is to provide relief to these persons.

Then comes the work of rehabilitation; it is, indeed by its nature a slow process. Not that many of them have not been rehabilitated—a large number of them have been rehabilitated—but the task of rehabilitation becomes very difficult for two or three reasons. Firstly, those who have come here belong mostly to the trading community, they are mostly petty shopkeepers and are urban people. Those who have left for Pakistan were mostly artisans and persons who used to work with their hands. That is the one great difficulty. The other difficulty is this. Those people who have come to India refuse to be dispersed all over the country; this is especially so in the case of urban people. I know the number of urban people who have come is not more than 20 or 25 lakhs, but still if they could be dispersed all over the country the task will not be so difficult. But when they want to be resettled in one district or in one town or even refuse to go to the villages or other smaller towns, the task of rehabilitation becomes still more difficult. But, Sir, whatever can be done is being done. I can assure this House that this measure is only to replace the Ordinance which has been enacted for the speedy acquisition of land, which you know is a great factor in the rehabilitation and resettlement of the refugees. I hope this House will take this Bill into consideration and pass it without much controversy. Sir, I move.

Mr. Deputy Speaker: Motion moved:

"That the Bill to provide for the speedy acquisition of land for the resettlement of displaced persons, be taken into consideration."

Shri Ajit Prasad Jain (U.P.: General): Sir, I am one with the Honourable Minister in the object of his Bill. The problem of refugees is one of the most important problems before us. It is equally acute. After making arrangements for feeding them, the next great necessity is to provide them with housing. About 40 to 50 lakhs of people have migrated from Pakistan into India and quite a number of them have come to the Provinces of Delhi and Ajmer-Merwara. Therefore, the Honourable Minister did well in bringing out an Ordinance to provide them with means for building houses. If I rise to criticise a few provisions of this Bill, it is not because I want that rehabilitation of refugees should be postponed; in fact there is already an Ordinance under which Government have got the power to acquire lands for rehabilitating refugees. In this Bill I find that some very important things have been omitted. I would draw the attention of the House to the definition of the word "land" which is as follows:

"'land' includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth."

From a later portion of the Bill it appears that Government also intend to re-acquisition buildings and dwelling houses built on land. I wish that the definition of land were more clear and it were laid down that it includes buildings. I quite agree that by implication it means that buildings would go with land, because after all a building is a thing permanently attached to the earth, but I wish that the definition were made more clear.

Again, Sir, Section 5 deals with the vesting of land in the Government. Immediately after the publication of a notice the land shall absolutely vest in the Provincial Government, free from all encumbrances on the date of the notice. It is but proper that provision should have been made for the extinguishment of encumbrances, because it would create difficulties if the land were acquired subject to any of the encumbrances. Sub-clause (2) of clause 6 which deals with the release of land in case an objection is raised says: "If any land is released from acquisition under sub-section (1), it shall be deemed to revert in the person originally entitled thereto." Now the position is this, that once the land vests in the Government any encumbrance vesting on that land will be extinguished, but there is no provision for the revival of that encumbrance in case the owner of the land raises an objection and his land is released from acquisition. I think a provision of that kind is absolutely necessary. Otherwise, it will mean that an encumbrance holder would lose his right over the land. The owner of the land will get back the land but the poor encumbrance holder will not get the advantage of the release of land. He will lose the rights which he possessed as an encumbrance holder.

Further, Section 7 deals with the method of determining compensation. Sub-clause (2) of this Section lays down that in awarding any compensation "the arbitrator shall apportion the amount thereof between such persons, if any, as may appear to him to be entitled thereto." It is not clear whether a person who held an encumbrance but whose encumbrance has been extinguished under clause 5 will be entitled to a part of the compensation. His rights have been extinguished under clause 5 and he has no more right over the land which he possessed before acquisition. Therefore, I think some sort of an explanation should be added to the sub-clause to the effect that,—

"Notwithstanding the extinction of any encumbrance under section 5, the person who held such encumbrance shall be deemed to be a person entitled to compensation."

I might in this connection also invite the attention of the House to a similar measure passed by the U.P. Government. There they have provided that in calculating compensation, the prevailing rate of prices of lands shall not be taken into account but land shall be acquired on the basis of prices prevailing immediately preceding the war, that is, in 1939. It is a well known fact that the prices of land have gone very high during the war time, several times of what they were in 1939. It is also a well known fact that the owners of land have done nothing to develop or to improve those lands and whatever increase has taken place has been due to social causes. This Bill provides for the relief of persons who have suffered and suffered not on account of their own doing but because of the partition of the motherland into India and Pakistan. They are deserving of all sympathy and of all consideration. After all, when these lands are resettled with the refugees, they will have to pay price for those lands. The price may be paid immediately or may be paid by instalments or at a future date. They have lost all that they possessed and I think it is proper that in the conditions now prevailing in the country they should be given lands at as cheap a rate as possible. I suggest that the Honourable Minister should base the compensation not on the prices prevailing today but on what they were in 1939 as has been done in U.P.

[Shri Ajit Prasad Jain]

For the reasons that I have stated, I suggest that the Honourable Minister should not proceed with the present Bill. He has already stated that an Ordinance has already been passed which came into force on 2nd August and will continue in force up to 2nd of February and he can exercise the powers of acquisition for the time being under that Ordinance. It would be easier for him to amend the Ordinance. Moreover, it would not be proper for us to put our legislative seal upon this measure as more than one thing has been left out and more particularly because the basis of compensation laid down in this Bill is a rather anti-social measure considering the class of persons who are going to be affected by it. Let the Honourable Minister come out with a well thought-out measure at the Budget Session. Meanwhile he will learn much by experience.

These are the few observations that I wanted to make in connection with this Bill and I do hope that the Honourable Minister will give his serious thought to them.

Mr. R. K. Sidhva (C.P. and Berar: General): Sir, the condition of the displaced persons who have come from Pakistan is undoubtedly pitiable. Nobody questions it. Nobody disputes it. The Honourable Minister also stated unequivocally that they have been uprooted from their homes and it is the duty of the State to see that they are rehabilitated. It is now over a year since they have been wandering from one place to another for no fault of theirs. I do admit that, while there are many hardships and privations and difficulties which these pitiable persons are undergoing, they have borne all this with patience and tolerance. I certainly admit that both the Central Government and some of the Provincial Governments are doing their best to accommodate these displaced persons. From the little I know of these displaced persons I can say that the Government have been doing all they could possibly do for relieving them of their enormous difficulties and still it is unfortunate that trouble is being created by some persons. I can tell you, Sir, from my experience, not in Delhi only but in some Provinces also like Bombay, these troubles are being created by interested persons for their personal and political interests.

Mr. Deputy-Speaker: I am sure the honourable member would like to continue.

Mr. R. K. Sidhva: Yes, Sir.

Mr. Deputy Speaker: In that case, he may resume on Monday and we may now adjourn.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday the 6th September 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Monday, 6th September, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

(10.45 A.M.)

DEATH OF MR. ANANDA MOHAN PODDAR

Shri H. V. Kamath (C.P. and Berar: General): Will you permit me, Sir, to offer you my cordial felicitations on this most auspicious occasion, Ganesh Chaturthi, the opening day of one of our most important festivals, and let me pray to Lord Ganesh that he may lead you from strength to strength towards the consummation of your heart's desire?

Mr. Deputy Speaker: Let us wish a happy return for our Speaker as early as possible.

I am sorry to announce that Mr. Ananda Mohan Poddar, who was a member of our old Assembly and a colleague of us all, passed away recently. He came from Bengal. When he was ill, he did not want to deny this Assembly of the benefit of his advice and therefore, he was used to be brought by his servants here and on one or two occasions, he took part in the deliberations. I knew him intimately and am exceedingly sorry that he should have passed away. It is in the fitness of things that this House should respect his memory. I request members will stand in their seats for a second.

RESETTLEMENT OF DISPLACED PERSONS (LAND ACQUISITION)

BILL—concl'd.

Mr. Deputy Speaker: The House will now take up further consideration of the following motion moved by the Honourable Shri Mohan Lal Saksena on the 4th September, 1948, namely:

"That the Bill to provide for the speedy acquisition of land for the resettlement of displaced persons, be taken into consideration."

Mr. R. K. Sidhva (C.P. and Berar: General): Mr. Deputy Speaker, Sir, the other day while supporting this measure, I was stating that the tale of the refugees is really very horrifying and deplorable and we all sympathise with the hardships that they have undergone and are still undergoing. They have been detached from their original homes and today after they have come out into our country from the other Dominion they have been wandering from province to province and they are not yet settled in any one place; even those who have settled do not know what their permanent home is; they are in suspense all the time, not knowing what their future would be. With all this,

[Mr. R. K. Sidhva]

Sir, I certainly feel that the Government have been doing their utmost under the extraordinary circumstances in which they were compelled to take this huge task. No Government I dare say from the little I know of the refugee world, could have done anything better than what the Government is doing at present and has been doing. They had to rehabilitate a lot of them. Huge refugee camps had to be established and from the visits I paid more than once to the Kurukshetra camp, I can say it was a gigantic task for anybody to undertake the work of restoring or re-habilitating these four lakhs of people at that time. I do not state that all the arrangements that were done by the Government were perfect. It could not be. It could never be and it could never have been done by anybody. Under the circumstances what has been done is admirable and certainly the Government deserve credit, but what happens, Sir? Unfortunately this work is a most thankless work and any Minister or any Government taking any work for the rehabilitation of refugees with the best of intentions, refugees would never be satisfied for the simple reason they are also distressed and that although you may do as much for them, they have been uprooted from their homes and they feel that they are not served well. After all their original home is the sweet home and they have been brought out to a place where they feel everything foreign to them; they have to settle; they have to adjust themselves; they have to reconcile and it is not possible I know for the average man to reconcile, adjust himself so abruptly and therefore, Sir, whatever the Government does or may do, I do feel that they will not be satisfied and Government will be rebuked from time to time as they have been rebuked. Notwithstanding our present Minister who is taking such a personal interest in these matters, we know very well how his house has been picketed from day to day and what hardships he has to undergo. What little I know of refugees in Bombay and here, I can say quite safely that in spite of the good work that the Government is doing some interested persons for their personal and political benefit, are creating all this trouble. Notwithstanding all this, I hope the Government will go ahead with the policy that they have enumerated particularly of housing them. What they want at present is a job and a shelter for themselves and their families. If these two things are found I am sure, they will be content. I do not mind much about getting jobs for them. Providing a job for everybody is a difficult problem, but housing is a great necessity. Without a shelter people have to roam about from one place to another. I have seen in some camps for months together no decency could be maintained for their families and no morals for their women, children and their daughters. This class of people are feeling very much about it and therefore housing is a very acute problem, which, if, had been taken at the earliest stage, rather more rapidly and despite all the enormous task that the Government have faced, I think if the Honourable Minister for Works, Mines and Power was rather alert this work could have been started earlier and many families could have been allotted their homes long ago. However, now that the scheme for housing them has been enunciated and the Ordinance has been promulgated, I really congratulate the Government for taking immediate steps for the acquisition of lands and making suitable arrangements for their lodging. Now this Ordinance is brought as a piece of legislation to be sanctioned by this House and I am very glad that this is being done and I congratulate the Government and the Honourable Minister. After this I would request them not to slacken their efforts; they must proceed rapidly with the building of houses. We were told times out of number that they want to build houses, but there was no cement, no building material and no steel. May I ask, Sir, how houses could be ready for occupation now within next October? There will be nearly hundreds of houses ready without the building material. They have agreed to do this because there is a will to do it now and if there is a will to do, no matter, you may have no material, you still can do it.

As for the fabricated houses, I put a question last November to the Honourable Minister for Health whether fabricated houses would be possible in India. She enquired from England and we were told in the last session by the Honourable Minister for Industry and Supply that a factory is being established here and fabricated houses would be put up. Sir, all along, this non-availability of building material was an excuse. If a little incentive or a little will to do was there from the commencement, we could have done a lot. I am glad that in both the directions, in the direction of the manufacture of fabricated houses as also in the direction of providing brick houses, rapid progress is being made and I only wish that this work should be continued, and under no circumstances should it be stopped. A large number of persons require houses today, refugees and others. The Honourable Minister for Works, Mines and Power said that there are schemes for the construction of houses for the clerical staff and low paid peons and chowkidars and some of the houses were under construction. When I put him a question in the budget session, he said that they were not ready. Even in March, they were not ready. If even these houses are completed, it would go a great way in relieving the tension; because our people are occupying certain houses, and if they are provided with Government houses, those houses would be available for the refugees. I therefore hope that the housing question will be given priority, not on paper, but in actual practice. I know many of the schemes are now under priority; I do not know what is the meaning of the word priority; I mean the work should be given the first preference. Therefore, I feel, as the Government also feels, that something should be done immediately.

Sir, I was pleased to hear the other day what Mr. Jain was saying regarding the arbitration clause. From my little experience of arbitration, I tell you that what he stated was perfectly correct. If you do not mention here the period, there will always be disputes between the arbitrator and the land holder and the decision of the arbitrator will be challenged in the High Court by the dissatisfied party. I know High Courts have taken various views and the High Courts have stated, that in the absence of any definite provision of law, it may be prices prevailing in the market at the time or the prices when fluctuations were great. Mr. Jain was right in saying that there should be a clause that the 1939 prices should be the factor for the arbitration. Otherwise, the unscrupulous landlord will take advantage of this and the matter would be prolonged by taking to the High Court. Therefore, to minimise the difficulties and in justice and fairness, I say that there should be an amendment that the price should be that prevailing in 1939.

In conclusion, I would request the Honourable Minister to bear another factor in mind. There are many displaced persons who have come from Pakistan. They want to build houses under the Housing Co-operative scheme. They do not mind going a few miles away from Delhi. The Government should set aside a large area and fix a nominal price for the building of houses by these people. The Government's burden will be lessened to that extent. This class of people can contribute one-fourth of the cost of the house, take a loan of the balance of three-fourths from the Government and build their houses. From my experience in Karachi where I was responsible for the building of a large number of houses for various communities on the co-operative basis, I can state, that a great tension that existed on account of overcrowding in the city proper, was relieved. Those who have seen Karachi can say that a new town had actually sprung up. Why should the Government take upon themselves the responsibility of building houses for those people of the lower middle class, who are prepared to build houses of their own under the Co-operative scheme? I do not want the Co-operative societies for the rich people; they should be formed for these lower middle classes who can

[Mr. R. K. Sidhva]

build houses at a cost ranging from Rs. 5,000 to Rs. 10,000. Today, a house of Rs. 10,000 means a house of Rs. 5,000 only. You may also impose a condition that one who has a house in Delhi should not have a plot there. Therefore I say that the Government should set aside a large area for these Housing Co-operative societies for this class of people. I know a number of societies have been registered, and only yesterday we formed one. I hope the Government will give sympathetic con-

11 A. M. sideration to this proposal. I do not know who is at present in charge of this work; sometimes, the Minister in charge of Health, sometimes the Minister in charge of Refugees and sometimes, the Minister in charge of Works, Mines and Power looks after this work. Whoever it may be, I would suggest that there should be one Minister in charge of this work and I would request that this work should be entrusted to the Minister in charge Relief and Rehabilitation, because it is his work. What I am concerned most is that there should be a definite plan in regard to these Housing Co-operative Societies. The Government should help those who are willing to help themselves. I can assure you that if the Government takes steps in the right direction in this matter, a new model town will be created on the effort of the displaced persons, of course with the support of the Government and local bodies, which will be a pride to the city of Delhi. The authorities should not feel that they are giving away a huge area. In Karachi the Municipal Corporation gave land at the rate of Rs. 1-8-0 per square yard while the prevailing prices were between Rs. 20 and 25 per square yard. Our object was to help those who were willing to help themselves. If you really want to help these refugees, you must allow them to stand on their own legs. They want a piece of land, and manage themselves, they shall find out the building materials and find out the money also. Why not help them? I therefore hope that the Government will come to their assistance in this respect and set aside a large area. I say emphatically a large area, because I know a very large number of people are anxious to build houses under the Housing Co-operative system. The Government would thereby be saving themselves from considerable financial difficulties and they need not sink any very large amount for this class of people. Of course, the Government cannot find money for every man. Here are some people who are able to find the money. I feel that the sympathy with the Government have for them can be shown by this action and if this action is taken, we would have gone a great way in relieving the tension and we would satisfy the displaced persons.

With these few words, I welcome the measure and I am quite confident that the Honourable Minister who has the interests of the refugees at his heart, would not relax his efforts and would proceed with this Housing scheme.

I have said that two things are wanted for these people—jobs and houses. I will not deal with jobs. But housing is an absolute necessity without which they cannot go on roaming from place to place, going from footpath to transit camps, etc., where their morality and security are not safe. Sir, I welcome this measure.

Shri K. Santhanam (Madras: General): Sir, I should like to know what work we are to finish by tomorrow evening. Is it the idea that if this present Bill goes on till tomorrow the other Bills will not be taken up, or will the House go on sitting indefinitely till all the business on the agenda is finished? The programme must be known so that there may be a guillotine if needed.

Mr. Deputy Speaker: I expect that in the ordinary course all the Bills will be moved and passed as in the agenda. We have therefore to see that no Bill is needlessly prolonged. I think it is the intention of Government that all the programme on the agenda will be finished by tomorrow.

Shri K. Santhanam: What happens if the agenda is not finished?

Mr. Deputy Speaker: I am not thinking of that hypothetical position; we can think of that later.

Shri Mahavir Tyagi (U. P.: General): Sir, this Bill is a very necessary measure. It is long since these people were uprooted from their homes and have been roaming from place to place without finding a shelter. It is therefore necessary that those who paid the price of our freedom and lost their kith and kin should now find shelter and employment. I am glad that the Honourable Minister has been vigilant enough to bring this measure before this House for providing shelter for them, and I only want to urge two points in regard to this Bill.

It was at one time proposed to establish some townships in certain places, one of which happened to be a village in my district. That village has no drinking water; still it was proposed to establish a few thousand refugees there. My point is that wherever such townships were sought to be established it should first be seen whether there are any industries there to provide employment for these people. It is no use putting up houses in places where people cannot live. I had a talk with an official whose point of view was that the people will set up their own businesses, viz., the lawyer will conduct cases, the cloth-seller will open his cloth shop, etc., and the place will be self-sufficient. I tried to convince him that this might go on for a month or two, but once their goods were consumed they would have to replenish their stocks from outside. The barber, for instance, will need a new razor when his old razor gets blunt; and the same is true of people following other trades. Either they must produce from the land or by means of industries they must add to the value of the commodities. So unless there is production by means of cottage or other industries such a township cannot exist for long. Therefore my submission is that wherever these townships are created and houses built there must be something which can give employment to the people and which can keep them going. Otherwise if you build these houses they may live there in the rainy season but they will abandon them when they cannot live there any more due to want of employment. The idea of their opening shops seems to me to be ridiculous. Every city has the number of shops that it requires. Delhi had just as many shops as its population required; now with the increase of population new shops have sprung up. You cannot go on opening and adding to shops which are not required, because no shopkeeper will then make enough to meet his costs. My proposal therefore is that before opening these townships and building houses you should see that every able-bodied adult gets an opportunity to get employment.

Another point is that in acquiring land it must be seen that no agricultural lands are acquired because those are wanted for production of food. Only waste lands should therefore be acquired for these people. Acquiring agricultural lands would be of no use because most of these refugees are not agriculturists. You will only be robbing Peter to pay Paul because the real agriculturists will be ousted and that will create another problem. So you have to see that men already employed are not disturbed in any way; otherwise by uprooting the agriculturists from their land you will create another refugee problem. So agricultural land should not be acquired.

These are the two points I wanted to urge. I hope they will be taken note of by the Honourable Minister. They may already be in his mind, so I will not take any more time.

चौधरी रनवीर सिंह : सभापति जी, मैं पंजाबी के नाते इस बिल का समर्थन करता हूँ और सरकार को कृतज्ञता प्रगट किये बगैर नहीं रह सकता। लेकिन मेरे रास्ते में एक दो हिचक हैं। मैं ज्यादा पीछे की बातों में नहीं जाऊंगा लेकिन एक छोटी सी बात कहना चाहता हूँ। जहाँ पर आज हम बैठे हैं, यहाँ कुछ लोग आबाद थे - २५ और ३० साल पहिले उनकी ज़मीनें ले ली गई थीं और जो बेघर कर दिये गये थे उन में से बहुत सारे आज तक भी बेघर हैं। जहाँ हमारी सरकार का यह कर्तव्य है कि जो वेस्ट (West) से भाई आये हैं उनको बसाया जाय तो उनके साथ साथ हमारा यह भी कर्तव्य हो जाता है कि उन भाइयों को बसाने के लिए जिन्हें हम अभी उजाड़ेंगे, उन्हें बसाने के लिए मकान, ज़मीन या कोई दूसरा प्रोफेशन (Profession) का इन्तज़ाम करें। मैं अभी आपको एक दो बातों की मिसालें दूंगा। मेरे पास चन्द दिन हुए राजपुर गांव के लोग आये। हमारी सरकार का बड़े जोरों से प्रपेगन्डा है कि पैदावार बढ़ाई जाय। विशेषतया फल और तरकारी की पैदावार बढ़ाई जाय। राजपुर दिल्ली के करीब ही एक गांव है। उस गांव में बहुत सारे बागात हैं। जिनको कटवा दिया जायेगा क्योंकि सरकार की स्कीम वहाँ पर मेडिकल इंस्टीट्यूशन और दूसरे इंस्टीट्यूशन बनाने की है। इस सिलसिले में वहाँ के लोगों की ज़मीन को एक्वायर (Acquire) करने के लिए नोटिस दे दिया गया है। हालांकि इसके मुकाबले में वहाँ पर पास ही उन मुसलमान भाइयों की ज़मीन पड़ी है जो पाकिस्तान चले गये हैं और उनकी ज़मीनें तकरीबन खाली पड़ी हैं। इसके अलावा कुछ ज़मीन जो राजपुर वालों से २५ साल पहिले ली गई थी वह भी खाली पड़ी है और इसके अलावा और भी ज़मीन उसके आसपास खाली पड़ी है जो बंजर है, जो कि बसाने के काम में आ सकती है। लेकिन पता नहीं कि इस तरह से क्यों ग़लती की जा रही है।

इसलिये मैं यह निवेदन करना चाहता हूँ कि जहाँ तक मुमकिन हो वह ज़मीन ली जाय जिसको मुसलमान भाई छोड़कर पाकिस्तान चले गये हैं। और अगर किसी भाई की जो यहाँ का रहने वाला है और खेती करता है ज़मीन ली भी जाय, जैसा कि बिल के अन्दर दर्ज है कि उसको मुआवज़ा रुपये के रूप में दिया जायेगा। मैं एक किसान और एक खेती करने वाले के नाते इस बात को अच्छी तरह समझता हूँ कि ज़मीन का मुआवज़ा क्या होता है। आप उसको रूपया दीजियेगा मगर उसका पेशा जो है वह इन रूपयों से पूरा नहीं होगा। अगर आप उसको दूसरा पेशा नहीं देते हैं तो आप हजार रूपया बीघा भी उसको मुआवज़ा देंगे तो भी उसको कोई मुआवज़ा नहीं मिलता है। वह बेघर हो जाता है, न उसके पास मकान रहता है और न उसके पास पैसा रहता है। अतः उसे ज़मीन के बदले में ज़मीन दें।

इसका एक दूसरा रुख है। कल ही परसों यहाँ हाउस के अन्दर बड़े जोरों के साथ इनफ्लेशन (inflation) के ऊपर गौर किया जा रहा था कि देश के अन्दर इनफ्लेशन है। इस इनफ्लेशन की नुबतानिशाह से अगर आप उनको मुआवज़ा रुपये के रूप में दीजियेगा तो इनफ्लेशन और बढ़ेगा। तो इस लिये मैं यह चाहता हूँ कि आप उन लोगों की जो पाकिस्तान चले गये उनकी ज़मीन दें, जितनी कीमत की उनकी ज़मीन है और जो सरकार उनको मुआवज़ा देगी उसी कीमत की ज़मीन उनको उस में से मिल जानी चाहिये। मैं आपके सामने राजपुर गांव वालों की मिसाल दूंगा। राजपुर वालों ने मुझे बताया कि २५ साल पहिले उनका गांव जहाँ पहिले आबाद था उजाड़ दिया गया था। और आज जहाँ वह बसे हुए हैं उसके लिए भी उनको खाली करने का नोटिस मिला है। कितनी दुःख और करुणाजनक बात है कि वे लोग जो शहर वालों के लिए तरकारियां व फल पैदा करते हैं आज सरकार उन सब चीजों से उनको महक

कर रही है। तो मैं आप से इस चीज़ के लिए निवेदन करना चाहता हूँ कि आप इस चीज़ को ध्यान में रखें कि जहाँ आप पर वेस्ट से आये हुए लोगों को बसाने का कर्तव्य है वहाँ पर आपको जो इधर रहते हैं और जिनको आप उजाड़ रहे हैं उनको भी बसाने का पहिला कर्तव्य हो जाता है। मैं एक पंजाबी के नाते कहता हूँ कि हमको उन भाइयों को खुशी से बसाना चाहिये जो वेस्ट से आये हुए हैं। लेकिन मैं इसके साथ ही साथ यह भी समझता हूँ कि जो लोग यहाँ खेती करते हैं और जिनकी ज़मीन है वे कोई बड़े बड़े ज़मींदार लोग नहीं हैं, जैसा कि अभी हमारे एक भाई ने कहा। उनके पास हजारों बीघा ज़मीन नहीं हैं। किसी के पास दो एकड़ ज़मीन है, किसी के पास पांच एकड़ ज़मीन है और किसी के पास दस एकड़ ज़मीन है। अगर आपने बड़ी बड़ी इमारत बनाने के लिए उनकी यह ज़मीन ले ली तो मैं पूछता हूँ कि उनका क्या हाल होगा और उनके लिए आपने क्या हल निकाला है। मैं ज्यादा इस बात पर नहीं जाता हूँ, मैं आप से यह ज़रूर कहना चाहता हूँ कि जैसा कि इस बिल में देखा गया है कि उनको उनके बदले में रूपया दिया जायेगा। इससे उन लोगों को संतोष नहीं होगा। रूपया उनके लिए कुछ चीज़ नहीं है। उनको तो पेशा और मकान चाहिये। तो आप उनको ज़मीन के बदले में उतनी ही कीमत की ज़मीन उनके गांव के आसपास में उनको दीजिये जो इतना मुश्किल नहीं है। क्योंकि जो लोग पाकिस्तान गये हैं वे लोग ज्यादा हैं। मैं मानता हूँ कि जो लोग पाकिस्तान से आये हैं उनको भी ज़मीन मिलनी चाहिये मगर हम उनको नये सिरे से बसा रहे हैं उनको मत्स्य-यूनियन, सी० पी०, यू० पी०, और दूसरी रियासतों में बसा सकते हैं। मगर जिन लोगों को जो कि यहाँ बसे हुए हैं जिनको आप उजाड़ रहे हैं तो उनको उसके ही आसपास कोई उसी कीमत की ज़मीन मिलनी चाहिये। इनमें उन लोगों को दिक्कत का सामना नहीं करना पड़ेगा और सरकार का काम भी पूरी तरह से हो जायेगा। जो लोग पाकिस्तान से आये हैं उनको तो मजबूरन अपनी ज़मीन और घरबार छोड़ना पड़ा है मगर यहाँ तो हम उनको अपने हाथों से वे घरबार कर रहे हैं। और हम अपनी स्कीमों को पूरा करने के लिए उनको वे घरबार कर रहे हैं तो यह हमारा फर्ज हो जाता है कि उनको मकान के बदले में मकान, और ज़मीन के बदले में ज़मीन और पैसा के बदले में उनको पैसा देना चाहिये।

मुझे इस बात का दुःख है कि अगर आप यह समझते हैं कि रूपया लेकर वह अपना पेशा कर सकते हैं तो मैं समझता हूँ कि यह आपका अन्दाज़ा ग़लत है, वह कोई पेशा नहीं कर सकते हैं। वह पुश्तों से खेती करते चले आये हैं, उनके बापदादाओं ने खेती की है और वह भी खुद खेती करते हैं और कोई दूसरा पेशा नहीं करते हैं। इसलिए मैं आप से यह कहूंगा कि इस बिल की अन्दर जो पैसों की शर्त है उसको तोड़ दिया जाय और उसकी जगह यह रख दिया जाय कि उसको ज़मीन के बदले में उसी कीमत के बराबर की ज़मीन दी जायगी। कई साहब कहते हैं कि उनको सन् १९३९ ई० की कीमत पर मुआवज़ा देना चाहिये तो मैं पूछता हूँ कि उसने जो घर बनाना है, ज़मीन खरीदनी है वह उसे आजकल खरीदनी है न कि सन् १९३९ ई० में खरीदनी है। आजकल ज़मीन और मकानों की कीमत बहुत बढ़ गई है। मैं अपने गांव की मिसाल देता हूँ आप वहाँ कोई भी ज़मीन का टुकड़ा (२०००) बीघा के हिसाब से भी नहीं ले सकते हैं। इसलिए मैं आप से यह चाहता हूँ और पुरजोर अपील करता हूँ और अपनी भारतीय सरकार से यह आशा रखता हूँ कि जहाँ वह दूसरे भाइयों को बसाने के लिए अपनी ताकत

[चौधरी रनबीर सिंह]

लगायगी वहाँ अपनी स्कीमों से उजाड़े हुए लोगों को बसाने के लिए भी परा यत्न करेगी और उनको ज़मीन और मकान की शक्ल में मुआवज़ा देगी ।

(English translation of the above speech)

Ch. Ranbir Singh (East Punjab: General): Mr. Deputy Speaker, Sir, as a Punjabi, I welcome this Bill, and cannot help expressing my gratitude to the Government. But there are one or two obstacles in my way. I do not want to dwell upon the past events but would like to say something. The place at which we are sitting to-day was inhabited by certain people about 25 or 30 years ago. Their lands were acquired and they were thus rendered homeless. Many of them are still living without a house even to-day. On the one hand, it is the responsibility of our Government to rehabilitate our displaced brethren from the West, it also is their duty to make arrangements for the provision of houses, and employment for those persons whom we are going to uproot for their sake. I will just quote one or two instances. A few days ago, people from the village of Rajpur came to me. Our Government is carrying on intensive propaganda in respect of 'Grow More Food' campaign, especially the production of fruits and vegetables. The village of Rajpur is situated near Delhi and the village has many gardens which will have to be cut down as the Government have approved a scheme to set up medical and other institutions there. With this end in view, the people have been served with notice for the acquisition of their land, although the land owned by our Muslim brethren who have since left for Pakistan is almost lying vacant in its close proximity. Besides this, the land which was acquired from the inhabitants of Rajpur village is also lying vacant and there is also some more fallow land which can be utilized for rehabilitation purpose. It is therefore not understood why such a wrong course has been adopted.

I would like to say that as far as possible only that land should be acquired which has been left over by our Muslim brethren who have gone to Pakistan. If the land owned by any of our brethren here who is a cultivator is acquired as proposed in this Bill, he should be paid compensation in cash. I fully realize what compensation is paid for land. You can pay him the money but this cannot compensate him for the loss of his avocation. If you do not provide him with some alternate employment, you may pay him compensation at Rs. 1,000 per bigha—even then he is not fully compensated in the real sense. He is rendered homeless—he is deprived of both his avocation and house. Therefore, you should give him land in exchange for land.

There is also another aspect to this. Only day before yesterday, the House was very seriously considering the problem of inflation facing the country. If you give them compensation in cash, then in view of the existing inflation, this is bound to increase inflation. For this reason I would urge that you should give them land belonging to persons who have left for Pakistan. Out of this abandoned land, they should be given land corresponding to the value of the land held by them for which Government will pay them compensation. I will give the instance of the people of Rajpur, who told me that about 25 years ago the place at which their village was formerly situated was devastated, and to-day again they have been served with a notice to quit the place where they have been living. It is really very painful and pitiable that those people who produce vegetables and fruits for the use of people living in the cities, the Government is to-day depriving them of all they possess. Therefore, I would request you with all the emphasis at my command that you should keep this in view that if in one place you are responsible to rehabilitate the people from West, in the second place it also becomes your primary duty to settle those residing here whom you are uprooting. As a Punjabi, I would say that we should very gladly rehabilitate our brethren who have come from West Punjab.

Along with this, I also know that these people who cultivate their land are not all big Zamindars—as one of my honourable friends has stated. They do not possess thousands of bighas of land. Some own 2 acres of land, some 5 acres and very few have got 10 acres. If you acquire their land for the construction of big buildings, I would like to know what would be their condition and how do you propose to tackle the problem confronting them? I do not want to dilate upon this point too much, but would like to tell you that they will not be satisfied with the payment of compensation as proposed in the Bill. Money is no consideration to them. Their primary necessity is employment and accommodation. It would not be very difficult if you give them land corresponding to the value of the land held by them in the neighbourhood of their village, because the people who have gone over to Pakistan are many in number. I do admit that the people who have come from Pakistan should also be allotted land, but we are rehabilitating them *ab initio* and can settle them in the Matysa Union, C.P., U.P., and other States. But the people whom you are uprooting should be given some land equivalent to the value of the land held by them in the proximity of their village. In this manner those people will not be subjected to any hardship and the work of the Government will also be smoothly carried on. Those people who have come from Pakistan were forced to leave their hearths and homes and property, but here we are ourselves rendering other people homeless. We are resorting to this for the purpose of execution of our plans. It thus becomes our duty that we should provide them with alternate employment, land and accommodation.

I am really pained to say that if you think that they can pursue their avocation after getting payment of compensation, then I am afraid you are mistaken in your judgment. They cannot undertake any other kind of avocation. They are hereditary agriculturists, their ancestors were cultivators and they themselves cultivate land and do not follow any other avocation. Therefore, I would urge that the condition of payment of compensation provided in this Bill should be waived, and in lieu thereof provision be made to the effect that they should be given land of the corresponding value. Some of the honourable members have suggested that they should be paid compensation on the basis of the prices ruling during the year 1939. Then may I know whether they have to build houses and purchase land now or in the year 1939? The prices of land and houses have now considerably gone up. I will give you an instance of my own village where you cannot purchase any piece of land even for Rs. 2,000 per bigha.

I would, therefore, most emphatically urge and expect from the Government of India that whenever they are doing their utmost to rehabilitate other persons, they should also do their best to resettle those uprooted due to execution of their schemes and compensate them in the form of land and houses.

श्री राम सहाय : श्रीमान् डिप्टी स्पीकर महोदय, इसमें तो कोई शक नहीं कि जो सरगार्हीं भाई हैं उनके लिए हमको सुविधायें पहुंचाने के लिए जो भी कानून ज़रूरी हो बना देना चाहिए । लेकिन यह मैं नहीं समझता कि इस किस्म के ज़रूरी कानून में गैर ज़रूरी अख्तियारात क्यों दिये जाते हैं । मैं कुछ बातों पर कुछ सुझाव पेश करना चाहता हूँ । मैं सबसे पहले यह अर्ज करना चाहता हूँ कि इस बिल में लैंड (land) की तारीफ़ में जो मकान शामिल किये गये हैं इसकी क्या ज़रूरत महसूस हुई । मकानों को कंट्रोल करने के लिए और दूसरों को किराये पर दिलाने के लिए तो दूसरे कायदे मौजूद हैं जिनके ज़रिये से मकान देने को मजबूर किया जा सकता है । मेरा कहना यह है कि मकानों को इस कानून में मुस्तना होना चाहिए । अगर मालिक मकान उसमें रहता है तो उससे मकान नहीं खाली कराना चाहिए । जब तक कि वह मकान उस स्कीम के लिए लिया जाना ज़रूरी न हो जो कि इस कानून के मकसद को पूरा करने की तैयार की

[श्री राम सहाय]

गयी है। अगर हम इसी हद तक मकानात को हासिल करेंगे तब ही जरूरी मकसद हासिल होगा नहीं तो जैसा कि हमारे मित्र रनबीर सिंह जी ने कहा वही होगा इस तरह हम बजाय कुछ आदमियों को बसाने के कुछ को डिस्प्लेस (displaces) और करेंगे।

मेरा अर्ज करना यह भी है कि मकान लेने के लिए जो दो दिन की मियाद दी गयी है वह नाकाफी है। एक मकान जिसमें कोई व्यक्ति मुद्दों से रह रहा है और जिसका बहुत कुछ सामान वहां होगा और दीगर चीजें जरूरियात की होंगी, मैं नहीं समझता कि आजकल जब ट्रांसपोर्ट की और दूसरी तकलीफें हैं वह विस तरह से ४८ घंटे में अपना सामान हटा सकेगा। जहां तक मकानात का ताल्लुक है मैं यही सजेसन्स (suggestions) हाउस के सामने रखना चाहता हूं।

दूसरी बात यह है कि इसमें मुआवजा देने के बारे में जो दफा ७ ईजाद की गई है वह भी मेरे ख्याल से डिफेक्टिव (defective) है। हमको मुआवजा देने का कोई उमूल धनाना चाहिए। चाहे जैसा कि मेरे दोस्त मि० जैन की तरफ से है कि सन् १९३९ के रेट्स (rates) के हिसाब से ही मुआवजा दिया जाय। मेरा अर्ज करना यह है कि इसमें जो दफा रखी गई है उसमें लैंड एक्वीजीशन ऐक्ट की २३ सेक्शन (Section 23 of the Land Acquisition Act) की सबसेक्शन १ को जो एप्लाइ (apply) करने को कहा गया है उसमें यह अल्फाज हैं "shall have due regard to" मेरी समझ में नहीं आता कि "shall have due regard to" क्यों रखा गया है। यह दफा इस बिल में इस तरह क्यों रखी गई यह मेरी समझ में बिल्कल नहीं आता। सब सेक्शन २ सेक्शन २३ लैंड एक्वीजीशन ऐक्ट (Land Acquisition Act) में १५ फीसदी ज्यादा दिलाने की बात लाजिमी रखी गयी है उस प्रावीजन को डिलीट (delete) करने की तो वजह हो सकती है क्योंकि हमें डिस्प्लेस्ड परसन्स (displaced persons) को जगह देनी है। लेकिन उनको हम मार्केट वैल्यू भी (market-value) न दें यह उमूल किस बिना पर रखा गया है यह बात मेरी समझ में नहीं आती। सब सेक्शन १ सेक्शन २३ लैंड एक्वीजीशन ऐक्ट को पूरा पूरा क्यों एप्लाइ (apply) नहीं किया जाता यह बात मैं मालूम करना चाहता हूं कि इस तरह के लेजिस्लेशन के बनाने की क्या वजह हो सकती है।

साथ ही मेरा यह अर्ज करना है कि इसमें प्रासीक्यूशन (prosecution) के बारे में आफिसर्स को लैंड एक्वीजीशन ऐक्ट (Land Acquisition Act) से ज्यादा क्यों महफूज किया गया है। लैंड एक्वीजीशन ऐक्ट (Land Acquisition Act) में तो उनको नोटिस देकर उन पर मुकदमा चलाया जा सकता है लेकिन इस ऐक्ट के तहत में उन पर कोई मुकदमा नहीं चलाया जा सकता। इस तरह महफूज करने की क्या वजह है। मैं नहीं समझता कि जब हमारे यहां आफिसर्स इतने करप्ट (corrupt) हैं कि उनको रोकने के लिए हमारे मिनिस्टर साहिबान अपने को असमर्थ पाते हैं तो इस तरह से ज्यादा अख्तियारात देना अच्छी चीज नहीं होगी और फिर उनको यह प्रोटेक्शन (protection) देना बहुत गन्दी चीज हो जायगी। इससे तो वह बिल्कुल निडर होकर चाहे कुछ करेंगे। ईधर तो हम उनको यह अख्तियार देते कि वह चाहे जिस मकान को खाली करा लें और दूसरे यह प्रोटेक्शन देते हैं कि

उनके ऊपर कोई एक्शन (action) नहीं लिया जायगा। मैं नहीं समझता कि इसकी क्या वजह है। मेरा अर्ज करना यह भी है कि जहाँ हम देखें कि कि हमारा काम ठीक होने के लिये अख्तियारात देना जरूरी है, यह भी जरूरी है कि हम अफसरों के ऊपर कोई कंट्रोल भी रख सकें। पहले जब यह गवर्नमेंट शुरू हुई थी तो यह ख्याल था कि लोगों को यह ख्याल न हो कि हम रिवेंजफुल एटिट्यूड (revengeful attitude) से इनके खिलाफ कारवाई करते हैं और इसीलिए हमने इस ख्याल से और सिक्यूरिटी आफ सर्विस (security of service) के ख्याल में भी इन्हें बहुत कुछ लैटीट्यूड (latitude) दिया। लेकिन अब काफी जमाना होने के बाद और अब जब कि पहले से ज्यादा कर्प्शन (corruption) बढ़ने की शिकायत जनता को है, इस वक्त भी हम बिना कंट्रोल के उनके अख्तियारात को बढ़ाते जायें तो यह मुनासिब मालूम नहीं होता।

एक बात मुझे यह अर्ज करनी है कि कल रेलवे मिनिस्टर डा० जान मथाई ने यह बात बतायी थी कि वह ऐसे कायदे बना रहे हैं कि जिनसे यह अख्तियारात हासिल कर सकें कि जरूरत होने पर और कर्प्शन का माकूल इत्मिनान होने पर रेलवे के आफिसरों के खिलाफ एक्शन ले सकें। क्या ऐसे रूल (rules) नहीं बनाये जा सकते कि वह सभी मिनिस्टरों के काम में आवें और सभी मिनिस्टर उन पर अमल कर सकें। यह ज्यादा मुनासिब होगा कि सब के लिए एक से कायदे बना दिये जायें वजाय इसके कि हर एक अपने लिये अपने अपने तरीके पर कायदे बनाये।

मैं यह देख रहा हूं कि पहले ब्रिटिश के जमाने में जहां हमारे बड़े बड़े अफसर इन्फीरियोरिटी कम्प्लेक्स (inferiority complex) में सताये पाये जाते थे अब उनमें सुपीरियोरिटी कम्प्लेक्स (superiority complex) की भावना आ गयी है और वह यह समझने लग गये हैं कि वह ही सब हालात के मास्टर हैं। मैं तो देखता हूं कि खास खास हालात में वह अपने बड़े से बड़े अफसर तक की प्रवाह नहीं करने, रियाया की व रिप्रेजेंटेटिव्स (representatives) की तो बात ही क्या है। मैं यह अर्ज करता हूं कि इन हालात पर गौर करते हुए इस कानून को पास करना चाहिये।

(English translation of the above speech.)

Shri Ram Sahai (Gwalior State): Mr. Deputy Speaker, Sir, there is no doubt that we should frame whatever legislation is considered necessary for affording facilities to our refugee brethren. But I fail to understand why unnecessary powers are being given through such an important legislation. I want to submit a few suggestions. First of all I would like to know what necessity was felt for the inclusion of houses in the definition of 'land' as defined in this Bill? There already exist other measures by means of which houses can be acquired, controlled and leased to other persons. What I mean to say is that the houses should be exempted from the operation of this law. If the owner himself is occupying the house, then he should not be evicted unless it is considered necessary to acquire that house in connection with the implementation of the scheme as envisaged in this measure. If we confine ourselves to the acquisition of houses to this extent, then only we can achieve our object; otherwise it would amount to what my honourable friend Ch. Ranbir Singh has stated that instead of resettling some people, we would be displacing a few more. I would also like to say that the limit of forty eight hours' notice for taking possession of the House as laid down in this Bill is quite insufficient. I do not really understand how would it be possible.

[Shri Ram Sahai]

for a person who is occupying a house, for the last so many years—most of his household effects and other necessities of life having been stored there—to remove his moveable property within forty eight hours especially in view of the present-day transport and other difficulties. So far as the houses are concerned, I place these suggestions before the House.

Secondly, in my opinion Clause 7 of this Bill and which deals with the payment of compensation is also defective. We should lay down a specific principle for the payment of compensation—this might be given on the basis of the prices prevailing in the year 1939 as suggested in the amendment put forwarded by my honourable friend Mr. Jain. What I mean to say is this, that Clause contains provisions for the application of sub-section (1) of section 23 of the Land Acquisition Act, 1894. This contain the words “shall have due regard to”. I fail to understand why these words “shall have due regard to” have been incorporated for. I cannot exactly follow why this clause has been put in this Bill. Sub-section (2) of section 23 of the Land Acquisition Act lays down for the compulsory payment of 15 per cent. extra. There may be some reason for the deletion of this provision, because we have to provide accommodation for the displaced persons, but I do not understand what is basis for this rule that we should not pay them even the market value. I would like to know why the provisions of sub-section (1) of section 23 of Land Acquisition Act are not applied *in toto* and what are the reasons for framing such type of legislation.

In addition to this, I would like to submit why the position of officers has been made more secure as compared with the Land Acquisition Act inasmuch as it relates to prosecution. Under the Land Acquisition Act, they are liable to be prosecuted after giving them due notice, but under the provisions of this Act, they cannot be prosecuted. What is the reason for providing such safeguards? I cannot really understand if it would be a wise course to vest more powers in the officers in this manner when they are so corrupt and our Honourable Ministers even find themselves unable to check them. Despite this, to afford them protection would worsen the matter. Such a course would make them quite fearless and allow them to act in their own way. On the one hand we are giving them powers to acquire any house they like, and on the other afford them protection that no action would be taken against them. I do not follow what are the reasons for this. I would also like to submit that when we consider it necessary to delegate powers for the proper performance of duties, it is equally necessary that we should exercise some sort of control over these officers. When this Government first came into power, it was thought that the people should not think that we would take a revengeful attitude. And for this very reason and keeping in view the security of service, we gave them a considerable latitude, but now after the lapse of sufficient time and when the masses complain about the existence of more corruption than before, it does not seem proper if we go on increasing their powers without exercising any control over them.

Another point which I have to mention is that the Honourable Dr. John Matthai, Minister for Railways, yesterday told the House that he had under consideration rules which will give him power to deal effectively with Railway Officers if necessity arises and is fully satisfied about corruption. Cannot similar rules be framed which may be followed and acted upon by all the Ministers? It would be much better if uniform rules are prescribed for the observance of all rather than permitting everyone to frame separate set of rules for individual use.

Formerly under the British regime even our high officers were suffering from inferiority complex, but now they have developed a sense of superiority complex, and have begun to feel that they are the sole masters. I find that in many particular cases they do not even care for their immediate

superiors, not to talk of the representatives of the people. I would, therefore, submit that this Bill should be passed after considering all these things.

سردار بھوپندر سنگھ مان ! صاحب صدر ! میں بل کا سواگت کرتا ہوں۔ لیکن ساتھ ہی ساتھ میں یہ محسوس کرتا ہوں کہ اس تمام مسئلہ کو حل کرنے کے لئے رحم اور ترس کا استعمال کیا جاتا ہے۔ شروع ہی سے یہ سوچا گیا تھا کہ یہ شرنارتھی بھچارے بڑے اُجڑے ہوئے ہیں۔ ان کے ساتھ رحم کرنا چاہئے۔ چنانچہ اس رحم کا نتیجہ تھا کہ لوگ اسٹیشن پر پوریاں لے کر انہیں کھلاتے تھے اور کہتے تھے کہ بھچارے اُجڑے ہوئے ہیں۔ لیکن جیسا رحم اور ترس کا قاعدہ ہوا کرتا ہے وہ وقت کے ساتھ کم ہو جاتا ہے۔ یہی حالت ہماری حکومت کی ہے اس نے اس مسئلہ کو قطعی طور پر ایک قومی مسئلہ نہیں سمجھا یہ نہیں سمجھا کہ ہماری قومی پالیسی کا یہ ایک بہت اہم حصہ ہے۔ یہ تو نئی پالیسی ہی کے ہیر پھیر کا نتیجہ ہے کہ یہ لوگ اُجڑے ہوئے ہیں۔ لیکن اب یہ ہو رہا ہے کہ رحم کے بجائے لائتھیوں کی بوچھاڑ ہو رہی ہے۔ اب آہستہ آہستہ ان لوگوں کے لئے ہتھکڑیوں کا استعمال ہو رہا ہے۔ ناز اس بات کا ہے کہ حکومت بڑی طاقتور ہے۔ اچھا تو یہ ہوتا کہ یہ طاقت اور جگہ استعمال ہوتی جہاں پر کہ ملک کی آنکھیں لگی ہوئی ہیں۔ شرنارتھیوں پر لائتھیوں کی بوچھاڑ کی جاتی ہے اور کوئی اہم چیز ان کے سامنے نہیں رکھی جاتی جس سے ان کا ذکہ دور ہو۔ کیونکہ حکومت کی پالیسی ہی کی وجہ سے شرنارتھیوں کی یہ حالت ہوئی ہے۔ اس سے پہلے بڑے وزیر صاحب نے یہ فرمایا تھا کہ جو وکلا صاحبان آئے ہیں ان کا خیال نوکریوں میں رکھا جائیگا لیکن جب وکلا صاحبان نے سٹیٹ گروہ کر کے کسی طرح interview حاصل کی تو یہ فرمایا جاتا ہے کہ یہ parasite ہیں۔ مجھے خطرہ اس بات کا ہے کہ تھوڑا وقت اور گزر جانے پر تمام شرنارتھیوں کو parasite نہ قرار دے دیا جائے۔ اب دیکھتے ہیں کہ اندمان Andaman جسے کسی وقت کالا پانی کہتے تھے اور جہاں قیدیوں کو سزا کے طور پر بھیجا جاتا تھا۔ وہاں شرنارتھیوں کو اب بسانے کی تجویز ہو رہی ہے۔ میں تو سمجھتا ہوں کہ اب رحم اور ترس نہیں ہے۔ اب تو لائتھیوں کی بوچھاڑ ہے اور ہتھکڑیوں کی جھلکار ہے۔ اور شرنارتھیوں کو گالے پانی بھیجنے کی تیاریاں ہو رہی ہیں۔

میں سمجھتا ہوں کہ ہمارا ملک بہت بڑا وسیع ہے۔ بہت بڑا شاندار ملک ہے اگر ملک کے دروازے ان پر بند نہ کئے جاتے تو یقینی طور پر اس وسیع سمندر کی گود میں یہ بچھڑی ہوئی دھاریں بڑی آسانی سے سما سکتی تھیں۔ لیکن ہوتا کیا ہے کہ دروازے ان کے اوپر بند کر دیئے جاتے ہیں۔ اب ان کے لئے کوٹے (quota) مقرر کئے جا رہے ہیں۔ کہ 10 دس ہزار لیگے یا 20 بیس ہزار—دہلی میں پہلے چار پانچ

[سردار بھوپندر سنگھ مان]

لاکھ شامل تھے۔ اب سوال یہ ہے کہ ان کو کیسے نکالا جائے۔ اب سوال بسانے کا نہیں چل رہا بلکہ نکالنے کا ہے۔ میں آپ کو یقین دلانا چاہتا ہوں کہ جب تک آپ ان شرنارتھیوں کو ایک دیکھی بچے کی طرح اپنی گود میں لینے کو تیار نہیں ہو جاتے تب تک آپ اس مسئلہ کو حل کرنے میں ناکامیاب رہیں گے۔ میری درخواست یہ ہے کہ اس سوال کو ایک ملکی سوال سمجھا جائے اور تمام ملکی کے دروازے ان کے لئے کھولے جائیں۔ ان شرنارتھیوں کو آپ نے دیکھا ہے۔ مجھے ان پر ناز و فخر ہے کہ اگر ملک کے کسی اور حصہ سے ایسے لوگ آتے تو وہ صرف بھکاری ہی کی طرح آتے۔ وہ آپ سے بھیک مانگتے۔ پیسے مانگتے۔ لیکن آپ نے دیکھا کہ یہ تمام لوگ اپنے پاؤں پر کھڑے ہونے کو تیار ہیں۔ آپ نئے مکان بنانے کے لئے کہتے ہیں۔ ہم کہتے ہیں کہ آپ ہمیں زمین دیجئے۔ میتیریل (material) دیجئے۔ ہم خود مٹی گرا لیا کر مکان بنا لین گے۔ آپ ہماری کوششوں کو عمل میں آنے دیجئے۔ بڑے بڑے جو دوکاندار ہیں ان کے آگے چھوٹی چھوٹی پتھریوں پر بیٹھ کر وہ دوکان لگاتے ہیں اور روز دو۔ تین۔ چار روپیہ کما کر بہت تھوڑا نفع کما کر اپنے بال بچوں کا پیٹ پالتے ہیں۔ لیکن آپ انہیں اس کی بھی اجازت نہیں دیتے۔ آپ ان کے لئے ایسی جگہ دوکانوں بغواتے ہیں کہ جہاں کوئی بھی نہ جا سکے۔ بہت بڑے بڑے سرمایہ دار ہیں اور بہت بڑے بڑے مذافع اٹھاتے ہیں آپ ان کی بات مانتے ہیں تو میں یہ سمجھتا ہوں کہ اس میں ان سب کی ایک کانسرپیسی (conspiracy) ہے میں تو چاہتا ہوں کہ آپ تھوڑی مدد ان شرنارتھیوں کی بھی کیجئے۔

آپ ذرا یو پی (U.P.) کو دیکھئے۔ وہاں کیا ہوتا ہے؟ وہاں زمینداری بل (bill) پاس ہوتا ہے۔ جس سے کہ زمیندار سے زمین لے لی جائے۔ لیکن ہوتا کیا ہے۔ وہاں پر بہت کھلی زمین فالتو پڑی ہے۔ میرا ذاتی تجربہ ہے کہ وہاں ایسی زمینیں خالی پڑی ہیں جو کہ سونا اگلنے والی ہیں۔ لیکن وہاں وہ زمینیں ہم کو دی نہیں جاتی۔ زمیندار ہم سے نذرانہ مانگتے ہیں۔ ہم کہتے ہیں کہ آپ ہم کو زمینیں دیجئے۔ مشینوں کی ہم کو ضرورت نہیں ہے اگر آپ دے سکتے ہیں تو دیجئے۔ ورنہ ہم ہل سے ہی جوتیل گئے۔ اس طرح ہم آپ کے خوراک کے سوال کو بھی حل کر سکتے ہیں۔

Shri Gopikrishna Vijayavargiya (Gwalior State): May I ask whether all this is relevant?

Sardar Bhopinder Singh Man: This is relevant in that we people want a living accommodation.

Mr. Deputy Speaker: The Honourable Member may go on with his speech.

سردار بھوپندر سنگھ مان:— تو ہم نذرانہ کہاں سے لویں؟ ہمارا جو کچھ تھا وہ تو سب لٹ گیا۔ اب ہمارے پاس نذرانہ دینے کو روپیہ کہاں سے آوے؟

اب دوسرا سوال قرضوں کا ہے۔ اب نئی صورت یہ ہے کہ قرضہ تبھی دیا جاویگا جب کہ کوآپریٹو سوسائٹیز (Co-operative Societies) بن جاویں گی۔ اب مکان تو بناتا ہے ایک آدمی اور دوکان لگاتا ہے تو ایک آدمی لیکن اگر کوآپریٹو سوسائٹی (Cooperative Society) نہیں بنتی تو اُس کو قرض نہیں مل سکتا۔ یہ بات میری سمجھ میں نہیں آتی کہ ایک آدمی چھوٹی سی دوکان کھولتا ہے یا چھوٹا سا

مکان بنانا ہے تو وہ کوآپریٹو سوسائٹی (Co-operative society) بناوے۔ اگر سو دو سو پانچ سو مکان بنانا ہو تب تو یہ صورت ہو سکتی ہے۔ میں سمجھتا ہوں کہ آپ کو اس صورت پر غور کرنا چاہیئے۔

ایک چیز اور ہے۔ گورنمنٹ یہ طاقت تو حاصل کر لیتی ہے کہ مکانوں کو اکوایر (acquire) کر لیا جائے۔ لیکن میں نے یہ دیکھا ہے کہ اکوایر (acquire) کر لیا کے بعد بڑے بڑے مکانوں کو بڑے بڑے افسر (officer) جنکی پلہچ ہوا کرتی ہے وہ لے لیتے ہیں۔ یہ میری ایک دیکھی ہوئی حقیقت ہے۔ دہلی کو ہی لیجئے۔ یہاں بڑے بڑے آدمیوں کو ہی مکان ملے ہیں۔ میری یہ درخواست ہے کہ جہاں یہ مکان اکوایر (acquire) کئے جائیں وہاں (living space) راشن کی جائے۔ اور مقرر کی جائے کہ ایک آدمی کے پیچھے اتنی زمین رہنے کے لئے دی جاوے گی۔ اس طرح سے جو بڑے بڑے مکان ہیں اور جن میں بہت کم آدمی رہتے ہیں۔ بڑے بڑے افسر رہتے ہیں۔ ان میں زیادہ آدمی رہ سکیں۔

تیسری بات جو میں آپ کے سامنے رکھنا چاہتا ہوں وہ یہ ہے کہ گورنمنٹ کو یہ صاف طور پر اعلان کر دینا چاہئے کہ ایک ریفیوجی (refugee) کو چاہے وہ کس جگہ کا ہی کیوں نہ ہو وہ اس وقت تک نہیں نکالا جائیگا جب تک کہ اُس کے لئے دوسری آلترنیٹو سپیس (alterantive space) نہیں دی جائیگی۔ آجکل روز یہ چیز نظر آتی ہے کہ وہ وہاں سے نکل دئے جاتے ہیں۔ اگر وہ کہیں کوشش کر کے کہیں دوکان لگائے ہونے ہیں تو کوشش یہ ہوتی ہے کہ ان کو وہاں سے نکال دیا جائے۔ میں یہ کہنا چاہتا ہوں کہ اگر ریفیوجی (refugee) کہیں سے نکالنا ہو تو جب تک اُس کو کوئی آلترنیٹو سپیس (alternative space) یا آلترنیٹو اکوموڈیشن (alternative accommodation) نہ دی جائے تب تک وہ وہاں سے نہ نکالا جائے۔ ان باتوں کے ساتھ میں جناب صدر آپ کی توجہ اس طرف دلانا چاہتا ہوں کہ یہ مسئلہ طاقت سے حل نہیں ہو سکتا اور میں سمجھتا ہوں کہ اگر یہ طاقت سے دبایا جائیگا تو ملک کے ایک بڑے حصہ کے ساتھ زیادتی ہی نہ ہوگی بلکہ ایک غلط فہمی بھی ثابت ہوگی۔

(English translation of the above speech.)

Sardar Bhopinder Singh Man (East Punjab: Sikh): Mr. Deputy Speaker, I welcome this Bill, but I feel that compassion and mercy should be exercised to deal with this problem. From the very outset, it was considered that these refugees who were in a destitute condition should be treated with compassion. It was as a result of such feelings that the people served the refugees *Puris* at the Railway stations as they thought that the later had been rendered destitute. But as is natural the feelings of mercy and compassion faded by the efflux of time. Similar is the case with our Government. It did not at all treat this as a 'National problem'. It did not consider that this was an integral part of its national policy. It is the result of this misconceived policy that these people are now destitute. What is happening now is that

[Sardar Bhopinder Singh Man] instead of being treated mercifully they are being subjected to lathi-charge. Gradually hand-cuffs are being brought into use for these people. The Government take pride in their strength. It would have been better if this strength had been exercised in other directions towards which the eyes of the country are fixed. The refugees are subjected to lathi-charge and no constructive proposals are placed before them to relieve their distress. The policy of the Government alone is responsible for the present condition of the refugees. Earlier, the Honourable the Prime Minister had stated that the cases of the displaced lawyers would be considered for employment in Government service. But when the lawyers were able to secure an interview after resorting to *Satyagraha*, then it was stated that they are 'parasites'. I am afraid lest after the lapse of some more time all the refugees may be declared 'parasites'. We find now that proposals are under consideration to settle the refugees in the Andaman Island—which was sometimes called as *kala-pani* and where the convicts were transported for undergoing imprisonment. I, at least feel that there is hardly any feeling of compassion left now for the refugees who are greeted with lathi-charges and hand-cuffs and preparations are being made to transport them to the Andamans. I know ours is a very vast and magnificent country and if the doors of the country had not been closed to these refugees, then these scattered few would have very easily been absorbed in this vast expanse of land. What actually happens is that the doors are closed on them and quotas are being fixed in their case whether ten thousand or twenty thousand could be absorbed in a particular place. Previously it was proposed to settle four or five lacs in Delhi, but now the question has arisen as to how they should be removed from this place. Now the question is not of rehabilitation but of their dispersal. I would like to assure you that until and unless you are prepared to embrace these refugees like an afflicted child, you can never successfully solve this problem. My submission is that this problem should be treated as a national problem and the door of the whole country should be opened to them. You have seen these refugees. I am proud of them. If the people from any other part of the country had been similarly uprooted, I am sure they would have come as beggars and would have asked for charity and money, but you have noticed that all these people are prepared to stand on their own legs. You talk of building new houses. We say "Give us land and material—we will ourselves construct mud houses. You should let us work." They run their petty business on the footpaths situated in front of the shops owned by big people and by selling things at very small profits they earn a few rupees daily for their living. But you are not allowing them to do even this. Shops have been built for them at places which are quite out of the way. You do what the big capitalists and profiteers ask you to do and thus join in what I would call a conspiracy against them. I would like you to give some assistance to these refugees also. Take the case of United Provinces, what is happening there? The Zamindari Bill which seeks to acquire land from the Zamindar has been passed in that Province. Vast areas of surplus land are lying vacant and my own experience is that these lands are of very good and rich quality capable of producing rich harvests. But these pieces of land are not given to us. The Zamindars demand presents from us. We ask for land, we do not want mechanized implements. If you can give these, you may. Otherwise we will cultivate by ordinary ploughs. In this manner we can also solve your food problem.

Shri Gopikrishna Vijayavargiya (Gwalior State): May I ask whether all this is relevant?

Sardar Bhopinder Singh Man: This is relevant in that we people want a living accommodation.

Mr. Deputy Speaker: The honourable member may go on with his speech.

Sardar Bhopinder Singh Man: From where should we get the present? We have been robbed of all we had. Where from can we now get the money

for offering presents? Now the other question relates to the grant of loans. Under the new rules, a loan will be given only when Co-operative societies have been formed. For example, one man builds a house and another sets up a shop, but none of them can get the loan until the Co-operative society is formed. I do not really understand that one man who runs a petty shop or constructs a small house can form a Co-operative society. This can be done only when a few hundred houses are to be constructed. I think you should consider over this aspect. There is another question. The Government secures powers to acquire houses, but I have seen that after the acquisition of big buildings, these are usually allotted to very high officers who have got an approach or wield influence. This is a fact which I have seen with my own eyes. Take the case of Delhi. The houses are allotted here only to the big people. My submission is that whenever houses are acquired, the living space should be rationed and allotted *per capita*. In this manner, we can secure accommodation for quite a large number of people in the big houses—where very few people live—and which are occupied by officers.

Last of all, what I want to say is that the Government should unequivocally declare that a refugee to whatever place he may belong should not be evicted till such time as he is provided with alternate accommodation. Such things are of daily occurrences. If after trying hard they set up a shop somewhere, then efforts are made to displace them. I would, therefore, urge that in case a refugee is required to be evicted from any place, this should be done only when alternate space or accommodation is provided for him.

Sir, in addition I would also like to draw your attention that this problem cannot be solved by the application of force, and I feel were it to be suppressed by force, that would not only be unfair to a major portion of the country, but would result in misunderstanding.

شبى ديش بندھو گیتا: جناب دیتی سپیکر صاحب ! میں آپ کا زیادہ وقت لینا نہیں چاہتا۔ لیکن چونکہ اس بل کا تعلق دہلی سے ہے اسلئے چند باتیں عرض کر دینا میں اپنا فرض سمجھتا ہوں۔ پہلی بات تو یہ ہے کہ جہاں تک دہلی کا تعلق ہے میرے خیال میں آج کوئی بھی شخص یہ نہیں کہہ سکتا کہ دہلی والوں نے اس سلسلے میں اپنے فرض کو ادا نہیں کیا۔ میں بڑے فخر کے ساتھ (گورو کے ساتھ) یہ کہہ سکتا ہوں کہ اگر کسی صوبے نے اس سلسلے میں زیادہ سے زیادہ مدد کی ہے اور اپنے فرض کو پہنچانا ہے تو وہ دہلی ہے۔ آج دہلی کی آبادی پانچ چھ لاکھ سے زیادہ بڑھ چکی ہے آپ میں سے بہت سے بھائی دہلی میں رہتے ہیں۔ آپ کو معلوم ہے کہ دہلی کے لوگوں کا جہاں تک تعلق ہے انہوں نے کوئی آواز ان کے خلاف نہیں اٹھائی۔ بلکہ انہوں نے اس مصیبت کو اپنی مصیبت سمجھا اور اپنے بھائیوں کا کھلے دل سے سواکت کیا۔ دوسرے صوبوں میں ان کو دروازے اس طرح کھلے نہیں ملے اور بند بھی ملے وہاں اور رکاوٹیں بھی ڈالی گئیں۔ لیکن دہلی نے حالانکہ یہاں پاپولیشن (population) آبادی پہلے سے زیادہ تھی اور یہ سمجھا جاتا تھا کہ دہلی کی جتنی آبادی ہے اس کا بھی پراویژن (provision) نہیں ہو سکتا ہے اور اس کے expansion کے لئے بہت پہلے سے اسکیمیں بنی ہوئی تھیں۔ لیکن باوجود اس کے کہ دہلی کی آبادی دیورہی ہو گئی تھی اور اتنی زیادہ آبادی ہوتے ہوئے بھی دہلی والوں نے ان کے خلاف آواز نہیں

[شری دیپن بندھو گپتا]

آٹھائی - اسلئے اگر میرے کچھ بھائی اس خیال سے کہ وہ اپنے ریفیوجی (refugee) بھائیوں کو جو یہاں آئے ہوئے ہیں دوسرے آدمیوں کو برا بھلا کہ کر سڈتوش دے سکتے ہیں تو میں سمجھتا ہوں کہ اس طرح کی کوئی بات کہنا غیر انصافی ہے۔ اور یہ ان کے ساتھ ہمدردی دکھانے کا بھی کوئی طریقہ نہیں ہے۔

دوسری بات اس سلسلے میں جناب صدر میں یہ کہنا چاہتا ہوں کہ جہاں تک سرکار کا تعلق ہے اور اس سلسلے میں ابھی جو کچھ کہا گیا ہے اس بارے میں ہم کو اپنی نیتی (নীति) بدلنا چاہئے۔ جب یہاں کھڑے ہو کر کرٹیسائز (criticize) کرتے ہیں تو یہ نہیں سمجھتے کہ اس سے باہر کیا غلط فہمی پھیلتی ہے۔ آج گورنمنٹ کے سامنے کیا situation ہے اور ملک کس مصیبت میں سے گزر رہا ہے اس کو نہیں دیکھتے۔ ہم جو اعتراض کرتے ہیں تو یہ نہیں دیکھتے کہ اس کا کیا اثر ہوتا ہے۔ ملک کی حالت کو سامنے رکھتے ہوئے میں تو سمجھتا ہوں کہ اتنے بڑے problem کے ہوتے ہوئے ہر ایک نے اپنا حصہ اس problem کو حل کرنے میں دیا اور اگر کوئی اس کو نہ مانے تو یہ ناشکرگزاری ہوگی۔ آپ پراہلم (problem) کو دیکھئے کہ کتنی بڑی تعداد میں لوگ یہاں آئے اس طرح کی problem کو کسی ملک نے اس طرح حل نہیں کیا ہے لیکن ہمارے پرائم منسٹر صاحب نے اور دوسرے منسٹر صاحبان نے کتنا زیادہ وقت اس problem پر دیا ہے اور گورنمنٹ نے بھی کتنا رویہ اس کے لئے خرچ کیا ہے۔ میں سمجھتا ہوں کہ ان باتوں کو ignore کرنا اور دوسری چیزوں کو emphasise کرنا زیادہ صحیح نہیں ہے۔ اس کا نتیجہ یہ ہوتا ہے کہ دوسرے لوگوں کے دلوں میں ایک خلاف جذبہ پیدا ہو جاتا ہے اور اس سے ان کا کوئی فائدہ ہوتا ہے اور نہ کوئی اچھا نتیجہ نکلتا ہے۔ اس لئے جو بھی criticism کریں وہ Constructive طریقے پر کرنا چاہئے۔ اور ہمارے لائق دوست موهن لال سکسپلہ جو کہ پورے طریقے سے اس معاملے میں پوری دلچسپی لیتے ہیں اس بات کی ضمانت ہے کہ جتنی زیادہ سے زیادہ توجہ وہ اس کام میں دے سکتے ہیں دیں گے۔

اس کے بعد جناب صدر جہاں تک اس بل کا تعلق ہے میں یہ بتانا چاہتا ہوں کہ دہلی تو ایک چھوٹی تحصیل کے برابر ہے۔ اگر اس کا رقبہ کیا جائے تو یہ ایک تحصیل سے کم ہے۔ اور پھر اس کے علاوہ حکومت نے اس میں پہلے ہی تین چار townships بنانے کا فیصلہ کیا ہے۔ جتنی بھی زمین دہلی کے Expansion کے لئے رکھی گئی تھی وہ سب displaced آدمیوں کو آباد کرنے کے لئے acquire کی گئی ہے۔ اس کے علاوہ اور بھی جہاں زمین مل سکتی تھی وہ بھی ان کو آباد کرنے کے لئے acquire کی گئی ہے۔

جیسا کہ میرے ایک لائق دوست نے فرمایا ہے کہ جہاں آپ ان لوگوں کو آباد کر رہے ہیں وہاں آپ کو ان کے لئے روزگار بھی مہیا کرنا پڑیگا۔ یہ نہایت ہی بدقسمتی کی بات ہے کہ جب یہ لوگ یہاں آئے تو راستے میں کوئی ایسا مقام نہیں تھا جہاں پر کہ urban population اپنے لئے جگہ ڈھونڈتی - دہلی چونکہ ایک بڑا شہر ہے اس لئے وہ یہاں پر آئے۔ اور ہمارے سر آنکھوں پر آئے۔ اور ہم نے ان کا سوائٹ کیا۔ ان کو اپنے بھائی سمجھا۔ اور ان کی خدمت کرتے رہے اور کر رہے ہیں۔ لیکن ان سب باتوں کے باوجود حکومت کو یہ سوچنا پڑیگا کہ ان کو یہاں آباد کر کے ہم کوئی ایسی صورت پیدا نہ کریں جس سے دہلی میں بے روزگاری ہو اور پھر دوبارہ یہ نہ سوچنا پڑے کہ ان کو روزگار کے لئے دوسری جگہ بھیج دیا جائے۔ اس لئے اس بات کو سامنے رکھتے ہوئے دہلی میں آنے والے آدمیوں کو آباد کیا جائے جتنوں کے لئے یہاں روزگار کی سہیل ہو سکے۔ اگر آپ یہاں ہر ایک کو آباد کرینگے اور ان کے روزگار کی کوئی صورت پیدا نہیں کی جائیگی تو یہ میرے خیال میں ان کے ساتھ جھوٹی ہمدردی ہوگی۔ اور جب تک ان کے لئے روزگار کی کوئی صورت مہیا نہیں ہوگی تب تک اس کا کوئی فائدہ نہیں ہوگا۔

آپ یہاں انڈسٹریز کو بڑھائیں - اور population کو آپ تیس چالیس لاکھ تک بڑھائیں۔ اس میں کوئی اعتراض نہیں ہے۔ لیکن میں یہ گزارش کرونگا کہ اس سکیم کو عمل میں لاتے وقت ہمیں چاہئے کہ ہم اس بات کا لحاظ رکھیں کہ جہاں ہم ان لوگوں کو آباد کریں وہاں ان کے لئے روزگار بھی مہیا کر سکیں۔ لیکن اگر ہم ان کے لئے روزگار بہم نہیں کر سکتے تو ہمیں ان کو بسانے کے لئے ایسی جگہ ڈھونڈنی چاہئے جہاں انکو روزگار بھی مہیا ہو اور انکو بسانے کے لئے وہاں بھیج دینا چاہئے۔

جناب والا! جہاں تک زمین کا تعلق ہے۔ میں یہ عرض کرونگا کہ ایک معمولی قانون سے زیادہ اس قانون کے ذریعہ حکومت نے اختیارات حاصل کئے ہیں۔ land acquisition کے لئے land acquisition act کے مطابق پندرہ فیصدی extra دیا جاتا ہے۔ لیکن حکومت نے ان لوگوں کو اس میں رعایت دی ہے۔ اور ان سے یہ extra پندرہ فیصدی نہیں لیا جائیگا مجھے اس بارے میں کوئی grudge نہیں ہے کہ حکومت نے انکو کیوں یہ رعایت دی ہے۔ یہ ایک noble cause کے لئے کیا جاتا ہے۔ اور اگر یہ پندرہ فیصدی انکے بارے میں بھی رکھا جاتا تو وہ مناسب نہ ہوتا۔ اسلئے میں یہ عرض کرونگا کہ یہ پندرہ فیصدی extra کے بارے میں جو انکو رعایت دی گئی ہے یہ نہایت ہی مناسب بات کی گئی ہے۔ لیکن اس کے ہوتے ہوئے اگر یہ کہا جائے۔ جیسے کہ میرے کسی دوست نے amendment بھیج دیا ہے کہ ان سے 1939 prices کے نرخوں کے مطابق لئے جائیں تو یہ نہایت نامناسب بات ہوگی۔ حکومت

[شری دیش بلدھو گپتا]

کا یہ کہنا کہ 1939 prices کے مطابق لی جائیگی تو یہ ان لوگوں کے ساتھ نہایت ہی نا انصافی ہوگی جنہوں نے 1939 میں زمینیں اپنے expansion کے لئے رکھی ہوں۔ اگر آج آپ انکو 1939 کے prices دیں تو کیا آپ خود اس بات کو محسوس نہیں کرتے ہیں کہ یہ سراسر نا انصافی ہوگی۔ یہ میں مانتا ہوں کہ اتنے بھاری crisis میں نیشن کے ہر ایک فرد بشر کو زیادہ سے زیادہ sacrifice کرنی چاہئے۔ لیکن یہ ایک نہایت ہی بڑی غلطی ہوگی اگر بوجھ اس طرح سے ایک ہی طرف ڈال دیا جائے۔ اسمیں شک نہیں کہ ملک میں اسوقت یہ ایک بڑا crisis ہے۔ اسکے لئے کچھ نہ کچھ سدباب کرنا لازمی ہے۔ تو اس کے لئے میں یہ گزارش کروں گا کہ آپ اس کے لئے ملک میں ایک special cess لگائیں اور taxes لگائیں اور اس طرح سے rehabilitation کے لئے کروڑوں روپیہ حاصل کریں۔ اس کام کے لئے آپ جس پر بھی ٹیکس لگائیے وہ نہایت خوشی سے دینا۔ کم از کم جہاں تک دہلی کا تعلق ہے وہ ایسے tax دینے سے ہرگز منحرف نہیں ہوگی۔ لیکن اگر آپ صرف دہلی پر یہ بوجھ ڈالیں اور مدراس بمبئی اور دوسرے صوبوں پر آپ یہ بوجھ نہ ڈالیں تو یہ بہت ہی نامناسب ہوگا۔ یو۔پی کے صوبے نے تو پہلے ہی اس بارے میں اپنے دروازے بند کر دیے ہیں جیسے کہ میرے ایک دوست نے ابھی ابھی کہہ دیا کہ ان کے پاس ایک گاؤں کے لوگ آئے اور شکایت کی تو آپ کو یہ دیکھنا چاہئے کہ اگر کسی جگہ پر پہلے ہی سے کوئی سکیم جاری کرنا مقصود ہو تو اس جگہ پر یہ بوجھ ڈالنا بھی مناسب نہ ہوگا اور کسی ایک شیکشن پر بہت زیادہ بوجھ ڈالنا ٹھیک بھی نہیں ہے۔

rehabilitation کے بارے میں اس بات کا خیال رکھنا بھی نہایت ضروری ہے کہ لوگوں کو بسانے سے ان لوگوں کے جو کہ rehabilitate کئے جائیں اور local آدمیوں کے تعلقات بھی خراب نہ ہو جائیں۔ یہ ایک نہایت ہی اہم اور ضروری بات ہے۔ اگر اس بات کا خیال نہیں رکھا جائیگا تو یہ short sightedness ہوگی۔ اس لئے اگر کوئی آدمی کسی جگہ پر آباد ہو گیا ہو تو اسکو وہاں ہی آباد رکھ دیا جائے۔ یہ اس طرح سے ممکن ہو سکتا ہے کہ جب حکومت اس چیز میں unfair نہ ہو اور اس بات کا خیال رکھا جائے کہ اگر وہ کوئی قدم اٹھانا چاہیں تو اس کے مقابلے میں ان لوگوں کی کیا reaction ہو گی جنہوں نے کہ کافی sacrifices اس بارے میں دی ہوں۔

میں نے پہلے بھی عرض کی ہے اور اب بھی یہ گزارش کروں گا کہ ہم جو کچھ بھی کرنا چاہیں اس کے بارے میں اس بات کا ضرور خیال رکھیں کہ ہم وہی کریں جو کچھ ہم کر سکتے ہوں۔ حکومت جیسے کہ میں نے کہہ دیا ہے special tax لگائے اور special cess جاری کریں Relief and rehabilitation fund بنائیں۔ اس کے علاوہ

اس کے لئے لٹری بھی float کی جا سکتی ہے۔ ان طریقوں سے آپ اس ملک میں اس کام کے لئے زیادہ سے زیادہ روپیہ مہیا کر سکتے ہیں۔ اور اس معاملے کو اچھی طرح سے سلجھا سکتے ہیں۔ آپ اس معاملے کو اس طرح سے حل نہیں کر سکیں گے آپ کو اس کی جوت تک جانا ہو گا۔ اب اس بارے میں آپ کو زمین acquire کرنے کی ضرورت پڑ رہی ہے۔ آپ ضرور زمین acquire کریں۔ لیکن اتنی ہی جوتلی کہ آپ کو ضرورت ہو اس کے لئے آپ کو حکومت کے ہاتھ مضبوط کرنے چاہئیں۔

ان حالات کے پیش نظر میں یہ گزارش کروں گا کہ یہ بل جیسا کہ draft ہے کر آیا ہے اس کو منظور کر لینا چاہئے ان الفاظ کے ساتھ میں اس بل کا سواگت کرتا ہوں۔

(English translation of the above speech).

Shri Deshbandhu Gupta (Delhi): Mr. Deputy Speaker, Sir, I do not want to take much time of the House, but as this Bill relates to Delhi, I feel it my duty to say a few words. Firstly, I think that so far as Delhi is concerned, nobody can deny that the people did not discharge their duty in this respect. I can say this with great pride that if any Province has rendered the maximum possible help in this connection and realized its responsibility—it is Delhi. The population of Delhi has now increased to five or six lacs. Many of my honourable friends live in Delhi, and they are no doubt aware that so far as the people of Delhi are concerned, they have not objected to the refugees but on the contrary they sympathised with them in their distress and extended to their brethren a cordial welcome. In other provinces they were not welcomed with open arms and sometimes they found themselves unwelcomed and many obstacles were put in their way. The people of Delhi made no protests against the refugees in spite of the fact that the population of Delhi had increased by one and a half times and no provision had been made for this increased population though many schemes for expansion were formulated. I think therefore, that if some of my honourable friends feel that they can afford consolation to the refugees by rebuking others; it would not be so unjustified on their part although it would not be a proper way of showing sympathy towards them. Secondly I would like to say in this connection as has been stated just now that so far as the Government is concerned, we should change our policy. When we stand up in this House to criticise, we do not realize how it is misunderstood outside. We do not appreciate the situation that confronts the Government and the difficult times through which the country is passing. While raising objections, we do not visualize what would be its effect. I think that in view of the situation facing the country, everybody has contributed his share towards the solution of this colossal problem, and if anyone does not admit this, it would mean ungratefulness on his part. Looking at the problem and to the number of people who migrated to this place en masse we can say that no other country has tackled such a problem with so much success. Our Prime Minister and other Ministers have devoted a considerable time over this problem and the Government have spent a large amount of money to meet its expenses and I think it is not correct to ignore all these factors and to lay emphasis on other points. This would lead to dissatisfaction among the people and would neither benefit them nor produce any good results. Therefore, whatever criticism we have to offer should be in a constructive manner. Our honourable friend Mr. Mohanlal Saxena who is taking keen interest in the matter is a guarantee that fullest attention will be given to this problem.

Now coming to this Bill, I would say that Delhi is just about the size of a small Tehsil and its area is less than that of a Tehsil. Apart from this the

[Shri Deshbandhu Gupta]

Government has already decided to set up three or four townships. The entire land which was earmarked for the expansion of the city has been acquired for the rehabilitation of displaced persons, and in addition to this, land has also been acquired for their resettlement at other place wherever it was available.

As one of my honourable friends has stated, you will also have to provide employment for these persons at places where you are settling them. It is a matter of great misfortune that when these people came here, there was no place *en route* where the urban population could find out accommodation for themselves. Since Delhi is a big city, they came over here. We greeted them, welcomed them, treated them as our brethren, and helped them and we are still doing it. Inspite of all this Government will have to consider whether by settling these people here, they will not be creating a situation that would give rise to unemployment in Delhi, and it may not then become necessary to transfer them elsewhere to earn their livelihood. Keeping all this in view, only that number of people should be settled in Delhi for whom employment can be found. In my opinion this would tantamount to mere lip-sympathy. If you settle every body in this place without looking to the opportunities they will have for earning a living it would in my opinion be a false sympathy. So long as they are not provided with any employment, it will not serve any useful purpose.

If industries are developed it would not matter if the population increases to 30 or 40 lacs. But I will submit that while executing this scheme we should also keep in view that we are able to provide employment for these people at whatever places we rehabilitate them. In case we are not able to provide them with employment, we should find out such places for settling them where they can get employment.

Sir, so far as the question of land is concerned, I will submit that the Government has acquired more powers by virtue of this legislation than by any ordinary law. Under the Land Acquisition Act, 15 per cent. is paid extra for the purpose of acquiring land but Government have granted a concession to these people and this 15 per cent. extra will not be charged from them. I do not grudge them this concession. It is for a noble cause, and it would have been quite unjust if the condition of 15 per cent. had been retained in their case also. Therefore, I will submit that to exempt them from the extra payment of 15 per cent. is really a very wise course. If it is still urged as one of my honourable friends has suggested in an amendment, that they should be charged the 1939 prices it would be quite unreasonable. The declaration by the Government that the prices ruling in 1939 will be charged would be quite unjust to those people who had reserved their lands during that year for the purposes of expansion. If you pay compensation on the basis of prices prevailing in the year 1939, do you not yourself feel the injustice of it? I admit that every individual should make the greatest possible sacrifice to meet this grave crisis but it would be a serious mistake if the burden is placed on one side only. There is no doubt that the country is passing through a grave crisis and something must be done to meet it. To do this, I would suggest that a special cess or tax should be levied throughout the country to secure some crores of rupees for purposes of rehabilitation. Every person on whom such a tax is imposed will very gladly pay it. At least so far as Delhi is concerned, the people will not refuse to pay such taxes. But if you put the burden on Delhi alone and exempt other provinces *viz.*, Madras and Bombay, etc. it would not be quite proper. The United Provinces have already closed their doors to them as stated just now by one of my honourable friends that some villagers approached him and complained to him. If it has been decided to start some new scheme at a place, it would not be proper to put more burden on that place. It would not indeed be proper to put too much burden on any one section.

In connection with rehabilitation, it should also be kept in view that the relations between the people to be rehabilitated and the local inhabitants are not estranged. This is a very vital and important matter. It would amount to short-sightedness if this fact is ignored. Therefore, if any person has settled himself at any place, he should be allowed to remain there. This will be possible if the Government does not act unfairly and takes into account the possible reactions of those people who have already made enough sacrifice.

I have already said and would like to stress again that whatever is to be done, we should not forget that we should do only that which is possible. The Government as I have said should impose a special tax and levy special cess and constitute a Relief and Rehabilitation Fund. Besides this, a lottery can be floated for this purpose. By these methods, more money for this purpose can be secured and this problem can be successfully solved. You will have to go to the very root of it. For this you have to acquire land. You do acquire land but only so much as is required, and for this purpose the hands of the Government are to be strengthened.

I would therefore urge that this Bill should be passed as drafted. With these words, I welcome this Bill.

Prof. Shibban Lal Saksena (U.P.: General): Sir, I have been on the Standing Committee of the Ministry of Relief and Rehabilitation for a year now, but I find that after all the efforts made by our Government and the huge amount of money spent by it, we have not yet gone very far in the problem of rehabilitation. I do not want to censure my Government. I know it was one of the biggest problems that any Government had had to face. Probably the only comparison can be Eastern Prussia from where the Germans were turned out and Poles were put in their place by the Russians after the Great War. But besides that I do not know of any other instance in history where seventy lakhs of people had come to another land to be rehabilitated. Leaving alone those who have gone from here to Pakistan, statistics available show that seventy lakhs of people have come to India from areas which are now parts of Pakistan. Of course, approximately fifty lakhs have gone from here also, but this uprooting of people from their native lands has created a problem which is colossal in its nature.

Sir, we have been trying to deal with this problem in every meeting of the Committee. We have been making recommendations, and today we have a Bill which really enacts an Ordinance into law. I have carefully gone through this Bill. It only says that the Governments—not the Central Government, but the Provincial Governments—will be given power to acquire any land which they think necessary for schemes for rehabilitation of refugees; they have been given summary powers to acquire any piece of land—they have only to give forty-eight hours notice after notification in the Gazette.

Even if this Bill could promise a solution of the problem, I would not say anything in praise of it. We are not really trying to solve the problem; we are tinkering with it and we shall have to pay the penalty. Sir, this is one of the most explosive problems in the country. There is inflation no doubt, there are clouds of war hanging over us, but I think until we solve the problem of relief and rehabilitation of these refugees we shall not be able to make headway in any field. To have seventy lakhs of people without any homes, people who have lost their all and who have the bitterest memories, to have them without being firmly settled, is, I think, the most dangerous thing for a State. Here we go forward and say that Collectors in every Province will have power to acquire land—that is all the Bill says. My own experience is this. In every meeting of the Standing Committee we have been trying to allot quotas to every Province, that so many will go to this place, so many to that place, but the

[Prof. Shibban Lal Saksena]

experience of our Ministers and of our Committee is that although people have gone there because they had to go somewhere, very few, probably none, have been rehabilitated there. Here again, if the Central Government does not take power to acquire land and rehabilitate these people throughout the country, the Provincial Governments will not be able to rehabilitate them and probably some District Officers will try to wreak their vengeance on some people, take their lands saying it is for refugees and do something with it. This is not the way in which we should go about this business. I am strongly opposed to this Bill. I want a much more thoroughgoing measure. This is a problem which can only be solved by the Central Government and unless this Government takes full power to have rehabilitation schemes executed by itself in all the provinces, the problem cannot be solved. What I want is this. Instead of giving District Magistrates power to acquire lands in the provinces, this Government must come forward with a Bill under which it will itself have a Committee or some such organisation on which the Provincial Governments will be fully represented.

Shri Deshbandhu Gupta: May I interrupt my honourable friend for a minute and draw his attention to the fact that this Bill extends to the Chief Commissioners' Provinces of Delhi and Ajmer-Merwara only and therefore it does not apply to provinces at all? The jurisdiction of this Bill is Delhi and Ajmer-Merwara and these are directly under the Central Government.

Prof. Shibban Lal Saksena: Perhaps I did not read that portion, but all the same, what I say is this: just as we are now giving power to the provinces under this Bill, so we should not do it in respect of other provinces, but it should be directly under the Central Government and this Bill should be extended to them.

The Honourable Shri Mohan Lal Saksena (Minister for Relief and Rehabilitation): Provinces have already got their Acts. U.P. has got its own Act and so also the other provinces.

Prof. Shibban Lal Saksena: They have got their Acts, but what I want is this. If you want to execute rehabilitation schemes, you should take full power; the Central Government should take full power to execute the schemes in the Provinces also, because if you trust to the Provinces they will not execute the schemes.

Shri Krishna Chandra Sharma (U.P. General): May I remind you that "land" is a provincial subject?

Prof. Shibban Lal Saksena: I know it is a provincial subject, but when there is an emergency in the life of the nation, when you want to solve a big problem, when you have to rehabilitate seventy lakhs of refugees, you will have to transcend that. You can enlist the fullest co-operation of the Provinces, but you must always formulate schemes by which you can rehabilitate them on a Central basis in the provinces. Unless you do that, you cannot get the schemes executed. This Bill will only extend to Ajmer-Merwara and Delhi as my friend pointed out and the Central Government hopes that by acquiring land and giving compensation they will be able to carry out their schemes. I welcome that and I hope that the Honourable Minister who is probably more interested in this problem than anybody else even before he became the Minister and who has put in so much energetic work in this connection, will succeed in respect of these two areas, but I do wish that the Bill was extended to other provinces and covered the entire country. Delhi and Ajmer-Merwara are full of refugees. They know that you will be able to rehabilitate them somehow. When you send them out, they go out and ultimately they roam about and come back. They think: "Oh, Panditji is there and others are there." They believe they will be rehabilitated. This is not the way in which you should

attempt to help them. What I want the Honourable Minister to do is to extend the scope of the Bill to the entire country and he should not depend upon Provincial Governments' Acts and Provincial Governments' schemes. He himself knows to what extent refugees who have gone to provinces have been resettled. They are still not resettled.

They roam about here and there. They get some resting place somewhere, some house or shop. That is all, then they move about again to another place. They have not been rehabilitated. I therefore think that it is not in the power of the Provincial Governments or in the resources of the Provincial Governments to rehabilitate them. The scheme which we make will thus remain on paper until the Central Government takes full powers as we are doing in the case of Delhi and Ajmer-Merwara. I do not think that Provincial Governments should have any objection to that scheme. They must be fully consulted. They must be given the fullest opportunity to represent their views. Their views should be considered, but ultimately, it must be the business of the Centre to see that this rehabilitation is carried out; otherwise, it will not put so many people in permanent rehabilitation.

Here in Delhi for the last fortnight we have been seeing a drama being staged in the main streets of Chandni Chowk. It has been a thing of great pain to all of us. Yet we cannot say that our Government did all they could and the refugees were at fault. After all who are these refugees? They are people who have lost their all, who have come here, who have to eke out a living by their daily labour. Should they not have some place where they can carry on their business? Merely saying that we have not been able to do all that is necessary for them is not an excuse. It is our responsibility to have seen that within one year they have been here they have been given some place where they could be permanently settled. They were sitting for about six months on the streets and we were saying that they would be given proper stalls. Were they given proper stalls? How could you force them to move to some place within a week's time? Why could you not make enough stalls before asking them to move, so that they could have been moved smoothly there? This is not the way in which you should do things. What has happened in spite of your spending Rs. 35 crores, in spite of our Prime Minister and everybody? The Government must go about its business in a scientific way. It must not go about it in fits and starts. They must have their plan and execute it. Otherwise, this problem of rehabilitation will not be solved. It will remain a sore in the body politic of India for ever. I think when seventy lakhs of people came here, there was a very good opportunity for us to make a plan and to have the experiment in having a particular kind of township created and where people can be asked to live in a particular way. They may have been given equal pieces of land and opportunities for trade and business. But we did not think of anything of this sort. We have been drifting from day to day. When I read the resolutions of the Standing Committee from the middle of last year, I find they have always repeated, at least they have repeated several times, that nobody cared for them and they try to do something but they come back. Now, we have got another machinery, the Development Board. I was really surprised to know that the Development Board was something independent of the Ministry for some time and even now I do not know what the function of this Board is. I hope very soon it will be abolished and the Ministry itself will take full powers to carry on this thing. I think if the centralised control is not taken by the Ministry and the Minister is not given full power to carry out the scheme, this problem will not be solved. Therefore, I wish that this Bill is extended to the whole country and the Central Government takes full powers and does not leave it to the Provincial Governments to carry it out.

Mr. R. K. Sidhva: May I point out that this House has passed a Rehabilitation Administration Corporation Act for the refugees with Rs. 10 crores capital?

Prof. Shibban Lal Saksena: Perhaps Mr. Sidhva has not understood what I said. Rs. 10 crores is to rehabilitate people who want loans. That is not what I am saying. I have been suggesting that the whole problem can be solved only if the Centre is given full powers to make lands available and rehabilitate through its own agency all over the country. The Provincial Governments should be taken into full confidence; otherwise, we find that today U.P. refuses to take more than 3 lakhs, and C.P. and Madras etc., also refuse to take more than a certain number. The problem can only be solved if you make a definite plan and allot so many to U.P.; so many to Madras, and so on.

I was dealing with the acquisition scheme. Perhaps the powers given are too Draconian, and forty-eight hours' notice is not enough to make a man leave his premises. Of course, there is power given to the District Magistrate to allow any other reasonable period, but I think the Act should provide one week, because it is not proper to give power which may be misused to the detriment of these people. I know the power is very wide and should have been limited by other safeguards; but in view of the colossal nature of the problem I think we will have to give these powers. Sir, I support the Bill.

Sardar Hukam Singh (East Punjab: Sikh): Sir, so far as this Bill is concerned it is a very simple affair and there cannot be two views about it. It is intended to replace an Ordinance which has existed for some time; Government had these powers and had exercised them. It is a simple Bill; there are just a few provisions to enable Government to issue a notification of its intention to acquire land; and after some formalities the land would vest in Government to be used for the purposes intended in the Bill. But though simple, it raises certain very important questions. The problem of refugees, as has been said, is surely a colossal problem and a gigantic affair. If a balance-sheet were prepared of the work that our National Government have done so far, and the work done by them are put on the credit side and the work not done on the debit side, we can say that on the credit side much has been done. Government have taken great pains and felt for the refugees. Crores of rupees have been spent on this problem. But if we take the debit side we must say that there were more things that should have been done but were not done. As for Delhi, my honourable friend Shri Deshbandhu Gupta said that Delhi has exhausted all its resources. Delhi extended its arms to the refugees. But, as was said, this problem is not the creation of the refugees; it is a question of the whole country. The country thought that it must win freedom and that was done by sacrificing these refugees. If they are the victims, certainly the whole country has to bear that burden; it is not Delhi alone that should bear it but the whole of India should share the burden. It should be felt by every Indian that it is his duty to bear it. One thing I may point out about Delhi itself. It has provided certain stalls recently near the Red Fort. I went to that site yesterday and on enquiry from the stall-holders I was told—I cannot vouch for its truth but I have no reason to doubt it—that a stall 8ft. x 8ft. carried a rent of Rs. 35 per month. That made me suspect whether it was a profit-making business concern that was being run there in the name of helping the refugees. I inquired further and was told that the Committee had acquired that piece of land on lease for five years and the further expenditure that had been incurred would perhaps be included; the whole thing had been spread over a term of two years and then an average had been arrived at and this Rs. 35 per month had been worked out. That is very good. But if all the outlay is to be recovered in two years what about the income for the next three years? I should like to know from the Honourable Minister if in the name of helping the refugees this is going to be made a profit-making business; whether this is the spirit of sympathy for the refugees who are all destitute, poor and homeless. As has been said, the problem is colossal and the task is gigantic,

but in spite of that this Government has to bear it and solve it. These millions have been displaced; they have gone through unheard-of sufferings and undergone many privations. But it is the faltering, plausless and wavering policy of Government that has added to their difficulties. It has been alleged and admitted that none of these refugees resorted to begging. They only want facilities to earn an honest living and a shelter, however small it may be. Certainly it is the business of Government to provide facilities for these refugees to settle down. After housing the second thing is to help them to take up useful and productive avocations. They are allowed to sit at one place but are pushed out further as the older business men in the vicinity do not like their presence there as their own business is affected. From same place they are to be turned out because the beauty of that place is spoilt; they must go out from still another place as their tongue is coarse and their way of living is rough.

There are hundred and one things that are being used to make out a case that these refugees should go out of the metropolitan city. The refugees do feel like that. They have not taken pleasure in coming to this city and they were not looking for an opportunity for rushing to Delhi. It is only under compulsion that they are sticking on. You can very well imagine the fate of a family with seven or eight members. With the present cost of living, a refugee wage-earner has to make up three or four Rupees a day to provide bread for his dependent. Every town in the East Punjab is over-crowded. Finding that conditions are not congenial even here, some of them have gone back. Certainly, there are others who are coming still, as rightly or wrongly some nervousness or even panic is being felt in the border towns. If our Government could infuse confidence in the people that they were ready for any contingency that may arise, then, the rush to Delhi may not be so great. Even now, the pressure can be relieved and it could be lessened at least, if the East Punjab Government would decide to shift its headquarters to Amritsar. If the West Punjab Government can have Lahore as its headquarters, surely East Punjab can choose Amritsar for this purpose. I am confident that this would have a great reassuring effect to relieve the present pressure. It is true that Delhi cannot absorb all the people that have come and are still pouring in. The failure of the East Punjab Government finally to decide the site for its capital, some apathy on the part of some towns outside the Punjab to receive refugees and the delay in putting forward a definite policy so far have added to the difficulties of the Government as well as of the refugees. A more sympathetic policy with a definite plan is needed to solve this tangle. I must admit that the Government has done, as I have already said, much and it is absolutely necessary that it should do more. Much more can be done if the real mind is there.

Shri B. Das (Orissa: General): How can we make the East Punjab Ministers work? They do not select their capital site nor make effort to build it.

Sardar Hukam Singh: I am telling the House that this is not the only problem. There are other factors contributing to this pressure. I do not say that this Government could decide the capital of East Punjab. These are the several factors that have contributed to this problem.

I again emphasise that the refugees are prepared to go back and they do like to go back. It is for this Government to afford facilities and create circumstances in which the refugees could go back. It might be that for the present there is no scope and there is no likelihood of their going back soon. Therefore, it is the duty of every citizen of India to help them in their resettlement. I would request the Honourable Minister to look into the matter, not with this Bill alone, but with further measures so that they may be re-settled very quickly.

Shrimati G. Durgabai (Madras: General): Mr. Deputy Speaker, Sir, I know that a long debate has taken place on this subject; many speakers have spoken. I had no intention to speak originally, but I felt that I would be failing in my duty if I did not get up and contradict some of the statements that were made during the course of the speeches by some members.

Shri Bikramlal Sondhi (East Punjab: General): Regarding your own province?

Shrimati G. Durgabai: May be; there are other matters also. I have heard one member say that there must be sincerity and a genuine heart in whatever we do and so long as these are absent, there is no good of saying that we are anxious to tackle this refugee rehabilitation problem. The speech was in Hindi; from what I could claim to have understood, I can make out that this was the statement made. I really ask the member whether in what all the Government of India have done and the efforts they have made in the direction of rehabilitating the refugees; he has found this genuine heart and sincerity lacking anywhere and whether their efforts, actions and achievements were not concrete expressions of their heart?

Another member I have heard saying that Delhi has taken all the burden on its head, and the other provinces like Bombay, Madras and U.P.—I do not know whether he has actually mentioned the name of U.P.—I heard him also say U.P.—have refused to take these refugees. Sometime ago, I put a question to the Minister in charge of Relief and Rehabilitation whether it was not a fact that Madras along with other provinces had agreed to absorb a great number of refugees, nearly one lakh. Everybody is aware that there was a conference of provincial Premiers here and they held discussions. They were definitely asked to share the burden and I know definitely that Madras has agreed to absorb a great number. In reply to my question, the Minister was kind enough to state that it was a fact that Madras had agreed. Then I asked him why only a few hundreds, 700 or 800, or never at any time more than 1,000 were found in Madras and others were not able to go, whether it was the fault of the Government in not being able to send them or where the fault lay. The Honourable Minister was kind enough to say that it was on account of the unwillingness and unpreparedness on the part of the refugees to go. I ask my brother and sister refugees whether they would not do well to adjust themselves to circumstances and whether difficulties with regard to language and other things would stand in their way. It is true we have all found that Delhi is over-crowded. Mr. Deshbandhu Gupta said that Delhi's burden is more than it could bear; it is true and we have endorsed that. I would really ask the Government of India to see that these refugees adjust themselves to the circumstances prevailing and unmindful of the difficulties with regard to language and other things, they should be prepared to go and see that the distribution is made even. I also say that the Government of India had done their very best. We are all aware of the legislation that we have made. I am told that we have spent very nearly 100 and odd crores for rehabilitating these refugees or we are going to spend more. Every person in this House is very anxious to help them and stand by them. I can say this with great confidence that when Mr. Neogy was in charge of this portfolio, I happened to discuss these problems with him and he showed great anxiety to do his very best and now I do not think that we can find a greater friend and a servant than Mr. Mohanlal Saksena. He is always anxious to do his very best to help and stand by these refugees. We all know how he struggles hard from morning till evening and even late in the night. These refugees also must know that they have got to co-operate and join their hands with the Minister who is very anxious to do his very best. Whatever legislation had been undertaken and whatever plans have been made to help and stand by the refugees, the House

is, always with them and they never said 'no' to them. Other problems could be allowed to lie idle; other schemes were allowed to lie idle, but we have always given first priority to this problem of rehabilitating the refugees. I cannot resist the temptation in mentioning one fact that is, with regard to the work done.

Mr. Deputy Speaker: Is not the honourable member straying away from the question of land acquisition? I would suggest that she confines herself to the subject under discussion.

Shri Bikramlal Sondhi: The honourable member is defending the Madras Government.

Shrimati G. Durgabai: These are the points which I wanted to present before

Mr. Deputy Speaker: They are irrelevant and they need not be answered.

Shrimati G. Durgabai: These are the points which I wanted to present before the House now. Because I heard an honourable member speaking in that way, I thought that it would be my duty to say this.

The Honourable Shri Mohan Lal Saksena: Mr. Deputy Speaker, Sir, let me tell you frankly that I was not prepared for this debate or the turn it has taken. I know that no question is more nearer to the hearts of members here than this and I would have welcomed a discussion on this question and I was hoping that on the non-official resolution we will have a general discussion and I had all the material here to lay before the House and to acquaint it as to what the Government has done and what it proposes to do; but I had hoped Sir, that you will at least rule out all those points that have been raised regarding the work of rehabilitation, but still as certain points have been made, I feel it my duty to briefly reply to them.

Let me tell you, Sir, that so far as the Government is concerned, the Government considers its responsibility to rehabilitate every single refugee who has come from Pakistan. Not only that, we have also undertaken the responsibility of rehabilitating the refugees who have come from urban areas as far as possible in urban areas. We have also given the assurance that as far as possible, refugees coming from one area will be settled in the same areas, but we can not promise to settle those refugees who want to be settled in Delhi or Lucknow or in one particular place to settle them there. It has been said that "the doors" of certain provinces have been closed and a grievance has been made out of that here. But I would like to tell the honourable member who has made that grievance to consider it for himself, is it or is it not a fact that the gates of Punjab itself have been closed on the refugees coming from other provinces, notwithstanding that they are neighbouring states, for instance, Bahawalpur, refugees cannot get land in the East Punjab, because they do not happen to be Punjabees or of Punjabee extraction? I know that in this manner the question has been made more complicated, but still the Government of India is prepared to accept the position as it is and we have not tried to interfere with the policy followed by the East Punjab Provincial Government.

Shri Bikramlal Sondhi: Is it not a joint policy?

The Honourable Shri Mohan Lal Saksena: I know it is a joint policy, but I say it has been accepted because we felt that the other policy could not be pushed through.

Shri Bikramlal Sondhi: He should have no grievance against the Punjab Government.

The Honourable Shri Mohan Lal Saksena: The other honourable member is having a grievance that the doors of other Provinces have been closed on

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others and so I am just pointing this by way of justification. If you yourself close the doors on the refugees from a province, you cannot complain that the United Provinces which has already got 6 or 7 lakhs of refugees do not want to take any more. That is the point that I wanted to make and still I say, as I have said many times, that no refugee is going to be sent out from one particular province where he has gone. All that we can do is that we want to plan for the rehabilitation and this planning means accepting to certain conditions and if those conditions are not accepted by the refugees, then it becomes very difficult for any Government to help the refugees to settle down.

Then the other impression that has gone abroad is that all those who were engaged in the profession of shop-keeping, they have to be rehabilitated in the profession of shop-keeping and lawyers have to be rehabilitated as lawyers and this is not possible. We must know that before we can sell anything, you must produce it and therefore the assumption that is generally made that if we can give some money to these people and some place to sit, they will be able to make a living out of it or to settle down, I think, is not true. Those persons who have been working as petty shop-keepers in Delhi have come to me and have told me that they were engaged in doing some petty job and they have used up all their savings; they have sold their gold. So the very fact that they are there does not mean that they have been rehabilitated. Therefore we must understand that it is not possible for this country or for any province or any state to have all shop-keepers and no producers especially when those people who have gone from here were mostly artisans and cultivators and therefore we have to begin with this assumption that if we want to provide for all everyone shall have to produce something.

Another grievance has been made by another honourable member that I had called the lawyers "Parasites". I may inform the House that I have never used any such term, but a great number of lawyers came in deputation, not in Satyagraha style,—I can meet everybody and I do meet everybody,—but I do not know where the honourable member got this information from. They came to me and wanted a loan of Rs. 5,000 each. They wanted to settle in Delhi and they wanted a loan of Rs. 5,000 each. I at once enquired what were the changes of their rehabilitation and they said that 225 muslim lawyers have gone away to Pakistan and a large number of refugees have come, they will have work. Sir, that means that the Government has to provide loans to the refugees and settle them and in spite of their settling down, they must fight and engage lawyers to argue about, so that they may be rehabilitated. That means the Government has to finance the lawyers for settling down and I told them we could not give them loans for the simple reason that it was not possible for the Government to give you a loan. For Delhi alone the total amount which was recommended by the Advisory Committee came to a crore and 65 lakhs and the provision in the budget was only 15 lakhs out of which 2 lakhs had already been advanced. When this matter came to me for consideration, I enquired from the Finance Ministry how much we can get and I was told "not more than 3 or 4 lakhs." Then I enquired how much of that money was to be recovered and everybody who had anything to do with it said that not more than 20 per cent. of this loan was going to be recovered. Then I asked how many of them were going to be rehabilitated and I was told, not many. Part of this money would be used up in paying loans, part of it would be taken by the middlemen and the balance will be used by the refugees as they have used up all their savings. I had to take a decision and it was that it was not possible to give individual loans and therefore, I decided upon this scheme of co-operative society. It has been said: "How can a shop-keeper who wants to start a shopping trade get a loan from a co-operative society"? It is very simple. In the Lajpat Rai Market a co-operative credit society has been opened and as I have said I have already appointed a Co-

operative Board and it has got on its Board many members who know something of co-operation. They will decide that out of 1500 or 1700 shop-keepers how many are to be cloth dealers, and how many are to have in oilman's stores? It is not possible that every one could be engaged in selling cloth. You know that when the cloth license system starts again, many of them will have no work. After that is decided, it will be found out as to how many persons shall be advanced the money. We have already applications which have been scrutinised. From amongst them shop-keepers will be selected and they will receive loans only if they become members of the Co-operative Credit Society.

Similarly in the matter of doctors. You may say how can the doctors start co-operatives. I have such a scheme. I do not want to announce Government schemes. I want to put them through. I have a scheme for co-operative health centres and I hope if that experiment succeeds to be able to rehabilitate many doctors. There are 400 doctors and every doctor applied for Rs. 5,000 loan and the lawyers applied for a similar amount each. From 1920 the late Mahatma Gandhi had been warning us against baniagiri and the babu-giri. These were the biggest curses of the British Government and if people still wanted jobs which have... ..

Shri Bikramlal Sondhi: Have you done that in any other province?

The Honourable Shri Mohan Lal Saksena: I do not know of any other province. But when Government money has to be spent for these people, we must know how we are using that money.

Shri Bikramlal Sondhi: I mean the bania business!

The Honourable Shri Mohan Lal Saksena: Mahama Gandhi told us that we had to take to small cottage industries. The middleman has to go. We must have co-operative societies. Of course Government wants to make an effort and as the trend of legislation shows that we must.

Shri Bikramlal Sondhi: But Mahatma Gandhi wanted you to get only, Rs. 500 each!

The Honourable Shri Mohan Lal Saksena: I want my friend to answer this. How is he going to make Rs. 15 lakhs into Rs. 1,65,00,000? If my honourable friend, who is a financier, can do this, he will have helped me a great deal and he would then not criticise. So I told these lawyers. I have a list where I can show how many lawyers have been taken in the different ministries of the Government of India. The other day I replied to a question in this House in this connection. Some of them have been absorbed in the provinces and others still may be absorbed. But it is not possible to absorb all these lawyers. This is the report from every province. The biggest problem is

Shri H. V. Kamath (C.P. and Berar: General): Are lawyers, Sir, lawyers or liars!

The Honourable Shri Mohan Lal Saksena: I do not claim to know much of the English language. I consider them lawyers and not liars as he perhaps considers them!

Shri H. V. Kamath: I see.

The Honourable Shri Mohan Lal Saksena: About the housing scheme, I admit that the first thing that a refugee requires is a plot of land or a place he can call his own. Unless he has a plot of land or a place where he can set up his house, I do not think him to be settled. When we were making allocations to different provinces my scheme was as follows. If there are 70 lakhs of refugees, assuming an average family consists of five persons, I wanted that about 14 lakh plots and houses should be found and I have asked each provincial Government to do that and they are doing it. But again, the problem is that, as I have said, all the cities of East Punjab are crowded. My information

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is that in Patiala State there are 8,000 houses evacuated by the Muslims. I know that people are not going there.

Shri Bikramlal Sondhi: What about Delhi?

The Honourable Shri Mohan Lal Saksena: Similarly in Orissa. They had made arrangements to receive 10,000 refugees and they were waiting and waiting and no one went. Dr. Katju said that every time he received a message that some special train was coming, no train came and they spent lakhs on arrangements.

At least a lakh of people can be settled in Coorg. Government is prepared to help but people are not prepared to go beyond Delhi and the western districts of U. P. If people were prepared to go throughout the United Provinces, it would have been easier to accommodate many more people even in the United Provinces.

There is one thing more which I want to tell the members of the House as well as the refugees in general: that no Government, however strong, no Minister however capable or able, can help them unless they are prepared to help themselves. No Government can meet a big calamity like the present one unless the whole nation is prepared to shoulder the responsibility: and I must say that every Minister in the Government of India, from the Prime Minister downwards has got the welfare of the refugees and their speedy rehabilitation nearest to their heart and the Prime Minister and the Deputy Prime Minister have been taking a keen interest in this matter. Therefore, so far as the Government of India is concerned, we are trying to take the earliest possible measures to provide houses to them, but to begin with with plots. As for putting up houses, the total cost of housing schemes as worked out in the Ministry comes to 800 to 900 crores: that is if we were to build all the houses. Then there is the difficulty of building material. So we may begin with having a number of houses being pucca built, some kutcha and others in the form of tents. But within a limited time, every refugee should have a plot of land which he can call his or her own where he can settle down for good. As long as he does not get that he considers himself unsettled. I know that however rich or comfortable a person may be, the very fact that he does not know what is to be his future the next day is bound to upset him. Therefore I fully sympathise with and appreciate the attitude of refugees.

As regards co-operative housing societies, I may inform the House and the honourable member himself, that so far as the Government is concerned, it is prepared to give them whatever assistance they want. But to begin with everyone wants land inside Delhi. That cannot be done. We have come to a decision so far as the present scheme is concerned. We are going to give these plots of land to individuals and not to societies, and even so we have priorities, and those who are employed in Delhi and in camps will have the first priority: others will be next. For those who are gainfully employed we hope to find a plot or a house in Delhi.

A complaint has been made about the charges. I do not know about the Delhi market. My friend Deshbandhu Gupta has informed me that the rent of shops nearby is Rs. 50. But whatever it may be, if the honourable member can prove that the rent is higher than it should be, I think the municipality and the Minister-in-charge of this portfolio, Rajkumari Amrit Kaur, will consider the point. It should also be borne that while these shops were being built other shops were put up by night. Some of the members must have seen that with Kitson lamps these structures were put up. But they have been unoccupied for three months.

I think the Municipal Committee as well as the Health Ministry will be prepared to consider the question. So far as the plots of land are concerned

we are not going to charge even the cost on maintenance or improvement. For the first five years we are going to realise only the cost of acquisition and the interest thereon for five years. For the next 15 years we will realise the cost of improvement. The terms are very easy and the refugees and their representatives agree that they could not be more favourable.

As regards employment, as I have said it is not possible to provide employment in the same vocation which they followed in Pakistan. By having more shops and putting them on road sides we do provide them with some employment, but it is not going to rehabilitate them. We should give up that delusion. They have to produce something. A vocational training centre has been started at Nizamuddin where 300 young men are just now learning different trades and they are expected to earn Rs. 1-8 to Rs. 4 per day within three or six months. Something like that we are going to do everywhere. We had one vocational training centre in Kurukshetra and that has been taken to the interior in East Punjab. We have got another at Tehar, one at Delhi another we propose to have in Ajmer and similarly in other provinces as well. We are giving scholarships of Rs. 45 per month to 10,000 trainees who are being trained in labour centres. It is not as if we do not want to help them. We want to help them in such a way that they may help in production rather than simply add to the number of distributors and other professions which do not produce. I will not call them parasites but I would certainly say that society can bear only a limited number of such persons—whether government servants, lawyers or others. The economic life of any society can not bear too many whose vocation is not to produce but simply to live on production by others and that is what I say today and I am prepared to say the same anywhere.

Something has been said about the treatment meted out to the refugees and the hardness that has been shown to them. Some reference was also made to picketting at my house. When I took up this work I did so with considerable hesitation, not that I considered it a thankless task but because it was so gigantic and the people have suffered so much. During the last twenty-eight years I have become used to such jobs in which we never expected any thanks. I took up the job because it provided an opportunity of serving my countrymen and women who have been uprooted from their hearths and homes. I know that they have undergone a great deal of suffering. Even to listen to their harrowing tales sickens one. I can understand how Mr. Neogy must have felt about it, when he heard such harrowing tales. Anybody would break down after hearing such stories. But when you have to do a job you have to harden your hearts sometimes. So far as the attitude of Government is concerned, we are prepared to consider all reasonable suggestions for formulating schemes of rehabilitation. After all everybody is liable to commit mistakes and if they are pointed out I would be the first to acknowledge the mistake and retrace my steps. But if anybody expects that by pressure tactics he can change me or change the government and deviate it from the right course I think he would be labouring under a mistaken delusion. That is all that I want to say. It is not that we do not realise the sufferings of the refugees. We are all aware of them. But when the roads are crowded, what does it mean? You do not realise how much strain it means to the health authorities and others to keep up the health of the city in a proper condition. It is a great tribute to Mr. Neogy and other Ministries that while evacuating millions of people in such a short time, even in camps the rate of mortality was even less than the average rate of mortality in the country. We know what has happened in Pakistan, how hundreds of thousands of persons like Meos have died for want of proper care. I know we have not been able to do what the refugees expect and what they should have but you have to bear in mind, as I said in my opening speech, the magnitude of the task the Government had to do and especially when the Government machinery was

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not geared to that kind of work. It has been pointed out by my honourable friend Prof. Shibban Lal Saksena and others that the officers of the Government are corrupt. I admit some are corrupt but I have to make the best use of the present machinery. The moment I took over I had to check up the tools with which I had to work. I did my best to change the conditions. I may inform the House that during the last 2½ months I have been in office three or four sections in my ministry have already gone because they had no work. I had to be hard-hearted I know. Many of them were refugees, lawyers and old government servants. It was brought to my notice that I might keep them on; but I would be failing in my duty if I retained a single superfluous person who had no work, because that would be clogging the wheel of Government machine and impairing its efficiency. Not only that I had to sanction the prosecution of a number of them, I had also to remove some of them. I know certain departments have not been able to do much. It is very easy to say that this is not a solution but I would like Prof. Shibban Lal Saksena to point out what the solution is. I also felt that it would be much better to make it the concern of the Central Government and to enforce a uniform scheme throughout the country but as was pointed out land is a provincial subject and without the co-operation of the Provincial Governments you cannot do much. After all this has been there for some time and it is not easy to change it now at this stage. If we change our plans now it would mean more delay and greater suffering and hardship to the refugees. Therefore it is not so easy to make the changes as have been suggested by my honourable friend Prof. Shibban Lal Saksena. In the circumstances I want to reiterate what as I said when I took charge while answering the large number of messages of congratulation I received. I thanked every one of them but at the same time I told them that the time for congratulation was yet to come. The time for congratulation will be when the problem of rehabilitation has been liquidated as also the Ministry of Relief and Rehabilitation. That shall be the day when I shall deserve the congratulation of my friends and well-wishers. I have accepted this great task in the confidence and in the hope that I would get the active co-operation of my friends as well as the co-operation of the leaders of the refugees. As I said no minister, no government can do much without such co-operation. If they co-operate I think much can be done. Rehabilitation takes a long time: it is a tardy process just as the building of a house takes time. My friend Mr. Sidhva has congratulated me for expediting the building programme but the schemes were there. The Ministry had been working on them. Mr. Neogy had given attention to them in the midst of his other multifarious engagements. Therefore because he sees that the buildings are going up now when I am in the Ministry he must not presume that it was simply because of me. The schemes were there and it is just possible that I might have hustled them here and there. It is not that I have begun it afresh. I am one of those who admire Mr. Neogy and I know that it was a very difficult job to have begun in those days when the Ministry had to begin from scratch. I think every member of the House should be grateful, and especially the refugees, for what Mr. Neogy has done. After all, when there is a fire, the first concern of everyone is to pull out every one who is in the midst of fire instead of making arrangements for the medical treatment of those who have been taken out. What Mr. Neogy was doing was to take out those persons who were in Pakistan and who were crying for help and succour. I know what the position was. Even now there are in West Punjab thousands of persons and they want that they should be taken out from there. There are persons in Sind who want to be taken out. Then there is the problem of East Bengal. Those who have come here can even think of going back to Pakistan, but those who are there want that they should be taken out from there at all costs—whether they are placed on roads or anywhere else.

Sir, I have taken so much time of the House; I know it was not necessary for the purposes of my Bill. As for the Bill certain amendments have been suggested and I will consider them when they are moved in the House. In other Provinces there are already similar Acts, and we have already an Ordinance. I believe there have been no complaints that this Ordinance has not worked properly. Of course there has been a complaint about the administration of a certain land which is used for an agricultural college or medical college, but Chaudhuri Sahib did not complain that the Ordinance has not worked properly. So far as the working of this Ordinance by the Ministry or of the Acts by the Provincial Governments for the purpose of rehabilitating refugees is concerned, if any complaint is brought to my notice it will receive immediate attention. Surely it cannot be the purpose of the Rehabilitation Department to uproot one person simply to rehabilitate another. That will not be meeting the problem or solving it. Therefore, special care will be taken by the officers who exercise powers under this Act to see that no unnecessary hardship is caused and that no person is uprooted because of requisition of lands under this Act.

Shri H. V. Kamath: On a point of information, the Honourable Minister in the concluding portion of his speech stated that on assuming office he found that a bit or a part of the machinery was corrupt and that he had prosecuted some officers and was instituting proceedings against some others. Could he tell us how many officers were prosecuted, how many were sacked and what charges were proved against them?

Mr. Deputy Speaker: That may be reserved for some other occasion. It is not quite relevant though it is incidental.

The question is:

"That the Bill to provide for the speedy acquisition of land for the resettlement of displaced persons, be taken into consideration".

The motion was adopted.

Mr. Deputy Speaker: The question is:

"That clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

Mr. Deputy Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Shri Mahavir Tyagi: Sir, I want your permission to move the amendment standing in the name of Shri Ajit Prasad Jain. It has been wrongly typed and I wish to move it in the correct form.

Mr. Deputy Speaker: The honourable member cannot move another member's amendment, but if he wants to move it as his own I have no objection; I am prepared to waive notice.

Shri Mahavir Tyagi: Sir, I beg to move:

"That in sub-clause (2) of clause 6 of the Bill, the following be added at the end: 'and any encumbrance which may have been extinguished under section 5 shall revive'."

According to clause 5 when notice of acquisition is published under clause 4 the land shall vest in the Provincial Government free from all encumbrances.

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Now according to clause 6 the land is revertible to the original owner after objections are filed and the case decided. The amendment seeks to revive those encumbrances when it reverts. The amendment is clear and I need not take the time of the House over it.

The Honourable Shri Mohan Lal Saksena: Sir, I accept it.

Mr. Deputy Speaker: The question is:

"That in sub-clause (2) of clause 6 of the Bill, the following be added at the end:
'and any encumbrance which may have been extinguished under section 5 shall revive'

The motion was adopted.

Mr. Deputy Speaker: The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Shri Deshbandhu Gupta: Sir, I beg to move:

"That to part (e) of sub-clause (1) of clause 7 of the Bill the following Provisos be added:

'Provided that the market value referred to in clause first of sub-section (1) of section 26 of the said Act shall be deemed to be the market value of such land on the date of publication of the notice under section 3, or on the 1st day of September, 1939, with an addition of 40 per cent., whichever is less:

Provided further that where such land has been held by the owner thereof under a purchase made before the first day of April 1948, but after the first day of September, 1939, by a registered document, or a decree for pre-emption between the aforesaid dates, the compensation shall be the price actually paid by the purchaser or the amount on payment of which he may have acquired the land in the decree for pre-emption, as the case may be."

The House is already committed to the principle of paying compensation above 40 per cent. of the price prevailing in 1939 in another Bill which has been passed by the House some time back in connection with the temporary acquisition of property. I think the House will realise that it would be unfair if we were to pay compensation at the rate of the price prevailing in 1939, because since then not only has the value of the rupee gone down, but it will be a very great hardship to acquire land for governmental purposes at such short notice and without giving proper compensation. We have already denied the compensation of 15 per cent. extra which is provided in the Land Acquisition Act, and we have further denied the market value which would have been very high if we had taken the prices that might have prevailed in 1939. So, as a matter of compromise, this amendment will I think meet with the approval of the House. We have already laid down the principle in this respect in another Bill. So, I do not think there will be any objection taken to this amendment.

The Honourable Shri Mohan Lal Saksena: Sir, I accept this amendment.

Mr. Deputy Speaker: The question is:

"That to part (e) of sub-clause (1) of clause 7 of the Bill the following Provisos be added:

'Provided that the market value referred to in clause first of sub-section (1) of section 26 of the said Act shall be deemed to be the market value of such land on the date of publication of the notice under section 3, or on the 1st day of September, 1939, with an addition of 40 per cent., whichever is less:

Provided further that where such land has been held by the owner thereof under a purchase made before the first day of April 1948, but after the first day of September, 1939, by a registered document, or a decree for pre-emption between the aforesaid dates, the compensation shall be the price actually paid by the purchaser or the amount or payment of which he may have acquired the land in the decree for pre-emption, as the case may be."

The motion was adopted.

Shri Mahavir Tyagi: Sir, I beg to move:

"That to sub-clause (2) of clause 7 of the Bill, the following Explanation be added:

'Explanation.—Notwithstanding the extinction of any encumbrance under section 5, the person who held such encumbrance shall be deemed to be a person entitled to compensation."

This amendment also speaks for itself, and I need not take the time of the House. The meaning is quite clear. I only want that when the arbitrator distributes the compensation amongst persons who deserve to get the compensation, the one whose encumbrance on the property has extinguished might also be counted as one of the claimants. Although this meaning can be drawn at present, and perhaps in the list of those who have been mentioned here that person might also be included, still I want to make it absolutely clear so that even though encumbrance does not exist on the land the man who has lent money or under whose mortgage this land was might also benefit while getting the compensation.

Mr. Deputy Speaker: Amendment moved:

"That to sub-clause (2) of clause 7 of the Bill, the following Explanation be added:

'Explanation.—Notwithstanding the extinction of any encumbrance under section 5, the person who held such encumbrance shall be deemed to be a person entitled to compensation."

The Honourable Shri Mohan Lal Saksena: Sir, I am afraid I am not prepared to accept this amendment for the simple reason that this is likely to delay the proceedings. But if you look to clause 8 later on, you will find that it says:

"8. *Payment of compensation.*—The compensation awarded shall be paid by the competent authority to the person entitled thereto according to the award.

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto."

So, when the money is paid any person who has got a claim against that can just claim it, and that money can be kept in the Court. But if the provision is made here then it will mean that if there are three or four mortgages then everybody has to be made a party which will delay proceedings; if one of them is not a party he may come later on and say that the proceedings be set aside. Therefore, I think it will not be in the interests of speedy acquisition of land. So, I do not accept this amendment.

Shri Mahavir Tyagi: Sir, I do not press it. I beg leave to withdraw the amendment.

Mr. Deputy Speaker: Has the honourable member leave of the House to withdraw his amendment?

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

Mr. Deputy Speaker: The question is:

"That Clause 7, as amended, stand part of the Bill."

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Clauses 8 to 15 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri Mohan Lal Saksena: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Deputy Speaker: Motion moved:

"That the Bill, as amended, be passed."

Srijut Rohini Kumar Chaudhuri (Assam: General): Mr. Deputy Speaker, Sir, I had almost taken a vow of silence and I thought I will break it when I will find myself in the Chair. It is so very difficult, however large you may loom, it is so very difficult to catch the eye of the Chair sometimes, that one gets even despaired of having a chance of speaking even till the end. Sir, I would just like to say only one thing. On this side of the House and in front of me, sit persons of top ranks, leaders and speakers representing all sexes, and if at times you direct your eye towards us more often than usual, I am sure, Sir, you will not be very much disappointed because on this side of the House also there are speakers who can possibly from time to time . . .

Mr. Deputy Speaker: May I tell the honourable member that eleven persons had already spoken when he came at the fag end of the discussion as we were about to conclude? I never thought I would miss the beautiful words and the speech of my honourable friend and I welcome it.

Srijut Rohini Kumar Chaudhuri: Thank you, Sir, you will not be disappointed.

Sir, I welcome this Bill wholeheartedly. I think, Sir, this is another of the noble efforts of the Government to do their best for relief and rehabilitation of the unfortunate refugees. I should have spoken—and I would like to speak even now—in more eulogistic terms of my friend, the Honourable Mr. Mohanlal Saksena, who since he assumed his office did not allow much time to rest and who has worked with untiring zeal for the redress of the difficulties of the refugees, but I would not do so because I think after the load of praises which he has got from my honourable friend Shrimati Durgabai he would not very much like me to add to the glory with which he has already been rewarded.

It has been said by so many that the refugees only form 2 per cent. of the population of the plain areas to which they have migrated, and it is rather surprising, the critics say, that 98 per cent. of the population could not, even during the course of a whole year, rehabilitate them properly. They say the policy which has hitherto been followed was a policy of relief only, which tended to make the refugees parasites, but I could say this with utmost confidence that the refugees do not want to become parasites. They want to work, so that they may get their living and it is only facilities of work and shelter which they require. I think this Bill is an indication that the Government is going to give most serious attention to rehabilitate them quickly. It depends upon the efforts which the Provincial Governments will make under this Bill. As a matter of fact, the entire responsibility has been left on their shoulders and it will not be out of place for me, I think, to mention that it is the duty of every province under the Union to do their best in this matter.

I am afraid there has been a certain misunderstanding with regard to the Province of Assam. It has been said that it is the only province which has not so far taken charge of any refugees. The door of Assam is never closed to refugees, but fortunately or unfortunately friends from Punjab do not appreciate the hilly climate of the province and being used to better condition of living they could neither get proper food nor proper shelter in the province of Assam, but the problem of refugees from Eastern Bengal has become an urgent one and I can say this with confidence, that if it were necessary for the Province of Assam to accommodate the people from Eastern Bengal, it will not be found lacking. The only thing that the Government of India will have to care of is to give them proper vocation. There is very little agricultural land in the province of Assam. Most of it has been already taken up by immigrants from Mymensingh during the last four or five years. If the refugees are sent to Assam, it may not be necessary so much to acquire land

for purposes of giving them accommodation but in order to get them a living, so the Government of India must invest a large sum of money and find employment for them.

I consider there is very little to comment on this Bill. This Bill contains very salutary provisions and the fact that my honourable friend Mr. Naziruddin Ahmad has not risen during the course of the discussion of this Bill is an ample proof to support my contention that there is very little to comment on this Bill. The only thing that I desire to draw the attention of the Honourable Minister to is sub-clause (2) of clause 3 which says:

"Nothing in sub-section (1) shall empower the provincial government to acquire any land which is being used for the purpose of a school, orphanage or hospital or is being used exclusively for the purpose of religious worship."

This is quite all right as far as it goes, but I should have added something else. I should have added to this:

"Nothing in sub-section (1) shall empower the provincial government to acquire any land which belongs to a person who has no other land except the land which is sought to be acquired."

I am sure, Sir, it is not the intention of this Legislature to oust anybody from the land and make him completely landless in order to give land to refugees. This may be made perfectly clear at the time of framing rules by the Provincial Governments. I am sure it is not the intention of the Government to acquire land of any person who has no other land. Otherwise, the Land Acquisition Act of 1894 would have been quite sufficient. That Act empowers the Government to acquire any land and oust a man even though he may not have any other land, because that is acquired for public purposes. This law which my friend has promulgated now is much milder than the Land Acquisition Act itself. There are many provisions here which are much milder than those of the Land Acquisition Act. This Bill does not want to take recourse to compulsory acquisition, to turn out people from land and make them landless. Therefore, I welcome this Bill and I suppose we begin a new chapter in the work of rehabilitation and in the course of a year, I believe, much of the complaints which are now made on the score of rehabilitation of refugees will disappear. I wish the Honourable Minister god-speed.

The Honourable Shri Mohan Lal Saksena: I have to say one word only in reply to what has been said by my friend Mr. Rohini Kumar Chaudhuri. He says that he would like a provision to be made in this Bill that the land of a person who has no other land should not be acquired. I would like him to visualise a case, for instance, where we had to acquire certain land here for manufacturers' co-operatives in Delhi and it was about 900 or 1,000 bighas and then in the course of that there were certain patches of waste land here and there which may belong to a person who may not have any other land. That land also had to be acquired. Of course, it will be borne in mind that as far as possible he will be given other land, but if we make a provision like that, it will not be possible for us to acquire land for these co-operatives. If we take a piece of land which belongs to one man, who does not own any other land, then I think it will not be unjustified because by that we are going to provide employment to as many as 25,000 refugees and that too within six months. So, I am sorry I cannot accept the suggestion he made, but as I have already said in an earlier speech, it will be remembered that nobody should be unnecessarily disturbed who can otherwise be allowed to remain on his land.

I have nothing more to say. Whatever my friends have said of me only adds to my responsibility. I shall try to deserve what they have said and I can assure them that I shall not spare myself in discharging the great responsibility that has entrusted to me.

Mr. Deputy Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

DELHI AND AJMER-MERWARA LAND DEVELOPMENT BILL

The Honourable Shri Jairamdas Doulatram (Minister for Food and Agriculture): Sir, I move:

"That the Bill to provide for the preparation and execution of land development schemes, the reclamation of waste-land and the control of private forests and grass-land, in the Provinces of Delhi and Ajmer-Merwara, as reported by the Select Committee, be taken into consideration."

I do not propose to take much time in explaining the main provisions of this Bill. The House has got three other legislative measures before it and as this is a Bill on which there is not much of controversy I shall be as brief as is possible. The intention of this Bill is to set up some special machinery which may be capable of speedy formulation and speedy execution of such schemes for agricultural development of these two Centrally-administered provinces as are beyond the capacity of the individual agriculturists. As honourable members know, there are certain types of improvement schemes which it is possible for each agriculturist to carry out with his own limited means. But there are other measures of improvement in which unless the co-operation of many agriculturists of a particular area is available and unless those schemes are in some way co-ordinated, the agriculturists do not get all the benefit that they can otherwise receive. If reference is made to clause 4 of the Bill, it will be found that most of the items included in it are of that character. Clause 4 says the Board, with regard to which I will make a reference presently, shall prepare land development schemes, providing for one or more of the following matters.

What are these matters? Preservation and improvement of soil; prevention of soil erosion; improvement of water supply by the utilization of water in rivers or rivulets, tube wells, boring or construction of wells conservation of rain water by constructing dams, or by use of power; improvement in the methods of cultivation; introduction of dry farming methods; supply of seed, improvement in the use of implements of agriculture, manure and fertilizers; development of horticulture and planting of fruit trees; reclamation of land lying waste through water-logging, accumulation of sand, growth of jungle, soil erosion etc. And so there are a number of measures which require co-ordinated effort. The idea is that a Board should be set up which is free from the usual routine and red tapism and it should be provided with adequate funds. This Board will prepare schemes for agricultural improvement. These schemes for improvement will go for careful scrutiny to a specially appointed enquiry officer who would enquire from all the persons affected by these co-ordinated schemes as to what they have to say about them, how far they have any difficulties to apprehend, how those difficulties can be overcome, and to what extent they themselves will be able to carry out those improvements with aid from Government. After all these enquiries are made, the schemes will be put through. The agency which is to carry out these schemes is on the whole a specialist agency. As members will see from section 3 the Board is to have a Chairman who will be a whole-time officer; then there are to be two official members who will be experts in matters relating to agriculture or irrigation. We are associating with this Board of specialists non-official agency also, because we want to carry the people with us in any schemes that may come to be formulated and executed. There is an amendment of which notice has been given about an hour ago, suggesting that the non-official members should represent agriculturists. I can assure the mover that every care will be taken that

those non-officials who are appointed on the Board are those who can contribute the best from the point of view of agricultural development of the Provinces of Delhi and Ajmer-Merwara. Then there are one or two other provisions to which I think I might draw pointed attention.

It is possible that some of the owners of land may not fully co-operate in the schemes that may come to be formulated. We have, therefore, provided that if there are any who are not prepared to carry out those improvements, which are of a co-ordinated nature, which affect the entire area, then Government will carry out those improvements at the cost of the individual agriculturist and recover that cost as land revenue.

There are certain waste areas in both these provinces and the proposal is to take charge of those waste lands for a number of years, to develop them and again hand them back to the original owners of those waste lands and for the period that they will remain with the Government, the proposal is to give them some amount of compensation.

These, Sir, are the main provisions of the Bill. The Bill when it came up before the Select Committee was fully gone into and very considerable alterations were made to suit the agriculturists and popular point of view, and as you will notice, the Select Committee's report is unanimous and until an hour ago, there was no amendment to the Bill. I assume from this that there is not much of a controversy about this Bill. I might inform the House that the Bill is more or less modelled on what is being done in some of the other countries, especially America, where in developing certain areas co-ordinated and conjoint action is necessary. Special Boards are set up consisting largely of experts and through official and non-official co-operation schemes are formulated and executed. The idea is to try to carry out a similar experiment here with the co-operation of the non-officials and try and utilize as far as possible the agency of co-operative societies for various schemes specially with regard to seed and a few other items in regard to which the co-operative agency may possibly be the best agency. I do not know how far within a limited time the Board may be able to show substantial results; very much depends upon the finances which it is able to secure and the co-operation which it receives from the agriculturists. But I hope that with the co-operation of the public something may result from this Bill. This is all that I have to say at this stage. I therefore move that the Bill be taken into consideration.

Mr. Deputy Speaker: Motion moved:

"That the Bill to provide for the preparation and execution of land development schemes, the reclamation of waste-land and the control of private forests and grass-land, in the Provinces of Delhi and Ajmer-Merwara, as reported by the Select Committee, be taken into consideration."

پنڈت تھاکر داس بھارگو : جناب دپٹی سپیکر صاحب ! میں اس بل کا خیر مقدم کرتا ہوں اور میں سب سے اول بات جو عرض کرنا چاہتا ہوں وہ یہ ہے کہ اس بل کے بنانے میں اور اس سے پہلے بل کے مقابلہ میں اس کو درست کرنے میں Select Committee نے بڑی محنت سے کام کیا ہے۔ لیکن Select Committee کو داد دینا میرے واسطے اتنا ضروری نہیں ہے جس قدر کہ Honourable Member in charge کے اس رویے کی داد دینا کہ جو انہوں نے اس لئے میں اختیار کیا ہے۔

جب اول روز Select Committee ہوئی تو یہ واضح ہو گیا کہ پرانا بل اس قسم کا نہیں ہے کہ جو ہمارے پورے مطالب کا ہو۔ جب جناب مسٹر صاحب کی خدمت

[پلڈت تھاکر داس بہارگو]

میں یہ عرض کیا گیا تو انہوں نے prestige کا خیال نہ کر کے جیسے کہ پرانے department کیا کرتے تھے اس رویے کو خیر باد کیا اور ایک Sub-Committee بنا دی اور اُس کو یہ اختیار دیا کہ اس بل کو نئے سرے سے دھالا جائے اور جہاں ترمیم کی ضرورت ہو وہاں ترمیم کی جائے۔ چنانچہ اس سب کمیٹی (Sub-Committee) کا ایک Member میں تھا۔ ایک لالہ دیش بندھو صاحب اور ایک پلڈت مکت بہاری لال صاحب تھے۔ ہم نے ملکر اس بل کا نیا ڈھانچہ بنایا اور اس کے بنانے کے بعد جو چیز Non-official opinion نے یعنی ہم نے چاہی اُسی طرح اپنی مرضی کے مطابق اس کو بنایا اور شائد یہ اپنی طرح کا پہلا بل ہے جس کے اندر Select Committee کے ممبروں کو اس قدر پورا اختیار اس بل کو اچھی طرح بنانے کا ملا ہو اتنی latitude کسی اور بل میں نہیں ملے گی۔

میں اس بات کی داد دیتا ہوں کہ Non-official opinion کو بل کے ترمیم کرنے کا سوال ہے منسٹر صاحب نے اس کو پورا کیا ہے۔

مجھے اُمید ہے کہ جہاں تک Agriculture Department کا سوال ہے وہ لوگوں کی مرضی کے مطابق کام کریگا اور ہماری ضرورت ترقی ہوگی۔

اس بل کے اندر administration کے طریقہ کے متعلق ساری تبدیلی کی گئی ہے۔ پہلے بل میں Deputy Commissioner یا Collector صاحب Land Development Officer مقرر کئے گئے تھے۔ لیکن اب Land Development Commissioner ایک ایسے صاحب رکھے گئے ہیں جو تجربہ بھی رکھتے ہوں اور جو نہ اُس پرانی Bureaucratic attitude of mind کے نہ ہوں۔ یہ جو بل بنایا گیا ہے یہ بالکل دہلی اور اجمیر میروارہ کے لئے ہی مفید نہیں ہوگا۔ میری ناقص رائے میں تو ہم نے اس بل کو ایسی شکل دینے کی کوشش کی ہے کہ سارے ملک کے ایک ایک ضلع میں اس قسم کے model bill بنائے جائیں تاکہ ہر ضلع کے لوگوں کی needs کے مطابق وہاں District Councils بنیں اور وہ Councils ان معاملات کو جو دفعہ ۴ میں دئے ہیں طے کر سکیں جیسا کہ ہم نے کیا ہے۔ اس دفعہ ۴ میں جسے خوب واضح کر دیا گیا ہے ہم نے اپنی طرف سے Agriculturists کی کسی بھی ضرورت کو باقی نہیں چھوڑا ہے جس کے بارے میں District authorities کو اُس میں ترقی کرنے کا موقع نہ مل سکے۔ چنانچہ جو سب سے اول چیز ہے وہ پانی کی کمی ہے کہ وہاں Irrigation Facilities مہیا کی جائیں۔ اسی طرح manure وغیرہ کا ذکر کیا گیا ہے۔ میں نہیں چاہتا کہ جناب نے وقت کا جو پروگرام دو دن کے لئے ہاؤس کے سامنے رکھا ہے اُس میں کسی طرح کی کوتاہی رہ جاوے۔ اس لئے میں زیادہ وقت نہ لیتے ہوئے سب دفعات کی طرف توجہ نہیں دلانا چاہتا۔ لیکن مختصراً میں یہ عرض کرنا

چاہتا ہوں کہ اس بل کا conceptional background وہ ہے جو کہ house Damodar valley کے واسطے رکھا ہے۔ Damodar valley کی جو Council بنیگی اگر اُس کا President اچھا کام کرے گا تو کامیابی ہوگی۔ میں یہ واضح کر دینا چاہتا ہوں کہ اس بل کی کامیابی بھی اس قدر رویہ پر یا non-official co-operation پر نہیں ہے جتنا اس کی ترقی کا انحصار Land Development Commissioner پر ہے۔ اگر سرکار کسی کام کے آدمی کو Land Development Commissioner مقرر کریگی جس کو تجربہ ہو جس میں push اور drive ہو جو Agriculture کے problems کو سمجھتا ہو اور جو اُس علاقہ سے واقف ہو جس میں کام ہوگا تو مجھے اُمید ہے کہ وہ اس بل کو تھوڑے ہی رویہ سے کامیاب کر دے گا۔ اور تھوڑے ہی non-official co-operation سے کامیاب کر دینا۔ اس میں تو non-official members کا بھی ذکر کیا گیا ہے لیکن non-official members کے ہوتے ہوئے بھی جو official members ہیں اُن کا اس بل میں زیادہ اقتدار رکھا ہے۔ چنانچہ Land Development Commissioner اور دو ممبر official ہونگے۔ non-official members اُن کی امداد کر سکتے ہیں۔ میری رائے میں اب official اور non-official ممبران کی علیحدگی کا وقت ختم ہو چکا ہے اور سب نے مل کر کام کرنا ہے جیسا ابھی منسٹر صاحب نے فرمایا ہے اس کی ترقی کا راز finances بھی ہیں۔ اس کی ذمہ داری کس کی ہوگی یہ بل میں درج نہیں کیا گیا ہے یہ بل میں ضرور provision ہے کہ provincial گورنمنٹ direction دیگی اور اُس کے مطابق عمل کیا جائے گا۔ چنانچہ جب سکیم مکمل ہو جائے گی تو مشترکہ کی جائیگی۔ پھر ایک افسر مقرر کیا جائیگا وہ سب کے objections سن لے گا۔ اس کے بعد جب سکیم پکی ہو جائیگی تو اُس کی منظوری Central Government کو دیلی ہوگی۔ جب Central Government ساری scheme کی منظوری دے دیگی تو اُمید کی جاتی ہے کہ وہ اُس کے واسطے funds بھی مہیا کرے گی۔ اگر funds کی کمی رہی اور آج کل کی economic حالت کو دیکھتے ہوئے جو economic اور industrial experts کی رائے ہے اُس پر عمل کیا گیا کہ آئندہ ایسی schemes پر خرچ نہ کیا جائے تو یہ scheme کولڈ سٹوریج (cold storage) میں پڑ جائے گی اور دیش کو بڑا نقصان ہوگا۔ اور میں نہایت ادب سے عرض کرونگا کہ اس بل کا وہ حشر نہ ہونا چاہئیے۔ یہ ساری scheme دراصل آئندہ کے واسطے grow more food کی سکیم کی ایک جز ہے۔ آئندہ production بڑھانے اور عام آدمی کا standard of living اونچا کرنے کے لئے اس سکیم کو کامیاب کرنے کی ضرورت ہے۔

میں تو اس سے آگے چلونا۔ ابھی ہم نے ایک بل پاس کیا ہے۔ Land Acquisition

[پنڈت تھاکر داس بھارگو]

کا ایک بل پاس کیا ہے۔ تو اصلی چیز یہ ہے کہ Rehabilitation کے واسطے۔ یہاں کے لوگوں کے رہنے کے واسطے۔ اُن کی بھلائی کے واسطے۔ اور Displaced person کی بھلائی کے واسطے بھی یہی ایک سلسلہ ہے جس کے اندر Rehabilitation ہوگا۔ جس کے ذریعہ لوگوں کو Employment ملے گا اور جس کے ذریعہ production بھی زیادہ ہوگا۔ اگر صرف اس بل کو ہی right spirit سے work کیا جائے تو officials اور non-officials کے آپس میں ملکر کام کرنے سے اتنی ترقی ہوگی کہ جو چیز ہم چاہتے ہیں اُس کو حاصل کر سکیں گے۔ اس کے علاوہ جو روپیہ اُس کے واسطے خرچ ہوگا تو یہ روپیہ ایسا ہوگا کہ جسے سورج کی کرنیں پانی کو اُٹھا کر میلہ کے روپ میں برساتی ہیں۔ ویسے ہی گورنمنٹ جو روپیہ اُس بل کے واسطے خرچ کریگی تو جتنا روپیہ خرچ کیا جائے گا اُس سے کئی گنا دیہی کو فائدہ ہوگا۔ اس لئے یہ خیال کرنا کہ اس میں کسی کی جائے تھیک نہیں ہوگا۔ اس scheme کو کسی طرح نہیں روکنا چاہیئے اور اس میں کوئی روپیہ کی کمی نہیں کرنی چاہیئے۔ اب اس میں جو scheme رکھی گئی ہے اس کے سلسلے میں یہ عرض کرنا چاہتا ہوں کہ اگر اس کو کوئی شخص راضی ہو کر قبول کرے تو اُس کو سرکار کی طرف سے قرض مل سکتا ہے اور وہ اپنی زمین کو بہتر بنا سکتا ہے۔ لیکن اگر کوئی شخص دقتانوسی خیالات کا ہے اور وہ اس scheme کو قبول نہیں کرے تو سرکار اُس کی زمین پر قبضہ کر سکتی ہے۔ سرکار اُس کو معاوضہ دیگی۔ ایک scale کے مطابق جو اس میں درج ہے۔ پھر سرکار کچھ عرصہ کے واسطے اُس کی زمین کو لیٹر بہتر بنائیگی اور اُس میں جو خرچ ہوگا اُس کو سرکار Owner سے وصول کر سکیگی۔ یہ کہا جا سکتا ہے کہ دراصل یہ ایک سختی کا قانون ہے کہ ایک شخص کو اپنی زمین کا اپنی مرضی کے مطابق استعمال نہ کرنے دینے کا قانون ہے۔ یہ اعتراض ہے۔ لیکن کوئی بھی reform کوئی بھی ترقی کا سوال اُٹھایا جاتا ہے تو اُس میں عام فائدہ کے خیال سے کسی قدر تھوڑا بہت compulsion کے بغیر کام نہیں چل سکتا۔ بمصداق مار مار کر کہیں کھلانے کا اس بل میں انتظام ہے جو اس کے فائدہ کو نہیں سمجھتے ہیں اور یہ نہیں سمجھتے کہ اُس سے دیہی کو فائدہ ہوگا اُن کے واسطے مجبوری کا provision رکھا گیا ہے اور یہ اختیار دیا گیا ہے کہ سرکار اس کے زمین پر زور سے قبضہ کرے لیکن قبضہ ایسا نہیں کیا گیا ہے کہ اُن کو معاوضہ نہ ملے۔ اُن کو قاعدہ مجبوری کے مطابق معاوضہ ملے گا اور دس برس کے بعد اُن کو زمین بھی واپس کی جا سکیگی۔ اس طرح اگر دس Years میں کوئی Improvement ہوگا تو Rent کو بڑھایا جا سکتا اور اس Rent میں جو بڑھوتری ہوگی اسے Tenant کو دینا ہوگا۔ اگر Tenants نے Improvement آراضی کرنے میں حصہ نہیں لیا ہے باقی جو Reclamation of waste Land وغیرہ کے حصے ہیں وہ آپ کو پڑھنے سے ہی واضح ہو جائیں گے کہ scheme میں کیا رکھا گیا ہے۔ اس scheme میں جو تھوڑا سا

compulsion کا element رکھا گیا ہے وہ کسی بھی reform سے جدا نہیں کیا جا سکتا ہے۔ اس کے علاوہ جہاں تک Forest کا اور دیگر معاملات کا سوال ہے اس میں مجھے زیادہ عرض کرنے کی ضرورت نہیں ہے۔ وہ بل کے پڑھنے سے واضح ہو جائیگی۔ میں تو صرف اس قدر عرض کرنا چاہتا ہوں کہ اس بل کے واسطے ہم یہ اُمید رکھتے ہیں کہ اس پر اچھی طرح سے عمل کیا جائے گا تو اس میں بہت زیادہ ترقی کے potentialities موجود ہیں اور اس میں کوئی شک نہیں جیسا کہ قر ہے اس بل کو Cold storage میں رکھ دینا چاہیے تو بہت مایوس ہونگے۔ جو لوگ یہ اُمید کرتے تھے کہ National Government ہونے سے ہم کو فائدہ ہوگا اس اُمید کو دھکا پڑیگا۔

یہاں پر میں یہ عرض کر دوں کہ اجمیر میروازا میں چالیس میل پر ایک دریا ہے۔ بہت سے لوگ اس اُمید میں بیٹھے ہیں کہ ہماری گورنمنٹ ہونے پر اس دریا کے پانی کو استعمال کر کے زمین کو سیلاب کرینگے۔ اور اس طرح سے زیادہ پیداوار کر سکیں گے۔

اسی طرح دہلی کے علاقہ میں جو پرانے Tanks بنے تھے اور جو پرانے Dams اور بڈ بنے ہوئے تھے وہ سب پرانی باتیں اب ختم ہو چکی ہیں۔ میں دہلی میں بہت سے زمینداروں سے واقف ہوں جنہوں نے بتایا ہے کہ اس علاقہ کے کچھ حصہ میں سے ندی گزرا کرتی تھی جس سے ہمیشہ سیلاب ہوا کرتا تھا۔ اور لوگ پہلے زیادہ خوشحال تھے لیکن آج زمینداروں کی حالت اتنی اچھی نہیں ہے میں اُمید کرتا ہوں دہلی اور اجمیر میروازا میں۔ جو کہ Centrally Administered area ہے وہاں سرکار کا جو فرض ہے اسے سرکار پورا کریگی اور مجھے اُمید ہے کہ سرکار اس علاقہ پر زیادہ توجہ دیگی اور اس علاقہ کو نئے سرے سے اس بل پر عمل کر کے سرکار زراعت کو ترقی دیگی اور یہ علاقہ خوب سرسبز ہوگا اور خوشی سے بڑھیکا۔ اور آزادی کے نئے دور میں لوگ مالا مال ہو جائیں گے اور حقیقی خوشی حاصل کریں گے۔

(English translation of the above speech)

Pandit Thakur Das Bhargava (East Punjab: General): Mr. Deputy Speaker, Sir, I welcome this Bill. The first thing which I would like to say is that the Select Committee has worked very hard in drafting this Bill and amending the original Bill. But it is not so very necessary for me to congratulate the Select Committee as the Honourable Minister for Agriculture for the steps he has taken in presenting the Bill in this form.

In the first meeting of the Select Committee it became quite clear that the original Bill did not fulfill our expectations. When this was explained to the Honourable Minister, he without any regard to the question of prestige which was so much in evidence in the old Government Departments, formed a sub-committee and authorised it to redraft the Bill and suggest amendments which it may consider necessary. I was also a member of that sub-committee which

[Pandit Thakur Das Bhargava]
 consisted of Lala Deshbandhu Gupta and Pandit Mukut Bihari Lal Bhargava. We re-drafted this Bill according to our own non-official views and gave whatever shape we liked. Perhaps this was the first occasion when the Members of the Select Committee were given full powers to re-draft the Bill completely. Latitude to such an extent could hardly have been given in any other case. I congratulate the Honourable Minister for the regard he had shown for the non-official opinion in the matter of the amendment of this Bill. I hope that so far as the Agriculture Department is concerned, it will work in accordance with the wishes of the people and progress will be certain.

A fundamental change has been made in this Bill in regard to the administrative set-up. In the original Bill the Deputy Commissioner or the Collector was appointed as the Land Development Officer. But now provision has been made for the appointment of a Land Development Commissioner who shall be a person of experience and who may not be of the old bureaucratic attitude of mind. This Bill will not only be beneficial to Delhi and Ajmer-Merwara, but in my humble opinion we have tried to give this Bill, such a shape as to make it a model Bill for every district in the country so that District Councils may be set up according to the needs of the people, to decide the matters referred to in clause 4 in the same way as we have done. Clause 4 has been so amended as to provide for every need of the agriculturist for which the District authorities may not be able to do anything. The first necessity is water-supply and the provision of irrigation facilities. Similarly there is reference to the supply of manure etc. I do not wish, Sir, that any difficulty may arise in keeping up to the two-day programme for this Bill in this House and, therefore, with a view not to take much time I do not want to refer to all the clauses. Briefly I would like to point out that the conceptional background of this Bill is almost the same as the House had visualized in the case of Damodar Valley. If the President of the Council to be formed under the Damodar Valley Corporation Act does useful work, then it will be a success. I would like to make it clear that the success of this Bill does not so much depend upon the investment of money or the non-official co-operation as on the Land Development Commissioner. If the Government appoints any competent and experienced person to the post of Land Development Commissioner—who has the quality of 'push and drive', who can understand the agricultural problems and is acquainted with the locality where the work is to be undertaken, then I am sure he will be able to make this Bill a success with a small amount of money and some non-official co-operation. Mention has also been made of two non-official members—but in spite of the presence of such non-official members, this Bill vests more powers in the official members. Accordingly, there will be a Land Development Commissioner and 2 official members and non-official members can assist them. In my opinion, the time for discriminating between 'official' and 'non-official' members is over now and all have to work together. The Honourable Minister has stated that finance is the secret of success, but this Bill does not provide as to whose responsibility it will be? It has undoubtedly been provided that the Provincial Government shall give directions and action will be taken accordingly. As soon as a scheme is prepared, it will be published and an officer will be appointed who will consider the objections made by persons concerned. After this when the scheme will be finalized, the Central Government will have to sanction it. It is expected that when the Central Government sanctions the scheme, it will also provide funds. If there is a shortage of funds, and if after considering the economic position of the country the opinion of the Industrial and Economic experts that in future no expenditure should be incurred on such schemes is accepted, then this scheme will be put into the cold storage resulting in serious loss to the country. I would respectfully submit that this Bill should not meet that fate. This entire scheme in fact forms an integral part of the 'Grow More Food' campaign of the future.

It is necessary to make this scheme a success with a view to increase production and raise the standard of living of the masses. I will go farther than this. We have just passed a Land Acquisition Bill which seeks to ensure rehabilitation, to provide accommodation to the people living here and this is sort of a measure which is intended to prove beneficial to these people as well as the displaced persons and aims at rehabilitating them, providing them with employment and increasing the production. If this Bill alone is worked in a right spirit, then this will promote co-operation between the officials and non-officials to a considerable extent and we will thus be able to achieve our objective. Apart from this, the money spent on this will prove many times more beneficial to the country like the evaporated water which returns to us in the form of rain. Similarly, the amount that the Government will spend on the implementation of this Bill will far more benefit the country. Therefore, it will not be proper to think of any reduction. This scheme should not be impeded in any way and no reduction in the amount required for the purpose should be made. Now in regard to the scheme which has been envisaged in this Bill, I will like to say that if any person accepts this willingly, then he is entitled to the grant of a loan by the Government and he can develop his land. But if any person holds conservative views and does not accept this scheme, then the Government can take possession of his land, and compensation will be paid according to the scale prescribed in the Bill. Then for a certain period Government will take possession of his land and shall arrange its reclamation and will improve it and recover from the owner the expenses incurred in this connection. It can be argued that this is an oppressive measure as it prevents a person from utilizing his land according to his own wishes. This is the objection raised. But whenever the question of a reform or improvement is taken up it is done with a view to the well-being of the general public and a certain amount of compulsion is necessary. It is true that this Bill has provisions for giving benefits compulsorily to those who do not understand that it will be for the good of the country that the Government has been empowered to take possession of their land. But this does not debar them from getting compensation. They are entitled to the payment of a compensation in accordance with the prescribed rules and land will also be returned to them after the expiry of ten years. In this way, if any improvement is made during these ten years then the rent can be enhanced and the tenant shall have to pay this increase, if he has not made any contribution in the improvement of land. By going through the relevant portion of the Bill which relates to the reclamation of waste-land, you will no doubt be able to understand the implications of this Bill. The small element of compulsion which has been provided in this scheme is inherent in any measure of reform. It is hardly necessary for me to go into details about forests and other matters which would be clear from a study of the Bill. The only thing which I would like to say is that we cherish a hope that the facilities provided in the Bill will be fully availed of. It undoubtedly contains many potentialities for progress. It will be an utter disappointment, if as apprehended, this Bill is put in a cold storage. Those people who built upon the hope that they will derive some benefit by the advent of a National Government will receive a shock. I may point out here that there is a river at a distance of 40 miles from Ajmer-Merwara and people are living in the hope that when the National Government comes into power, they will be enabled to irrigate their lands by utilizing the water of this river and in this way they will be able to increase production.

Similarly, the old tanks and dams which were constructed in Delhi during the olden days are no longer existing now. I know many of the Zamindars in Delhi who have told me that a river used to pass through some tract of this Province which had all along been utilized for irrigational purposes and formerly the people were very prosperous. But now-a-days the condition of Zamindars

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is not so good. I hope that the Government will do its duty in the Delhi and Ajmer-Merwara which are centrally administered areas and that the Government will devote more attention to these areas and by increasing irrigation make these areas green and flourishing. The people living there will prosper and derive real pleasure at the dawn of new era of independence.

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): The Bill which is for discussion before the House is of immense utility and benefit to the centrally administered areas of Ajmer and Delhi. Now, Sir, the scheme in regard to the Bill has been explained by the Honourable the Minister in charge of the Bill as also by my learned friend, Pandit Thakur Das Bhargava. But so far as the province of Ajmer-Merwara is concerned, there are very special features which I think must be noticed by the honourable House. Two-thirds of the small province of Ajmer-Merwara consists of what are known as the Istimrardari Estates. In these Estates, it is the Feudal Chiefs that hold sway and medieval conditions prevail there. I shall have an opportunity to draw the attention of the House to the various acts of oppression and terrorism when I speak on the Tenancy Bill which is shortly coming before the House for consideration.

But so far as the Bill in question is concerned, it is remarkable that even in these Istimrardari Estates the Feudal Chiefs have absolute right of proprietorship and even in mining rights they claim to have full proprietary rights, with the exception of payment of nominal loyalty that is provided for in the *Sanad* that was granted to them by the Governor-General in Council in the year 1874. They claim in respect of the Estates that they are its owners: not only owners, but that they have an absolute right to extern anyone residing there, or ban the entry of any person from outside: so much so that their claim over these Estates is like that of a prince or nawab reigning in the neighbouring States of Rajputana. That is the one reason that these estates, notwithstanding there being enough sources of development, have not been developed. The condition of the tenants in these estates is very miserable. They have got no security of tenure. The tax and cesses they have to pay are enormous and they are liable to be ejected at the sweet will of their Feudal Chiefs. The result is that the tenants naturally have no say in the matter and the Feudal Chiefs will not allow them the least security of tenure. And these estates, which as I have already said form two-thirds of the entire province of Ajmer-Merwara are in a very pitiable condition.

One feature of the present Bill is that in the definition of proprietor 'Istimrardar' Jagirdar and 'bhumiya' have been included. The result would be that the provisions of this Bill would apply to these estates. It is a novel and welcome departure and it would be open to the Government under the provisions of this Bill to take possession of any uncultivable land which deserves reclamation and which the private proprietors of the land will not be willing to do. Therefore, I think it is a matter of immense importance and it is bound to be of immense utility for the development of the backward tracts of Ajmer-Merwara.

It has been said that the Centre which is responsible for administration in these areas should have taken much more interest in the development of the area. So far as Delhi is concerned, it cannot be said that the Central Government has not been bestowing on it its best attention. It has been fed—rather over-fed sometimes. It is only Ajmer-Merwara that has been suffering at the hands of the Central Government, towards which the attitude of the Central Government has been more or less step-motherly.

Now the Bill has not yet been brought on the Statute Book and it is rumoured that a Development Commissioner under Section 3 of this Bill is going to

be appointed and that the office of the Development Commissioner will be in Delhi, though he will be in charge of both Ajmer-Merwara and Delhi. I do not think there is any truth in this rumour but in case it is correct I would respectfully bring it to the notice of the Honourable the Minister that if that is done—if the office of the Development Commissioner is located in Delhi—it would be absolutely of no use so far as Ajmer-Merwara is concerned. In fact the provisions of Clause 3 contemplate the establishment of a Land Development Board separately in both of these areas, and it cannot possibly mean that the Land Development Commissioner should be one for both these areas. Even if that be the scheme of the Government of India, I would respectfully urge that the proper place for keeping the Central office of the Land Development Commissioner must be in Ajmer and not in Delhi. So far as Delhi is concerned, its area is about 650 or 700 square miles and the rural area cannot be more than one-fourth of the entire area. So far as the villages are concerned, there is a rural development work already going on in the province of Delhi. So far as Ajmer-Merwara is concerned, it is three-quarters a rural area and there are more than 700 villages and there is absolutely no reason why if a Land Development Commissioner and a Land Development Board is to be established, the common Board for these areas should not be located in Ajmer-Merwara but in Delhi. The work it will have to do is much more in Ajmer as compared with Delhi. Therefore, even if there is any truth in the rumour, I respectfully submit that the Development Board must be situated in Ajmer and the Development Commissioner must permanently reside there.

More than 50 per cent of the total area of the Province of Ajmer-Merwara is still lying waste and uncultivable and there are rivulets, nullahs and what we call in our language "Bahalas" through which water in the rainy season is taken away by rivers to the sea. Under the provisions of this Bill it will be open to the Development Board to take full cognizance of all these sources of water and to evolve a scheme for the conservation of every drop of water that comes from rain, so that it may not be wasted or carried to sea but utilised for agricultural and irrigational purposes.

As this area is given to recurrent periods of water scarcity and since there is also drought every four or five years, it is water conservation alone which can help. Also dry farming will be very much appreciated in Ajmer-Merwara. I therefore urge upon the Honourable Minister to see that a separate development board is established for Ajmer-Merwara and there is a whole time development commissioner appointed under clause 3.

A very important provision in the Bill will entitle the Government to take charge of the private grass lands and they are also responsible for the protection of forests. So far as the owners of estates in Ajmer-Merwara are concerned they have come to know that it is not possible for them to exist for a considerable period and consequently of late they have begun a method by which they prevent the villagers from grazing their cattle and they give their entire grass-land on contract to strangers. They have also begun to cut indiscriminately green trees. Their whole purpose is that within the small span of their life that remains, they want to utilise what they can so as to deprive their tenants and the people of the benefit of this legislation. I would respectfully invite the attention of the Honourable Minister to this great menace which is particularly ruinous to the poverty-stricken tenants of the area. I would request him to issue instructions to the Chief Commissioner to see that nothing is done to injure the forests and grass-lands which are ultimately to the benefit of the whole area. It would be open under the provisions of the Bill to take such a measure, whereas it was not so open under the law as it was existing before. I hope the Honourable Minister will take note of the few remarks that I have made and

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take immediate action in the matter. I do not want to waste the time of the House in narrating the various provisions of the Bill which have been very well explained by my honourable friend Pandit Bhargava. Sir, with these remarks I welcome the measure and cordially support it as also congratulate the Honourable Minister.

شری دیپس بلدھو گپتا : جناب دپتی سپیکر صاحب ! میں بھی آنریبل منسٹر کو مبارک باد دیتا ہوں - انہوں نے اس بل کو جس شکل میں ہاؤس کے سامنے پیش کرنا چاہا تھا اس شکل میں پیش کیا ہے - اور سلیکٹ کمیٹی کے تمام ممبران کی انکو پوری co-operation حاصل رہی -

اس بل کے دفعات کے بارے میں میرے دوست پلڈت تھاکر داس بھارگو اور میرے لایق دوست مکٹ بھاری لال نے کافی روشنی ڈال دی ہے - اس لئے میں اُس کو دھروانا نہیں چاہتا ہوں - میں اپنے لایق دوست سے متفق ہوں کہ جیسا کہ اس بل کا ملشا ہے اگر حقیقت میں یہ چاہتے ہیں کہ ایسی ترقی ہو اور ہمارے ملک میں یہ ایک ٹھیک نمونہ پیش کرنا چاہتے ہوں تو اس کا صحیح طریقہ یہ ہوگا کہ ان دو جگہوں کے لئے الگ الگ Development Board اور Development Commissioner چنیں جائیں - دہلی کے لئے الگ اور اجمیر میروازہ کے لئے الگ کیونکہ دہلی کے حالات الگ ہیں اور اجمیر میروازہ کے الگ - اس لئے ایک دپتی کمشنر دو جگہوں کو lookafter نہیں کر سکیگا اور ایسا کرنے سے یہ تجربہ کامیاب نہیں ہو گا -

دہلی کا رقبہ قریباً ۶۰۰ مربع میل ہے اور اس میں $3\frac{1}{2}$ سو کے قریب گاؤں ہیں یعنی یہ ایک تحصیل سے بھی چھوٹی ہے - لیکن میں اس بل کو زیادہ اہمیت اُس وجہ سے دیتا ہوں کہ اگر ہم اس سکیم کو کامیاب بنا سکیں تو اس سے ملک کے دوسرے حصے بھی فائدہ اُٹھا سکتے ہیں اس لئے جیسا کہ میرے لایق دوست تھاکر داس جی نے کہا ہے میں بھی حکومت پر یہ زور دیتا کہ آجکل کے جو حالات ہیں ان کا خیال کرتے ہوئے جہاں کہیں بھی economy کرنی ہے وہاں وہ کریں لیکن اس بل کو پورا کرنے کا جہاں تک تعلق ہے اسیں economy نہ کریں اور اس سکیم کو کامیاب بنانے کے لئے جتنا روپیہ درکار ہو اتنا خرچ کریں اور ایک ایسا نمونہ بنائیں جو کہ سارے ملک کے سامنے پیش کیا جا سکے - اور یہ ایک قسم کا ماڈل بن جائے -

میں حکومت سے یہ گزارش کروں گا کہ وہ ایسا کوئی لایق طریقہ عمل میں لائیں جسے کہ ہمارے سارے culturable lands کاشت کئے جا سکیں اور جس سے کہ ہماری Forest Wealth اور گراس لینڈز بڑھائے جا سکیں اور جتنی بھی کھیتی کے ساتھ تعلق رکھنے والے کام ہیں ان میں Improvement کر سکیں -

صاحب صدر ! آج کل کے حالات کے لحاظ سے اس بل کی کافی اہمیت ہے - آپ کو معلوم ہے کہ آج کل تمام ممالک کی توجہ Economic Development پر لگ رہی

ہے - یہاں پر بھی Economic Crisis کی وجہ سے لوگ بہت پریشان ہو رہے ہیں - اور وہ یہ سمجھتے ہیں کہ یہ Crisis بہت بڑا ہے - اگر اس سے پہلے نہیں تو اب ہمارے ملک کے بڑے بڑے Economists اور Industrialists نے اپنی اپنی رپورٹیں پیش کی ہیں - اور اس بارے میں ایک special سب کمیٹی بھی بنی ہوئی ہے - تاکہ وہ ایک ایسا measure adopt کریں جس سے کہ اس Economic Crisis کا پوری طرح سے سرباب ہو سکے -

اگر آپ اس معاملہ کو فور سے دیکھیں گے تو معلوم ہوگا کہ اس سارے معاملے کے تہہ میں کیا ہے - اگر ہم اپنے دیپس کے لوگوں کو سستے داموں پر اناج دے سکیں اور سستے داموں پر پہلے کے لئے کپڑا دے سکیں تو نہ ہی ہمارے دیپس میں Inflation رہے گا اور نہ ہی یہ Economic Crisis دھمکتا -

کتنے تعجب کی بات ہے کہ جو ملک کسی زمانے میں دنیا کو اناج بہم پہنچاتا تھا - اور جہاں سے اناج باہر جاتا تھا وہ ملک آج خود دانے دانے کے لئے محتاج ہے اور بھکاری کی صورت میں دنیا کے سامنے اپنے ہاتھ پसार رہا ہے - اور اُس کے اپنے Dollars Reserve اسی اناج میں ختم ہو رہے ہیں - یہاں کے ٹرانسپورٹ سسٹم میں بھی اس وجہ سے خرابی پیدا ہو گئی ہے - کہ ریلوے پر بھی اس کا بہت بھاری اثر پڑا ہے - وہ اس طرح سے کہ بمبئی - کلکتہ اور دیگر راستوں سے جہاں کہیں سے بھی اناج لایا جا سکتا ہے وہاں پر ریلوے کو بھیجا جاتا ہے - اور پھر بھی حالات اتنے خراب ہیں کہ بہت سی ایسی چیزیں جو کہ خوراک کے لئے نہایت ضروری ہیں مہیا نہیں ہوتی ہیں - آج ہم ایک آؤنس سے زیادہ اناج کسی کو بھی نہیں دے سکتے ہیں - یہاں تک کہ مزدوروں کو بھی آٹھ یا دس آؤنس سے زیادہ نہیں دے سکتے ہیں اور اُن کو بھی اسی مقدار پر گزارہ کرنا پڑتا ہے - اس کی وجہ یہ ہے کہ خوراک کے بارے میں جتنی توجہ دینی لازمی تھی اور اپنا گزارہ پورا کرنے کے متعلق جتنا خیال کرنا ضروری تھا اتنا اس بارے میں نہیں دیا جا سکا ہے - اس ملک میں ستر فیصدی Agriculturists ہیں - لیکن کتنے تعجب کی بات ہے کہ ایسا ہوتے ہوئے بھی ہمیں اپنا پیٹ بھرنے کے لئے پورا اناج نہیں مل رہا ہے اور ہم اتنی روٹی پیدا نہیں کر سکتے ہیں کہ ہم اپنا جسم دھانپنے کے لئے کپڑا پیدا کر سکیں - اس لئے میں یہ گزارش کروں گا کہ جہاں تک دہلی اور اجمیر میروازہ کا تعلق ہے اس بل کی اہمیت کو ہمیں اچھی طرح سے سمجھنا چاہیئے اور اس سکیم کے تجربہ کرنے کے لئے جب بجٹ میں Provision کرنا ہو تو اس بات کا خیال رکھیں کہ اسکے لئے پورے پورے فلڈز مہیا کئے جائیں تاکہ آنریبل منسٹر کے ہاتھ اسبارے میں مضبوط ہو جائیں اور وہ اس تجربہ سے یہ دکھائیں کہ ہمارے ملک میں جو Culturable اور Waste لینڈز ہیں وہ سب کاشت ہو سکتے ہیں -

[شری دیپن بندھو گپتا]

میں یہ گزارش کروں گا کہ چاہے آپ دوسرے ہزاروں ہی تجربے کریں لیکن جب تک دیپن میں اتنا اناج پیدا نہیں کیا جاتا اور اتنی روٹی کپڑا بنانے کے لئے پیدا نہیں کی جاتی تب تک economic plans میں کامیابی نہیں ہو سکتی ہے۔ اس لئے میری خواہش یہ ہے کہ اس بارے میں آئرینل ایگریکلچر مسٹر کے ہاتھ کافی مضبوط کئے جائیں تاکہ دوسری جگہوں میں بھی جہاں پر کہ پیداوار بڑھانے کا تعلق ہے اس سکیم کو عملی جامہ پہنایا جا سکے۔

یہاں پر اکثر یہ دیکھا گیا ہے کہ اگر ملک کی بہتری کے لئے کوئی سکیم جاری کرنی مقصود ہو اور اس کے لئے فنڈ درکار ہو تو جب یہ معاملہ Finance Ministry میں جاتا ہے تو وہ وہاں پر اسکی اہمیت کو نہ دیکھتے ہوئے ہی reject کر دیتے ہیں۔ اس لئے اس سکیم کو جاری کرنے کے لئے روپیہ نہیں ملتا ہے۔ حالانکہ دوسری طرفوں میں وہ کروڑوں روپیہ صرف کرتے ہیں لیکن اپنے ملک کو self-supporting بنانے کے لئے کسی سکیم کو جاری کرنے کے لئے روپیہ کی ضرورت جب پڑتی ہے تو وہ روپیہ نہیں دیا جاتا ہے۔ اور اس بارے میں روپیہ دینے جانے میں بے شمار روکاوٹیں ڈالی جاتی ہیں۔ جناب والا! میں یہ بتانا چاہتا ہوں کہ چند ہی دن ہوئے میں امریکہ اور یورپ کو سیاحت سے واپس آیا۔ ان علاقوں میں حالانکہ بارش بہت کم ہوتی ہے۔ لیکن اس کے باوجود بھی اگر آپ وہاں کھیتی کے اور اناج پیدا کرنے کے حالات دیکھیں تو حیران رہ جائیگے وہاں پر ہوائی جہازوں سے بیج بویا جاتا ہے۔ یعنی کہ کھیتی کا تمام کام ایک mechanized system سے چلتا ہے۔ اور اتنی کھیتی اور پیداوار ہوتی ہے کہ اس کا مقابلہ ہمارا دیپن نہیں کر سکتا۔ اگر ہم اپنے لئے خود کوئی research نہیں کر سکتے ہیں تو کیا ہمارا یہ ابھارا دیپن اس قابل بھی نہیں ہے کہ اس معاملہ میں دوسرے دیپنوں نے جو researches کئے ہیں ان پر عمل کر کے ان سے فائدہ اٹھا سکیں۔ ان ممالک کے researches سے اسوجہ سے فائدہ اب تک نہیں اٹھایا جا سکا ہے کیونکہ اس طرف پوری توجہ نہیں دی گئی۔ ہم نے یہی خیال کیا کہ تھوڑا کھایا جائے اور اس بارے میں لاپرواہی کی اگر آج ڈیفنس کا سوال پیدا ہوتا ہے تو ہم یہ خیال کرتے ہیں کہ جب تک ہمارے پاس latest equipment نہ ہو۔ ہوائی جہاز نہ ہوں ایٹم بم نہ ہوں اسوقت تک ہمارا ملک self defence کے لئے تیاری نہیں کر سکتا۔ اس طرح سے اگر آپ food کے بارے میں self-supporting بنانا چاہتے ہیں تو اس کے لئے آپ کو scientific development کرنی پڑیگی اور اس بارے میں کافی دور دھوپ کرنی پڑیگی۔ جب تک آپ ایسا نہیں کرتے

آپ اپنا standard of living اونچا نہیں کر سکتے ہیں اور جب تک آپ Agricultural developments کو اس طریقہ پر اختیار نہیں کرتے ہیں جس پر کہ دوسرے ممالک کر رہے ہیں تب تک ہمارے معاملہ میں کامیابی ہونی مشکل ہی معلوم ہوتی ہے اس لئے میں یہ چاہتا ہوں کہ اس بل کے provisions کی طرف آپ جتنی بھی توجہ دے سکتے ہیں وہ ضرور دیں جیسا کہ میں نے گزارش کی ہے اس بل کے سب کلازس کی سہولت کھیتی نے خوب فور سے چھان بین کی ہے اس لئے اسکو پاس کرنا چاہئے۔

میں یہ گزارش کرنا چاہتا ہوں کہ دیپتی کسٹمر کا جب چناؤ کرنا ہو۔ تو ان باتوں کا خیال رکھا جائے کہ جس شخص کو اس اسامی پر لایا جائے وہ دل میں دیپن کا درد رکھنے والا ہو۔ اور اس کام کو اپنے دیپن کا کام سمجھ کر نہایت دلچسپی اور ایمانداری سے انجام دے۔ وہ آدمی نہایت ہی لائق اور تجربہ کار ہونا چاہئے۔ جب تک ایک ایسے آدمی کو نہیں چلیں گے تب تک اس بل کے پاس ہونے کے باوجود بھی ہم کچھ اتنی اس بارے میں نہیں کر سکیں گے۔ اس لئے میں اپنے دوست کی توجہ اس طرف خاص طور پر کھینچنا چاہتا ہوں کہ وہ دیپتی کسٹمر کی تقرری کرتے وقت میری باتوں کا پورا پورا خیال رکھیں اور اس سکیم کو ایک Pet child سمجھکر اسکی طرف پوری پوری توجہ دیں۔ آپ کے سامنے یہ صرف دہلی اور اجمیر میروازہ کا ہی سوال نہیں ہے بلکہ اسکو آپ آل انڈیا Matter خیال کریں۔ ایسا خیال کرتے ہوئے آپ تمام ملک کی مشکلات کا حل کر سکیں گے۔

ان الفاظ کے ساتھ میں اس بل کو Support کرتے ہوئے یہ امید کرتا ہوں کہ یہاں سے یہ پاس ہو کر Cold Storage میں نہیں پڑے گا۔ بلکہ اس پر پوری طرح سے عمل درآمد کیا جائیگا۔ اور دہلی اور اجمیر میروازہ میں اس سکیم کا عملی کام شروع کیا جائیگا۔

میں اپنے لائق دوست مسٹر مکت بہاری لال کے ریمارک کے متعلق یہ عرض کرنا چاہتا ہوں کہ ان کا جو یہ خیال ہے کہ دہلی کے ساتھ حکومت بہت رعایت کرتی ہے وہ ان کا غلط خیال ہے۔ حقیقت یہ ہے کہ دہلی میں حکومت ہونے کی وجہ سے دہلی والوں کی مصیبتیں دن بدن بڑھتی ہی جا رہی ہیں۔ جتنا کہ دہلی والوں کو Suffer کرنا پڑتا ہے وہ اس وجہ سے ہے کہ حکومت کے سامنے ان کی کوئی بات نہیں رکھی جاتی ہے۔ اور یہاں کے ایڈمنسٹریشن میں ان کی کوئی voice نہیں ہے۔ ان کی Problems دن بدن بڑھتی ہی چلی جا رہی ہیں۔ میں اپنے دوست سے یہ اپیل کرنا چاہتا ہوں کہ وہ دہلی کا اجمیر میروازہ کے ساتھ مقابلہ نہ کریں بلکہ دہلی اور اجمیر کو مل کر دونوں پائے جیکسا مطالبہ کریں۔

(English translation of the above speech.)

Shri Deshbandhu Gupta (Delhi): Mr. Deputy Speaker, I also congratulate the Honourable Minister on his bringing this Bill before the House in the form in which he desired to bring it. He had the full co-operation of all members of the Select Committee.

My learned friends Pandit Thakur Das Bhargava and Mr. Mukut Bihari Lal Bhargava have thrown sufficient light on the clauses of this Bill, therefore, I do not want to repeat what they have said. I fully agree with my honourable friends in regard to the objects of this Bill. If we really desire to go ahead and make this Bill a model for other parts of the country, then the proper course would be to set up separate Development Boards and appoint separate Development Commissioners for each of the Provinces of Delhi and Ajmer-Merwara. Conditions in both these Provinces differ and one Deputy Commissioner will not be able to look after both the Provinces and, the experiment may not be a success.

The area of Delhi is about 600 sq. miles and comprises of about 350 villages i.e., it is even smaller than a Tehsil. I attach more importance to this Bill for the reason that if we can make this scheme a success, other parts of the country will also be benefited. Therefore, as my honourable friend Pandit Thakur Das Bhargava has stated, I will also urge upon the Government to economise anywhere where it may be possible to do so but so far as this Bill is concerned, they should not economise and should spend as much money as may be required to make this scheme a success, and to frame a model for the whole of the country.

I would request the Government to introduce some useful method to bring culturable lands under cultivation and for the expansion of our forest wealth and grass-lands and generally for all kinds of improvement in matters connected with agriculture.

Sir, in the present-day conditions, this Bill is sufficiently important. You are no doubt aware that at present the attention of all the countries is concentrated on economic development. The people here too are very much worried on account of the economic crisis which they take to be a serious one. All the eminent economists and industrialists of our country have submitted their reports now if not earlier on this question and a special sub-committee has also been constituted in this connection so that a measure may be taken to combat this economic crisis. If you carefully go through this matter, you will find the idea underlying it. If we can supply foodgrains and cloth to our countrymen at cheap rates, neither there will remain any inflation nor the economic crisis in our country.

It is very surprising that a country which in the past used to export and supply foodgrains to the whole world now finds itself a beggar and is soliciting the help of the whole world like a mendicant and is consuming its dollar-reserve in the procurement of these foodgrains. On this account the efficiency of transport system of the country has also deteriorated and the Railways have been seriously affected because all the foodgrains that are received from abroad in Bombay and Calcutta and other ports are carried by the Railways. In spite of all this, the situation has worsened to such an extent that it is not always possible to procure many such commodities which form an important part of food. Today we cannot supply more than an ounce of cereals to any one person; so much so that we cannot even allot more than eight or ten ounces to the labourers and they also have to live on that quantity. This is due to the fact that proper attention and necessary thought has not been given to the matter of supply of foodstuffs and minimum quantity required *per capita*.

This country has of 70 per cent agriculturists and it is rather surprising that even then, we are not getting enough to eat and cannot produce enough cotton needed for the manufacture of cloth necessary to clothe the people.

I will therefore submit that so far as Delhi and Ajmer-Merwara are concerned, we should fully realize the importance of this Bill, and while making provision in the Budget for the trial of this scheme, we should see that the requisite funds are provided for the purpose so that the hands of the Honourable Minister may be strengthened and he may be able to prove that all the waste and culturable land in our country can be cultivated. I will submit that you may make thousands of such experiments but until the foodgrains and cotton are produced in our country, in sufficient quantity, we cannot succeed on the economic plans. I wish that the hands of the Honourable Minister for Agriculture may be adequately strengthened so that this scheme may be given practical shape in other places also to the grow more food.

It has been generally noticed that whenever it is considered expedient to introduce a scheme for the good of the country and funds are asked for this purpose, the Ministry of Finance to whom the matter is referred reject this demand without appreciating its utility or importance. Funds are not thus made available for the scheme, although crores are spent in other directions. When money is required to push a scheme which aims at making our country self-supporting, funds are not sanctioned and innumerable obstacles are placed in the way of allotment of money.

Sir, I would like to say that I have recently returned from a tour of America and Europe. Although there is not enough rainfall in those countries, yet you will be wonderstruck at the methods employed there for the cultivation of land and for the growing of foodgrains. Seeds are sown through aeroplanes and the entire business of farming is done through a mechanized system. In the extent of cultivation and production our country is no match to it. If we ourselves are unable to undertake any research work cannot our unfortunate country derive benefit by making use of the researches made by other countries? No benefit could be derived from these researches because full attention was not given to this question. We thought we could do by eating less and were careless in this respect. Today if the question of defence arises we think that until and unless we have the latest equipment, aeroplanes and atom bombs, our country cannot prepare itself for self-defence. Similarly if you want to become self-supporting in the matter of food, you will have to take up scientific development and exert all your energies to achieve this object. Until you do this, you cannot raise your standard of living and as long as you do not take up agricultural development in the manner adopted by other countries, there is hardly any possibility of success. I would therefore urge that you should give as much attention as possible to the provisions of this Bill. I have already said, that the Select Committee has thoroughly scrutinized all the clauses of this Bill, and you should, therefore, pass them.

I would also like to submit that while making the selection of a Deputy Commissioner, it may be borne in mind that only that person should be appointed to the post who is a patriot in his outlook and who would perform this duty in the interest of his country honestly and with interest. He should be a highly competent and experienced person. Unless you select a person of this type, we will not be able to make any progress even after the passage of this Bill. I would, therefore, like the attention of the Honourable Minister particularly drawn to this aspect so that he may act upon my suggestions when filling the post of the Deputy Commissioner and treat this scheme as a pet child, and devote himself to it whole-heartedly. You have not only to look to Delhi and

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Ajmer-Merwara, but you should consider it as an All India matter. With this end in view, you will be able to solve all the difficulties facing the country.

While supporting this Bill with these words, I hope that after the Bill has been passed by this House, it will not be put into cold storage, but full action will be taken and the scheme will be given practical effect in Delhi and Ajmer-Merwara.

As regards the remarks made by my honourable friend Pandit Mukut Bihari Lal Bhargava that the Government favours Delhi I would say that it is a wrong idea and in fact due to Delhi being the seat of the Central Government the difficulties of its people are increasing day-by-day. They have to suffer considerably and have no access to the Government nor any voice in the administration. The problems affecting them are continually on the increase. I would, therefore, request my honourable friend not to compare Delhi with Ajmer-Merwara, but to put up a joint demand for both Delhi and Ajmer-Merwara.

The Honourable Shri Jairamdas Doulatram: Sir, I do not propose to detain the House for more than a few minutes, knowing that there are important matters yet before it. I will only briefly refer to the remarks of some of the speakers. I know that there are various proposals before the Government submitted by economists and other sections of the public, suggesting that expenditure may be cut down. But I do not think that it would be the policy of the Government to cut down such expenditure as relates directly to agricultural development.

With regard to the remarks about there being two Boards—one for Ajmer and one for Delhi—the conception of the Bill is not to have one single Board for the two Provinces: the conception of the Bill is to have separate Boards for the two Provinces.

I know that there are many untapped water sources in Ajmer and Merwara, and the question of better irrigation facilities for agriculture would be a matter for early consideration for these Boards.

Suggestions have been put to me with regard to the selection of the officers. It is not always easy to get the best man whom you may need, but I can assure Members of the House that the very best effort would be made to select the most suitable officers for these posts.

I know that at the start when I introduced the Bill it was an official Bill; but after the Bill was submitted to the Select Committee I have ceased to regard it as an official Bill and I regard it as really a non-official Bill which Government are sponsoring and I hope that it will be the effort of these Boards, on which non-officials will be represented, to give it as popular a colour, and so manage its day-to-day working, that the general public is in agreement with all the schemes which may be put through. Because, I am convinced that unless there is the fullest possible co-operation of the agriculturists, nothing will result from this Bill.

I know that Members of the House have expressed great hopes in regard to this measure. There are various factors which have got to be co-ordinated before full results can be achieved. I do not know whether all these factors can be co-ordinated. But it will be my endeavour to see that the maximum co-operation is obtained, and to some extent the hopes of this House are fulfilled.

Sir, I commend my motion that the Bill be taken into consideration.

Mr. Deputy Speaker: The question is:

"That the Bill to provide for the preparation and execution of land development schemes, the reclamation of waste-land and the control of private forests and grass-land, in the Provinces of Delhi and Ajmer-Merwara, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Deputy Speaker: There are no amendments except the amendment which has been given notice of just now. If it is an agreed amendment I will waive notice; otherwise it cannot be accepted.

The question is:

"That clauses 2 to 33 stand part of the Bill."

The motion was adopted.

Clauses 2 to 33 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri Jairamdas Doulatram: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Deputy Speaker: Motion moved.

"That the Bill, as amended, be passed."

Prof. Shibban Lal Saxena (U.P.: General): Sir, I must heartily congratulate the Honourable Minister for having brought forward this Bill. I have read carefully the provisions of the Bill, and I find that I should offer some suggestions about the functions of the Development Boards which they are creating. As my honourable friend Mr. Deshbandhu Gupta said, this Bill should become a sort of model for agricultural development for the whole country, and I fully agree with him that the solution of the infinite problem lies not so much in cut and currency as in producing more food and in the improvement of agriculture and agricultural industries. So, what I wanted to suggest was that in regard to this Delhi and Ajmer-Merwara area, although the area may not be very large—probably it does not consist of more than 1,000 villages—still I wish that in these 1,000 villages the Honourable Minister should put forward a scheme of planned development which should become the basis of the whole country. I wish to offer some suggestions which I think should be considered.

The first and foremost need is the abolition of zamindari as my honourable friend Pandit Thakur Das Bhargava mentioned, but I think it would come under the last Bill in the Agenda and so I would not speak on that. But after the abolition of zamindari, the most essential measure which we need today is collectivization of farming. Although I have gone through the functions of the Development Board I have not found anywhere that State farms shall be opened or that there will be collective farming. We should have these if we want to keep Indian agriculture in line with that of the world. My honourable friend Mr. Deshbandhu Gupta pointed out that in America they sow with aeroplanes. If we are to do this in India we must have large State farms; small holdings cannot be sown by aeroplanes.

Sir, we must make a bold plan for the development of agriculture. I am very sorry that the record of the Agricultural Departments in the Provinces is not at all worthy of credit. In fact, I often think that they have so far been a sort of parasites on the Governments of the Provinces; they have not done any work, their officers even do not know the plants or various agricultural foods produced in the country, but when they go to Committees theirs is thought to be the most expert opinion. I therefore think that the Honourable Minister should revolutionise ideas about agriculture in the whole country and

[Prof. Shibban Lal Saksena]

he should give the initiative from the Centre. I know he is taking extraordinary pains in his Department and I know that he has the energy and will to do it. But I should like that he should have a ten year plan for Delhi and Ajmer-Merwara and he should see that these two Provinces develop on a model line. In this connection I would draw his attention to the People's Plan. There are so many plans, but so far as agriculture is concerned, I think the People's Plan has discussed the question in the most thorough and exhaustive manner. If that Plan is adopted, after probably two years the plan will become self-financing. That Plan envisages first the abolition of zamindari. After that it envisages State farms as a sort of specimen and model for cultivators; that too should be done—not by legislation but more by persuasion.

Development of agriculture and collectivization are the most important things today. These should have been included as the main function of the Development Board. I do wish the Development Board takes a lead from the People's Plan to develop agriculture in a manner that will make it self-supporting and we may be able to have State farms where modern methods may be used in order that they may be a model for other Provinces. The Centre has more resources than the Provinces. These areas are small areas.

In regard to irrigation, although tube wells have been mentioned, I think a more thorough system should be evolved so that every piece of land may be irrigated. There should be no difficulty about irrigation. After irrigation and proper division of the areas into collective farms and State farms, I think we should be able to give the country a demonstration in how we can grow more food. As the Honourable Minister pointed out, a large amount goes on purchase of food. We cannot build any system of industry in the country unless we have very proper agricultural production. This is only possible if we have a plan which should be self-supporting and by which we would be able to keep our agriculture in line with the modern countries of the world. The other day my honourable friend pointed out that in cotton our production is 115 lbs whereas it is 500 lbs in other cases. Similarly in sugarcane our production is only 1500 lbs whereas it is 3000 lbs in Java. These are huge differences; they can only be made up if there is a proper plan. The Centre should take the lead in this; the Provinces cannot do it as they are badly in need.

Sir, in conclusion I only say that the functions of this Board should be extended. It should at least take up the question of developing State farms and collective farms and try to follow the methods given in the People's Plan for our agriculture.

Sir, I support this Bill.

Shri B. N. Munavalli (Deccan and Madras States Group): Sir, I congratulate the Honourable Minister for having introduced this Bill, which is a measure which should have been brought forward, long, long ago. Delhi and Ajmer-Merwara, being under the Central Government administration, land development in these two Provinces, ought to have been undertaken, earlier. However, soon after our independence, our Government has taken this bold step and I hope that the schemes, that will be evolved under this Bill will be a model, for other Provinces also to follow.

Sir, there are a great many Boards and Committees established by the Government in the Centre, as well as in the Provinces, but practically speaking, they have not turned out the work, which was expected of them. But I hope that when this Board, appointed under this Bill, starts working, it will really turn out work, which will be beneficial to the agriculturists.

As has already been pointed out, by my honourable friend, the area to be brought under cultivation, in Delhi and Ajmer-Merwara is a big one. There

are rivers and rivulets, which have to be exploited; if they are exploited, the lot of the agriculturists will improve to a great extent. This country is mainly agricultural; but up till now Government has not directed its attention towards improving the lot of the agriculturists, which is so essential. The other day when we passed the Cotton Cess Bill, we found that the Council of Agricultural Research, which was meant to conduct researches, for the improvement of cotton seeds etc., instead of conducting research of that kind, was being utilised for the advancement of the industrialists. So, I hope that the whole set-up and the finances, that are going to be available, for land development, should be utilised for that purpose and for the betterment of the agriculturists. As a matter of fact, we are deficient in food. Our country being so big and our landed property being so vast, if we improve our agriculture, we should, really speaking, be able to produce sufficient food, not only for our own requirements, but we may even be in a position, to export food to other countries. In other countries, scientific researches have been made and agriculture has been so advanced that they grow food three or four times more than what we have been doing in the same area. That is why I press the Honourable Minister to direct his energies, towards the improvement of agriculture, so that the economic condition of the agriculturists will improve and side by side the economic problems which are confronting us will also be solved.

Sir, I welcome this Bill and once more I congratulate the Honourable Minister, for having introduced it. I only hope, that it will be worked out, in the spirit, in which it has been introduced.

The Honourable Shri Jai Ramdas Doulatram: Sir, I would only refer briefly to one or two suggestions which have been made. With regard to State farms, it is too large a question on which to have a discussion at this stage. The holdings in this area are individual holdings. Unless they are all confiscated and taken possession of and converted into a State farm, we can proceed only on the basis the continuance of individual holdings. The Bill provides for voluntary and, in some cases, even compulsory co-operation of the owners of individual holdings, so that most purposes of co-ordination of individual action by the State will be achieved by the provisions of the Bill.

Prof. Shibban Lal Saksena: Will you reclaim waste lands also?

The Honourable Shri Jai Ramdas Doulatram: I think part of the waste land is also owned by individuals, but that is a matter to be gone into.

Then, it has been suggested that this or that type of official is a parasite and should be avoided, or that the officials are not doing all that they should do. I do not think that the agricultural development of this country depends upon one or two good officials or one or two bad officials. If we study what is happening in other countries which have achieved adequate agricultural progress, we will discover that between the Government at the head or the Government officials at the top, and the cultivator at the bottom, there is a long series of links. There are grades of official and non-official workers who link up the Central Government or the Provincial Government with the agriculturists and it is through the action of this long series of official and non-official workers that the agriculturists are able to utilise the results of research. Not all the expenses are borne by the State. A good deal of non-official effort is available. For instance, in U.P., where they have the Panchayats or elsewhere where co-operative societies are functioning, it should be expected that in a drive for agricultural production, all these Panchayats and all these co-operatives would be mobilised. They also can be mobilised only if there are departmental officials of Government functioning for this purpose in

[Shri Jairamdas Doulatram]

each area. Therefore, a very extensive official and non-official apparatus is needed before we can produce double or treble yields for our land to which there have been frequent references in the House. I do not think any effort by a few members of the Ministry in any Central or Provincial Government or a few officers at the top, however good they may be, will have the effect of achieving the desired object. Without a great co-operative effort from the non-official organisations, it cannot be achieved.

So also with regard to this Bill. This Bill will be judged by the efforts which the non-official agencies are able to put through, whether they are Panchayats or they are co-operative societies. Official aid is necessary and it will be our duty to see that that official aid is available.

With these words, Sir, I hope the Bill will be passed.

Mr. Deputy Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

CENTRAL SILK BOARD BILL

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Sir, I beg to move:

"That the Bill to provide for the development under Central control of the raw silk industry and for that purpose to establish the Central Silk Board, as reported by the Select Committee, be taken into consideration."

The House will recall that when I moved my motion for reference of this Bill to the Select Committee, I placed before the House the various considerations which weighed with Government in bringing forward this measure. This Bill seeks to take into consideration the possibility of development of silk industry in India. Normally speaking, it is a matter which falls within the provincial field. We appointed a Panel to go into this question some time ago and the matter was also considered at the Industries Conference held in December last. There was a general agreement that in view of the importance of this industry and also the difficulties through which it is passing, it is desirable that its development should be Centrally planned and regulated. That was the reason why this Bill was introduced.

[At this stage Mr. Deputy Speaker vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava (one of the Panel of Chairmen)].

The Select Committee has made one or two changes. The first major alteration relates to the cess. It will be recalled that in the Bill as originally drafted, there was a proposal to levy the cess on all varieties and certain criticisms were made that it would be desirable to exclude the possibility of imposing any cess on silk which is produced through *charka*, that is to say, the cottage industry production should be exempted from the operation of the cess. I gave an assurance that I would be prepared to accept an amendment when the matter was considered by the Select Committee. The Bill as approved by the Select Committee confines the levy of the cess to filature raw silk and spun silk only and here also, as the House will see, it has been left to the option of the Government to impose the cess. In other words, the time when this cess will be imposed and the amount of the cess will be decided by Government after consultation with the Board, which is of a fully representative character.

Further, it has been laid down that the Government will place such funds at the disposal of the Board as may be considered desirable or necessary.

The second major change relates to the membership of the Board. Here we have added a few more members; from 22 we have gone to 28. 2 Members

will be elected from the Legislature. 4 in place of 3 will come from Mysore which is the largest silk-producing area in India today and not more than 3 persons may be nominated by the Central Government to represent producers of raw silk and areas which may be otherwise un-represented. There was a suggestion made that we should include certain areas which were not included, for instance, one such area was East Punjab. We excluded certain areas on account of the small acreage of mulberry. We proceeded on a certain principle, but we have made a provision that later on it will be open to Government to nominate one or two representatives of the unrepresented areas if it is found that those areas have taken steps for the purpose of growing mulberry.

There is another minor change which relates to the appointment of a Standing Committee. The size of the Board has gone up to 28; it will not be possible for the Board to meet more than once or twice a year. Meanwhile it was thought desirable a small standing Committee should be enabled to function, so that Government may receive proper advice on any matters relating to policy or administration. That provision also has been made.

I feel, Sir, that the Bill as amended by the Select Committee makes necessary changes which will enable us to go ahead with the planned development of silk industry in India.

I move, Sir, that the Bill be taken into consideration.

Mr. Chairman: Motion moved:

"That the Bill to provide for the development under Central control of the raw silk industry and for that purpose to establish the Central Silk Board, as reported by the Select Committee, be taken into consideration."

Shri Satish Chandra (U.P.: General): Sir, Government deserve congratulations of the House for having brought this Bill which relates to the development of Silk industry. But, Sir, there has been a confusion in my mind and the first thing which occurred to me when I read this Bill was whether the Central Silk Board should be under the administrative control of the Ministry of Industry and Supply or the Ministry of Agriculture. If we look at clause 8 of this Bill relating to the functions of the Board, it says, it shall be the duty of the Board to promote the development of the raw silk industry by such measures as it thinks fit. Then it goes further and gives in greater detail the directions in which the activities of the Board shall be concentrated. It says that it may provide for undertaking, assisting or encouraging scientific, technological and economic research. I would submit, Sir, that silk worm is a subject matter of agricultural entomology. As a student of an Agricultural College myself, I have had to do a bit about the rearing of these silk worms. Anybody who knows about the life-history of flies and all other insects, knows that it is a matter which is connected directly with the entomological department of the Ministry of Agriculture.

The Honourable Shri Jairamdas Doulatram (Minister for Food and Agriculture): May I say on behalf of the Agricultural Ministry that I do not regard this Bill as one with which the Agricultural Ministry has very much to do. But because it has concern with one aspect of it, it has been arranged that a representative of the Agricultural Ministry will be on the Board which will be carrying out the provisions of the Act. I would therefore request that there should be no motion or proposal that the Agricultural Minister should be the Chairman of the Board.

Shri Satish Chandra: I have no intention of moving an amendment. I have given notice, but the stage has not yet come. I am simply giving out what I feel about it. It is just possible that I am wrong. I have given up the idea of moving the amendment. The amendments are not being taken

[Shri Satish Chandra]

into consideration at this stage. We are not considering the Bill clause by clause. But still, Sir, in spite of what the Honourable Minister has said, I do say that the Industries Department has got nothing to do with the cultivation of plants. Here you will see, Sir, that this Silk Board will have to look after the Mulberry cultivation. If the argument that may be advanced today is carried a bit further, I doubt very much if cotton and wool will also not slip from the Ministry of Agriculture and go to the Ministry of Industry and Supply. I really wonder why silk alone has been singled out leaving raw wool and raw cotton under one ministry and raw silk under the administrative control of another Ministry. You will see, Sir, in the report of the Royal Commission on Agriculture when they deal with sericulture, they have said on page 570:

"In various parts of India where the industry has been long established, much attention has been paid by Government to the improvement of strains of silk worms and the treatment of cocoons. Where silk worms can be reared, a valuable subsidiary industry is available—the more so as it provided what is essentially a spare-time occupation. To the cultivator it affords a useful addition to income with a comparatively small expenditure of time and labour on the crop which feeds the worm. While, in certain areas and amongst certain classes, there are religious prejudices against the processes the industry involves, there are large areas of the country where these religious prejudices do not exist and the mulberry, or some alternative source of food for the worm, is to be found."

I mean to say, Sir, that the cultivation of the mulberry plant the question of finding out alternative food for silk worm, the rearing of the silk worm itself—these are all subjects which are dealt with by experts who are employed in the Ministry of Agriculture and I take it, Sir, that the Ministry of Industry and Supply, if it takes the administrative control of this Board will appoint fresh entomologists all over the land to carry on experiments over the rearing and multiplication of silk worms. A machinery already exists in the Ministry of Agriculture. Its personnel is being trained in agricultural colleges. There is an Entomological Museum attached to the Indian Institute of Agricultural Research, and in it there is a huge collection of useful insects like bees which give you honey and wax. Lac is also an insect and shellac is also used in industry. But there must be a line drawn somewhere to distinguish between the field of operations of the Ministry of Agriculture and those of the Ministry of Industry and Supply. The Ministry of Industry and Supply only comes at a definite stage. As far as the raw materials are concerned which are produced from land or from animals or from insects—I am very clear about it in my mind, though my argument may not appeal—that if it is organic raw-material, if it is grown on land, or if it pertains to life such as fish or meat or wool or lac,—you have got so many examples already,—they are all operated by the Ministry of Agriculture.

The machinery already exists and there are scientific personnel and technicians already employed in the Ministry of Agriculture. It will be a waste of public money to set up a separate machinery for research on silk worms. The production of raw silk involves several stages. The first is the cultivation of mulberry, the second is the rearing of the silk-worm and then comes the reeling of raw silk from the cocoons. I think, so far, it is under the province of the Ministry of Agriculture that these operations should be performed. It is only after these, when raw silk is 'thrown' twisted into silk yarn and finally woven into fabrics, that the Ministry of Industry and Supply comes into the picture. Wool is also a thing which is exactly on the same footing. It is grown not on a plant or tree, but on the body of sheep. Raw wool is under the Ministry of Agriculture; cotton is under the Ministry of Agriculture. Why silk alone has been singled out, it is a thing which has surprised me. I only wish that the Honourable Ministers will kindly confer among themselves about the scope and functions of their respective Ministries.

Shri K. Hanumanthaiya (Mysore State): Sir, the Bill as amended by the Select Committee is welcome on all hands. All the objections and suggestions that have been made on the floor of the House have been accepted in toto. The Bill, as it has emerged from the Select Committee, is as satisfactory as it could be. I only want to make one or two suggestions to the Honourable Minister in charge of this Bill.

Firstly, where the headquarters of the Board is going to be situated is a matter for consideration. If, as is usually presumed, the headquarters of the Board is situated in Delhi, it will not be conducive to the silk industry as such. Delhi is a place where neither the silk industry has taken root nor is it connected in any way with sericulture, except perhaps that some of the people in Delhi wear silk fabrics. Therefore, I would suggest that in the interests of the industry, it should be located in a place where sericulture is one of the main occupations of the people. From that point of view, I would suggest Mysore is the best suited place. Mysore grows more than 50 per cent of the silk that is produced in India. There are already facilities in the Mysore State. For the last 25 or 30 years the Mysore Government have established various experimental farms, and if there is a place in India where research has been done and various contributive factors have taken place for the growth of the industry, it is Mysore. From this point of view, it would be beneficial to sericulture as such if the headquarters of the Board is located in Mysore.

Secondly, though the Chairman of the Board happens to be the Minister in charge, we have made provision in the Bill that there should be a vice-Chairman to carry on the administration or such of the administrative powers as are delegated either by the Board or the Chairman. Again, I would like to make a suggestion here. The Minister of the Central Government is a very busy person and he will certainly not be in a position to devote all his attention or time for any particular department which is under his control. It would be to the interests of the industry concerned, sericulture, if a Vice-Chairman who can devote all his attention and time is entrusted with the administration and management of the Board. No doubt, the Chairman may preside over the General Body meetings and if he chooses, over the meetings of the Standing Committee. The main burden of the duty must be cast upon the Vice-Chairman whom we must select with a view to his efficiency and experience in this line.

So far as the point made out by my honourable friend Mr. Satish Chandra is concerned, he said that cotton was under the Ministry of Agriculture and he mentioned various other agricultural products. I might say straightaway that agriculture is quite different from sericulture and it stands to reason that there are two departments because there are two different names. Sericulture does not stand on the same footing as cotton and other things. The two Honourable Ministers are unanimous on that opinion and I do not think there will be any point in carrying the arguments further. Besides, it is not as if the Honourable Ministers in charge of Industry and Supply and Agriculture will non-co-operate. We have also made provision for the representative of the Agriculture Department to be on the Board. The several Departments of the Government will work in co-ordination with one another in this matter. The Bill as it is drafted, is quite satisfactory I should say from all points of view, and I would urge that this Bill might command the unanimous acceptance of this House.

Shri M. Tirumala Rao (Madras: General): Sir, on a point of information, I would like to know where the headquarters of this Board will be located.

Before the Honourable Minister makes his reply, I wish to offer one or two suggestions with regard to this. The Central Government have got a natural

[Shri M. Tirumala Rao]

partiality to locate everything in New Delhi. There are several other considerations in locating the headquarters of certain other committees, which do not legitimately weigh in the best interests of the committee. For instance, I have the case of Central Tobacco Committee. It is located in Bombay, a most costly place where you cannot get accommodation where there is no sufficient ground for the tobacco growers to profit by the location of such an institution there. It is located there simply because certain high officials considered that they can conveniently fly to that place and attend the meetings. I would suggest that the headquarters of these committees, like the Central Tobacco Committee, the Central Coconut committee, the Central Cotton committee and the Central Silk committee, or Coffee Committee should be located in an area where the largest quantity of the article is manufactured.

Again, with regard to the Vice Presidentship, I feel that there is a dearth of trained personnel or proper personnel to fill up these posts and a single gentleman is asked to run about with the Presidentship of several organisations in the country, and the very same gentleman has to run to Australia to buy wheat, keeping aside all the work here. I would suggest that so much of concentration in the hands of one single gentleman should not be allowed in the best interests of the industry. I would suggest that the headquarters should be somewhere in Bangalore and people who have got experience of this particular business may be chosen to organise the Central Committee and to put it on a sound footing.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I am thankful for the general support extended to the Bill as amended by the Select Committee.

One question has been raised as regards the part which the Agricultural Ministry should play in the functioning of this Board. I admit that so far as cultivation goes, naturally it falls within Agriculture. But if we have to follow the arguments of the honourable member to their logical extent, then the Agricultural Ministry should have nothing to do with the latter portions of Section 8 dealing with the industrial aspect of the proposals, and that is the main purpose for which the Bill has been introduced.

There are various provinces where sericulture has been put under the Industry Ministry and there are some provinces where sericulture comes under Agriculture. In any case this is one of those matters which overlap and I can assure the honourable member and the House that the policy which the Government of India will pursue in this matter will be completely integrated in character. The Industry Ministry will not do anything which may in any way adversely affect the cultivation of mulberry, which obviously is the basic thing. Unless there is improvement in that respect, it will not be possible for us to make further improvement with regard to production of raw silk. There is co-operation now and there will be co-operation in future. If honourable members will look at the wording of the section they will find that what is said is that the duty of the Board will be to promote the development of the raw silk industry by such measures as it thinks fit and without prejudice to the generality of such provision, the measures may provide for undertaking, assisting or encouraging scientific, technological and economic research. The measures may provide for devising means for improved methods of mulberry cultivation, production and distribution, etc. It may be that the institutions will remain under the control of the Agricultural Ministry. It may be possible for the Board to give financial assistance. New institutions may come into existence which may come for help before the Board. There is nothing here which need give rise to any apprehension in any one's mind that there will be a constitutional crisis between the Agricultural Ministry and the Industrial Ministry with regard to the cultivation of mulberry.

The other suggestion made is with regard to the location of the Board. My friend, Mr. Hanumanthaiya is certainly doing his duty when he pleads the case of Mysore.

Shri Bikramlal Sondhi (East Punjab: General): What about Assam? Mr. Chaudhuri is not here in the House at this time.

The Honourable Dr. Syama Prasad Mookerjee: We shall bear in mind his suggestion. We have not decided where the Board will be located. There is no special charm in New Delhi, and as the Prime Minister himself announced sometime ago he would not like that too many institutions or new organisations should be set up in this city. That is a matter of which due consideration will be taken. But there again there may be conflicting claims between an area which may be the biggest producing area and an area which is the biggest consuming area and it may be claimed that unless Bombay and the United Provinces were prepared to consume all the silk Mysore was producing, the silk would have no market at all.

As regards the selection of the Vice-Chairman, there also we shall consider what sort of person we shall have. As you have seen, I have left the matter to the Board. I would be prepared to accept the recommendation of the Board where all the interests would be represented, and Government would not be prepared to force any officer of its own on the Board. I am sure with the goodwill and co-operation of all the provinces and States which have agreed to join this Board, as also the representatives of the other producing and manufacturing interests, we shall be able to take effective steps which will lead to the development of silk industry in this country.

Let not the House forget that we are facing a crisis now. The price of imported silk is much lower than the price of silk which is made in India, and unless some definite steps are taken in the near future for the purpose of improving the quality and also reducing the overhead expenses, it will be very difficult for Indian Silk to hold its head high in competition with the world market. This is a matter which is not merely of sectional interest, or of importance to a particular area but to the whole of India.

Mr. Chairman: The question is:

"That the Bill to provide for the development under Central control of the raw silk industry and for that purpose to establish the Central Silk Board, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Chairman: Mr. Satish Chandra has already said he is not moving his amendment. I have another amendment which was received at 1.45 P.M. today. The rule has been that due notice cannot be waived unless the Honourable Minister and the House regard the same as unexceptionable.

The Honourable Dr. Syama Prasad Mookerjee: I cannot accept it.

Shri T. T. Krishnamachari (Madras: General): I would like to ask a few questions in regard to clause 10 of the Bill. Will the Honourable the Minister give the House an idea what the cess is going to be? Secondly, could the Honourable the Minister say whether he has started negotiations with the Indian States who are interested in this, whether they are going to levy a cess and will it come into the Central pool?

The Honourable Dr. Syama Prasad Mookerjee: With regard to the amount of the cess, it is obvious I cannot answer the question and I should not, because I have to consult the Board before Government can decide what the amount should be. My friend, democratic-minded as he is, will be the first to protest if I announced from now that the cess should be so much. I shall consult the Board as soon as it is constituted and I shall also consult the Provinces and then

Shri T. T. Krishnamachari: The Honourable Minister must have some idea of the limits within which the cess could be levied.

The Honourable Dr. Syama Prasad Mookerjee: If I find that the levying of the cess is harmful to the industry in the first two or three years, I may not levy the cess. There I have kept an open mind and I shall consider the matter after the Board has been formed.

In regard to the second question, whether the States interested have been approached already, the answer is yes, and I have had a good response. Many of the States are willing to come and join the Board. That is the reason why in clause 1 it has been laid down that it extends to all the provinces of India and also to any acceding State for which the Dominion Legislature has for the time being the power to make laws in respect of the development of the raw silk industry. Other States will simultaneously pass similar legislation. We have an assurance, from the States, specially from Mysore which practically produces nearly 70 per cent for the whole of India, that they will give us their wholehearted co-operation in making a success of this scheme.

Shri T. T. Krishnamachari: What will happen to the cess they might levy? Will it go to the Central Fund?

The Honourable Dr. Syama Prasad Mookerjee: It will go to the Central Fund.

Shri M. Tirumala Rao: Has a reference been made to the Tariff Board whether silk should be given protection?

The Honourable Dr. Syama Prasad Mookerjee: I have referred the matter to the Tariff Board and its recommendations will have to be considered in due course.

Shri K. Santhanam (Madras: General): What about Kashmir?

The Honourable Dr. Syama Prasad Mookerjee: I have added Jammu and Kashmir in the hope that they will come in.

Prof. Shibban Lal Saksena (U.P.: General): There is no limit put to the cess. I really wonder whether we should pass a piece of legislation giving a kind of blank cheque!

Shri Bikramlal Sondhi: They are our own Government!

Prof. Shibban Lal Saksena: I think we should put down some limit otherwise this is not good organisation. I would request the Honourable the Minister to have some upper limit so that it may not be said afterwards that this Legislature gave the Executive a blank cheque in this matter.

Mr. Chairman: The question is:

"That clauses 2 to 17 stand part of the Bill."

The motion was adopted.

Clauses 2 to 17 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

AJMER-MERWARA TENANCY AND LAND RECORDS BILL

The Honourable Shri Jai Ramdas Doulatram (Minister for Food and Agriculture): Sir, this is one more Bill relating to Ajmer-Merwara but the issue involved is one in which I believe the whole House is interested.

Sir, I beg to move:

"That the Bill to declare and amend the law relating to agricultural tenancies, record-of-rights and other matters connected therewith in Ajmer-Merwara, be referred to a Select Committee consisting of Shri Ajit Prasad Jain, Shri Ram Sahai, Shri Gokulbhai Daulatram Bhatt, Shri H. V. Kamath, Dr. P. S. Deshmukh, Ch. Ranbir Singh, Prof. N. G. Ranga, Shri Mahavir Tyagi, Pandit Mukut Bihari Lal Bhargava, Prof. Shibban Lal Saksena, Shri V. C. Kesava Rao, Shrimati G. Durgabai, Shrimati Renuka Ray, Shri Satis Chandra Samanta, Shri Kishorimohan Tripathi, Shri V. S. Surwate, Shri Brajeshwar Prasad, Shri Lakshminarayan Sahu, Begum Aizaz Rasul, Shri Mohanlal Gautam, and the Mover, with instructions to report on or before the last day of the first week of the next Budget Session and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir in explaining the main objective of this Bill also which on the whole I regard as non-controversial, I shall be very brief. It may be known to members of the House, as was explained by the honourable member Mr. Mukut Bihari Lal Bhargava that there is a peculiar type of tenure in Ajmer-Merwara. It is called the Istimrari tenure. This tenure was created during the time of the Moghals. Under it certain feudal chieftains were given land in lieu of military service and this peculiar type of tenure went on till the Marathas replaced the Moghals. Under Maratha rule the tenure was converted into a tenure based on assessment in lieu of military service and this has gone on since then. The tenants of the Istimrari landholders have remained all this time in the same deplorable condition in which tenants in India had existed until the tenancy laws appeared on the scene in the various provinces. During British Rule, as early as about 70 years ago, an extraordinary decision was made by the British officers as to the status of the tenants of Ajmer-Merwara. They laid down in the Ajmer-Merwara Regulation of 1877 that until the contrary was proved all the tenants of the Istimrari landholders were tenants-at-will. By one stroke of the pen whatever was the previous status of a tenant he was reduced to the position of a tenant at will. The result has been that throughout this long period the tenants have been at the mercy of the landholders, for where a tenant is a tenant at will until he proves the contrary (and proving the contrary is neither an easy nor a cheap process) the result has always been that all the abuses which flow out of this status for the tenants have increased grown during these years in Ajmer-Merwara and the tenantry has been suffering from innumerable ills.

Round about 1932 this position was reviewed, because as a result of the political movement of 1931 there was considerable awakening among the tenantry of Ajmer-Merwara and by 1932 the local administration began to feel the effect of this awakening. As a consequence various enquiries were made as to the relationship between the landholder and the tenant. But the thing went on at a slow pace till 1944, when an officer was appointed to try to find out what were the rights which the tenants really enjoyed and what could be

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done to regulate the relationship between the tenants and the landholders. It was decided to have a kind of survey of the area and also attempt a sort of record of rights but it was soon discovered that unless there was regular tenancy legislation providing for a proper record of rights and providing for all the other rights of the tenants it may not be easy to complete this preliminary survey. Therefore the preliminary survey was suspended and this tenancy Bill was prepared. It was introduced at the last Budget Session and now it is to be referred to a Select Committee. I have made the Select Committee deliberately very large, so that all points of view and a number of provinces might be represented in the Select Committee and also in order that the discussion in the Select Committee might be thorough and the shape and form in which the Bill may come before the House during the next Budget Session (which will naturally be a very heavy session) will be such that the House might be able to pass this legislation without much difficulty, and the tenants of Ajmer-Merwara get speedily the benefit of the legislation.

I do not want to take the members of the House through many provisions of the Bill. I think those who are familiar with tenancy legislation in the provinces will probably find many common features in this Bill. As a matter of fact it is largely based on the U.P. Tenancy Act, Bihar Tenancy Act and some of the other provincial Acts, except that to suit the special conditions of Ajmer-Merwara some modifications have been provided. In the main the Bill is intended to safeguard first of all security of tenure, so that the tenants might continue to occupy the area which they have been cultivating and could be ejected only for non-payment of rent. Secondly they have been given the right to have a statutory rent, that is a proportion of the crops has been fixed and beyond that the landholder cannot recover as rent. At present a large number of illegal exactions are made. This has been prevented by fixing the rent and only authorised and prescribed cesses could be recovered by the landholders. The third right which they have been given is the right of transfer. All these three rights are now justiciable rights and it is possible for the tenant to ask for and secure them through the intervention of speedy judicial proceedings. These are the main provisions of the Bill. Then subsidiary provisions are there for the record of rights and the other necessary provisions in a tenancy law. I therefore would recommend the House to give their due consideration to this Bill, and since it is going to a very representative Select Committee I hope the House will not take much time in passing the motion, I have made.

Mr. Chairman: Motion moved:

"That the Bill to declare and amend the law relating to agricultural tenancies record-of-rights and other matters connected therewith in Ajmer-Merwara, be referred to a Select Committee consisting of Shri Ajit Prasad Jain, Shri Ram Sahai, Shri Gokulbhai Daulatram Bhatt, Shri H. V. Kamath, Dr. P. S. Deshmukh, Ch. Ranbir Singh, Prof. N. G. Ranga, Shri Mahavir Tyagi, Pandit Mukut Bihari Lal Bhargava, Prof. Shibban Lal Saksena, Shri V. C. Kesava Rao, Shrimati G. Durgabai, Shrimati Renuka Ray, Shri Satish Chandra Samanta, Shri Kishorimohan Tripathi, Shri V. S. Sarwate, Shri Brajeshwar Prasad, Shri Lakshminarayan Salu, Begum Aizaz Rasul, Shri Mohanlal Gautam, and the Mover, with instructions to report on or before the last day of the first week of the next Budget Session and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): Mr. Chairman, the Bill that has been introduced by the Honourable Minister in charge of Agriculture is a long overdue measure. In fact, it must be admitted that the underlying principle of this piece of legislation is the existence of the present zamindari system. It presupposes that landlords and tenants will continue to exist in the Province of Ajmer-Merwara. Therefore, though I welcome this measure, I regret that it has not been found possible by my honourable friend to attempt at the abolition of zamindari system. In the present days of India, where a number of advanced Provinces have already adopted measures for the abolition and elimination of the middlemen between the State and the actual cultivator

of the soil, it is indeed regrettable that it has not been found possible in this particular case to bring in legislation on that line. (An honourable member: 'Not yet, not yet'.) I would make it clear that so far as the Province of Ajmer-Merwara is concerned, there is hardly any comparison between this Province and other Provinces like Bihar and U. P. where there was or is a system of zamindari or taluqdari. In fact, the condition in Ajmer-Merwara is still worse and the status of the so-called feudal chiefs, locally known by the name of jagirdars or istimrardars, is somewhat higher than ordinary zamindars or taluqdars in the Provinces of U. P. and Bihar. In fact, if there is a case anywhere in India for the abolition of this system of middlemen, it is in the Province of Ajmer-Merwara; there the feudal chiefs claim for themselves a status akin to that of a ruling Prince in the neighbouring States of Rajputana. They enjoy a number of supra legal powers which give them a position much more advantageous than their brothers are occupying in other Provinces. For example, in Ajmer-Merwara these istimrardars claim that no person can enter their domain without their permission. It is ridiculous to conceive that within the four corners of their estate, which in some cases do not exceed beyond a single village, they should claim the supreme right to allow the entry of a person from outside or even to extern a person who has been residing there for centuries. There have been cases where Congress workers who in 1931-32 went inside the estates to help and assist the tenants, were prosecuted under Section 447 of the Indian Penal Code and the Courts of law have convicted such persons for criminal trespass. This is a ridiculous state of affairs.

These persons were in fact never the proprietors of the land. Soon after the British Government seized the Ajmer District from the Scindia in 1818, an enquiry was instituted and Mr. Cavendish, after an elaborate enquiry conducted on the spot from village to village, came to the conclusion that these feudal lords came into existence for the first time in the time of the Moghuls and in fact the tenants of that time—I am talking of the year 1829—claimed hereditary rights of ownership in the various villages. Mr. Cavendish in his report has stated that looking to the claims of the tenants and the history of the estates, it cannot be disputed that the tenants have been inhabiting these villages for generations before the feudal lords came into existence. It is further reported by Mr. Cavendish that the tenants' claim to ownership and proprietorship in the soil cannot seriously be disputed. But a curious argument was availed of and it was stated that because the Mahrattas have rightly or wrongly recognised the feudal chiefs as the proprietors of the soil, consequently it was reported that the present order should subsist and the British Government should also recognise these persons as the proprietors of the land. From a reference to the report it will be absolutely clear that the claim of the tenants to the proprietorship of the soil was certainly of a superior character than that of the feudal chiefs. Thereafter, again about the year 1847 Mr. MacKenzie held another inquiry and his report was also to the same effect; it was reported that the tenants had *bona fide* claim to the proprietorship of the soil. Unfortunately, Sir, the British Government and the representative of the British Government took a somersault about the year 1873 when the Superintendent made a report that their proprietary title may be recognized. Curiously enough, in the *sanad* that was granted by the Government of the day in the year 1873, their proprietary rights were recognised by the British Government for all times to come. But here also, if you refer to condition 9 of this *sanad* that was granted by the British Government, it is admitted beyond the least shadow of a doubt that the tenants living in these estates had rights which needed to be protected at the hands of the landlords. Condition 9 says that the *istimrardar* had bound himself to respect and protect the rights of his tenants. Notwithstanding this condition No. 9, when Regulation II of

[Pandit Mukut Bihari Lal Bhargava]

1877 was enacted, in Section 21 it was for the first time stated that the tenants will have only the rights of tenancy at will in the estates. This was a travesty of justice.

Mr. Chairman: May I just remind the honourable member that the convention of the House is that members who are on the Select Committee do not make long speeches at this stage. I do not interfere with his right of speech—but if he wants to take a long time he may indicate it so that the House may adjourn, or if he wants to finish just now he may say so.

Pandit Mukut Bihari Lal Bhargava: I will require a longer time—about 20 minutes.

Mr. Chairman: The House stands adjourned till 10-45 tomorrow.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday the 7th September 1948.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(Part II—PROCEEDINGS OTHER THAN QUESTIONS & ANSWERS)

Tuesday, 7th September, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

(10-53 A.M.)

STATEMENT ON KASHMIR

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Minister for External Affairs and Commonwealth Relations): Sir, I crave your leave to place certain papers on the table of the House and to make a statement thereon. These papers relate to the United Nations Commission on Kashmir which has been in India and partly in Pakistan for about two months or more now. Honourable members of the House must have read in this morning's papers some correspondence which has passed between this Commission and the Government of India; a Resolution passed by the Commission some three weeks ago; the Government of India's reply thereto and some indication of Pakistan's reply. The full set of papers has not been published in the Press yet and we have only received them, in fact, this morning by special courier from Karachi. No doubt, these papers will be published in the newspapers. Meanwhile, I shall place on the Table of the House some part of these papers and the rest I hope to place there in the course of the day, as soon as they are typed. Now the House knows that this Commission has been here for the last nearly 2 months or more and the House will have seen from this published correspondence what their resolution was and our response to it. In effect they will have seen that we accepted certain conditions for a truce and cease fire. In effect, Pakistan has rejected them. Now I do not wish at this stage to say very much more about this matter, partly because I should like to go through those papers much more carefully than I have had time to do this morning since they came, partly because the Commission is considering what further steps they may or may not take and it will not be perhaps quite proper for me to say anything which might embarrass the Commission.

As the House perhaps knows, it was the desire of the Commission that we postpone publication of papers and any statements in this House till today. We have been anxious right from the beginning of these consultations with the Commission to take this House and the Country into our confidence because we wished to take no steps in such a vital and important matter without the full knowledge and consent of this House, but inevitably in the circumstances, it became difficult for us, much as we wanted to do so, to make statements in this House when the Commission was engaged in these delicate negotiations, and so at their request we had to postpone this from time to time. Ultimately they issued their statement yesterday at 4 P.M. in Karachi. Now, although I do not wish to say much on this subject, there are certain facts to which I should like to draw the attention of the House. The facts themselves are very well known not only in this House, but all over the country. Nevertheless sometimes known and established facts are denied and it does make a difference when those facts are admitted.

[Pandit Jawaharlal Nehru]

The present story and tragedy of Kashmir began over ten months ago. Late in October of last year there was an invasion of Kashmir by people coming across or from Pakistan territory, and the Government of India were faced with a very difficult problem calling for a decision as difficult as any Government has to make, and we had to make that decision within a few hours. We made that decision and since then we have followed that decision. It became clear to us then and that fact has become abundantly clear to all the World that wants to know it, that this invasion was not only encouraged and patronized by the Pakistan Government, but actively supported. Later it became clear that apart from supporting others, there was active participation of the Pakistan army in it. Now throughout these ten months the Pakistan Government have denied that fact, they denied it, aggressively, loudly and persistently. We stated it before the Security Council of the United Nations. In fact, we went to the Security Council with a very simple plea that the peace of Kashmir has been disturbed by these raiders coming across the Pakistan territory and we placed our case as low as possible, although we could have placed it much higher. We said that it is inevitable, even apart from facts, that people coming from Pakistan could only come with the assistance and goodwill of Pakistan and therefore, we requested the Security Council to ask Pakistan not to assist them and not to permit them to come in this way. It was, if I may say so, a very moderate request, couched in moderate language. Pakistan denied that fact and during the long discussions before the Security Council they not only went on denying it, but expressing a great deal of irritation and anger that anyone should make such a charge against them. Well, I do not want to go into this long history of denial by them, but the point is that today on their own admission, their denial was false. Now, that is an important matter.

It is important from the point of view not only of practical politics and the situation we have to face today, it is important also from the point of view of the standards of morality, good behaviour and decency that should subsist between nations. Now, I know very well that the standard of public morality and international morality is unfortunately not very high in this World. Nevertheless certain appearances have to be kept up, certain decencies have to be maintained and some standards have to be kept. I do submit to this House and to the country that the story of these ten months and more and the way the Pakistan Government has re-acted to all that has been said about them in the course of these ten months is so extraordinary as to be hardly creditable for a nation. Even till yesterday, so far as the world is concerned, even till 4 p.m. yesterday, there was no admission by Pakistan that they were participating in any way in those Kashmir operations. Of course, we knew. We have the most definite and positive evidence to that effect and you cannot hide large armies ultimately. Nevertheless till 4 p.m. yesterday when those papers were issued to the public there was no public admission. In fact, there was a continual denial in the course of the last few weeks, while this large Pakistan Army was functioning in Kashmir, battling with the Indian forces in the Indian Union territory. Please remember that all the fighting that has taken place in the last ten months has been in Kashmir, has been in Indian territory; there has been no fighting there has been no incursion, there has been no Indian Army anywhere on Pakistan territory. That is a fundamental and basic fact, which apart from any other enquiry and any other facts would lead one to the conclusion that if any outsiders are fighting in the Indian Union territory, those outsiders are the aggressors. Why are they there? During the last six weeks or so, again we pointed out in the most explicit language to the Pakistan Government and to the Prime Minister of Pakistan this presence of Pakistan troops in the Kashmir State.

Again, there was either a denial or an evasion of the issue. It was an extraordinary thing to me. I do not claim to be in any way different from others of my kind. My standards, I hope, are not lower than others. But, it has been a shock to me that any country, any responsible Minister of Government should make statements which are patently and obviously false and try to mislead the world by that means. You will remember that before the Security Council at Lake Success, there were prolonged arguments on this issue. The Foreign Minister of the Pakistan Government who was the Chief Delegate of their Government there, placed the case for Pakistan before the Security Council. How does that case stand now, I would beg you and the country and the world to consider. Because, that whole case was based on one fundamental fact, that is the denial of Pakistan's complicity in Kashmir. They denied throughout that they actively participated in it. If this fact is proved, as it is proved, out of their very mouths today, to have been false, then what happens to that whole case so laboriously built up by the Pakistan Government before the Security Council? What happens to the charge that we brought against them, which was never considered by the Security Council at all, much to our regret and amazement? So, the fundamental thing for us to remember is this, that a fact which was denied for ten months and more has at last been publicly admitted by the Pakistan Government. They have admitted, of course, in their own way. I shall read out to you some passages from their letter to the Commission wherein they have admitted. They say:

"India was steadily building its Armed Forces in Jammu and Kashmir. This building up process did not cease on 21st April 1948, but was continued and intensified. The Indian Army mounted a big offensive in the beginning of April, thereby causing a material change in the situation. This offensive action has continued ever since. The publicly declared intention of the Government of India was to secure a military decision in Jammu and Kashmir, thus presenting the United Nations Organisation with a *fait accompli*. This situation not only put in jeopardy the entire population of the areas under the Azad Kashmir Government, and led to a big influx of refugees into Pakistan, but also constituted a direct threat to Pakistan's security. It was this which compelled the Government of Pakistan to move their troops into certain defensive positions."

Observe here too, they do not say clearly that the defensive positions happened to be in another country.

Quite apart from their decision in regard to 'cease fire' and other proposals, the country which participates in aggression over a neighbouring country, may be in the name of defence, may be in the name of its own security, denies that for many months and then, in fact, when it has found out that its guilt is proved, when it cannot hide it any more, then grudgingly admits it and gives some reason for it. How shall we consider the politics of that country from any international or national or moral point of view? Observe, according to this statement they took this action in April last, four months or four and a half months ago. If they felt that their security was imperilled, or something was happening that endangered them and they had to send their troops, what then should they have done? Obviously they should inform the Government of India, and inform the United Nations Organisation that this is happening and there has been, as they say, a material change in the situation, and therefore we are compelled to take this or that action. I cannot conceive of any country anywhere in the wide world which would not have done so. Quite apart from motives, whatever they may be, this is the obvious and inevitable thing to do. They sent this army, according to them, in April last or thereabouts and there is no intimation to us into whose territory they were coming, and there is no intimation to the United Nations Organisation which was seized of this question, and was, as a matter of fact, then thinking of sending out a Commission to India. You will remember that right in the early stages of

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the Security Council's activities, an appeal was made to India and Pakistan in regard to these military operations and in regard to avoiding any situation between India and Pakistan. That appeal was repeated. In the few lines have read out to you from Pakistan's reply, they accused India of mounting an offensive. We are trying from the Indian Union territory to push out the invader. It has been our declared policy, which we have declared before the United Nations Security Council repeatedly, which in fact was inevitable for us or for any country with any grain of self-respect.

So, we did that. But on the other hand, what did the Pakistan Government do? We have right from the beginning, whatever step we may have taken, we have taken in the line light; there has been no hiding about it. The House has been greatly interested in this matter of Kashmir. The Indian public has taken the greatest interest and rightly; the burden of it has fallen on our Government. It has been a heavy burden. I shall be frank and tell you why it has been heavy on me and more especially on my Government: not because military operations were involved, although that is always a burden but rather it has been a burden that we wanted to be sure that at no time we acted fundamentally against the principles we had so long proclaimed. May I take the House into my confidence that in the early stages towards the end of October and in November, and indeed subsequently, I was so much exercised over this fact that I felt intensely about Kashmir and if anything happened or was likely to happen to Kashmir which might have been, according to me, bad and disastrous for Kashmir, I would have suffered heart-break because of that. I was intensely interested, apart from larger reasons which the Government have, for emotional and personal reasons; I do not want to hide that, I am interested in Kashmir. Nevertheless, I tried to keep down the personal aspect and the emotional aspect and to consider it from the larger view-point of India's good and Kashmir's good I tried to consider the question from the point of view of not straying or drifting from the high principles which we had proclaimed in the past.

So, when this question first came up, I sought guidance, as I often did in other matters, from Mahatmaji and I went to him repeatedly and put to him my difficulties. The House knows that that apostle of non-violence was not a suitable guide in military matters,—and he said so,—but he undoubtedly always was a guide on the moral issue whatever the question might be. And so I put my difficulties and my Government's difficulties before him; and though it is not proper for me to drag in his name at this juncture in order to lessen my own responsibility or my Government's responsibility which is complete on this issue, I nevertheless mentioned this matter merely to show how the moral aspect of this question has always troubled me. And more specially when I saw in India all manner of things happening and which had happened in previous months which had brought India's name into disrepute, I was greatly troubled and worried and was anxious that we should keep straight as straight as we possibly could. Now this has been my attitude and on several occasions I had put it to others in public. And apart from rhetorical and vague insinuations I should like to know from anybody—friend, opponent or enemy—that from that day in the last week of October when we took that fateful decision to send out troops by air to Kashmir till today what is it we have done in Kashmir which from any point of view and from any standard is wrong.

I want an answer to that question. Individuals may have erred here and there; but I say that the Government of India and the Indian army as a whole

have done something which was inevitable, and each step that we have taken has been an inevitable step which, if we had not taken it, would have brought a measure of disgrace to us. That is how I have ventured to look at this question of Kashmir. And when I find that on the other side the whole case that has been built up on what I venture to say is—using strong language—falsehood and deceit, am I wrong? That is what I ask this House and the country and the world to consider.

Now, therefore, this is the first fact to remember that all this case built up by Pakistan before the Security Council crumbles by this admission of theirs and by the proven fact that large armies of theirs are functioning in Kashmir and no doubt similar armies—if you like—and others connected with them functioned in Kashmir on Indian Union territory during these ten months or so. Every subsequent proceeding should be viewed from that aspect.

Now we come to the present, and I may again add one other thing in this connection. This has been an aggression; and if it is called—as according to their own admission it must be called—an aggression, then certain consequences ought to follow. Now my difficulty has been that in considering any question if you lose yourself in a forest of intricate detail sometimes you lose sight of the forest or the wood for the trees. There have been long discussions over the Kashmir issue and every aspect and phase and past and present history has been considered. But what has been the major point? I repeat that, because that I think is the fundamental factor. That is, the aggression of Pakistan on Indian Union territory; secondly, the denial of that fact of aggression; thirdly, the present admission of that fact. These are the governing factors of that situation. And this argument has gone on for long because these governing factors were slurred over and were not emphasised. We emphasise them of course, and the problem was discussed in intricate detail. Now if you start from a wrong premise in an argument obviously your whole argument goes wrong and you land yourself in difficulties. If you try to solve a problem without analysing or stating the nature of the problem how are you to solve it? And that has been the fundamental difficulty in this Kashmir business, that the fundamental issue has been slurred over and by-passed and passed over. Therefore we have been dealing with other matters which cannot yield a solution if we ignore the basic factor. Now the basic factor is out by the very admission of the Pakistan Government.

Now coming to this proposal of the United Nations Commission in India in regard to cease-fire and truce, etc., I shall not discuss that much because I do not wish at this moment to say anything in that regard which might embarrass that Commission. But certain papers are before you. I need hardly say that the proposal they had made was not welcomed by us with joy and enthusiasm; there were many matters in it which went against the grain. But we tried to look at this matter as coolly and dispassionately as possible with a view to establish peace on this harried State of Kashmir, to avoid needless suffering and shedding of blood; and we agreed to that cease-fire proposal after the Commission had been good enough to elucidate certain points which we had placed before them. We did not place too many points but only certain simple obvious points relating to the security of Kashmir. We placed these before them and they were good enough to tell us that that was their meaning. Thereupon we accepted that cease-fire proposal, accepted many things in it which we did not like, because we felt that both in the interest of peace and of international order it was a good thing for us to go a few steps forward even though some of the steps might be unwilling steps. In order to bring about this peace and to show that we were prepared to go as far as possible in order to meet the wishes of an international organisation like the United Nations; we did that. The original proposal of the United Nations

[Pandit Jawaharlal Nehru] was given to us on the 14th August. The 15th was our Independence Day. Immediately after, on the 16th we met the members of the Commission and discussed the matter with them to find out exactly what they meant and told them exactly what we meant; and within four days of that i.e. on the 20th August we sent them our reply. We did not want to delay matters as they were anxious that they should not be delayed.

The Pakistan Government had also got these proposals on that identical time, on the 14th August at 3 or 4 p.m. They also had the same amount of time. But even after the return of the Commission to Pakistan—and some members of the Commission went in between to Karachi—they were not ready with their reply. And in fact it was by the pressure of events or the pressure of the Commission that ultimately they have given some kind of a reply yesterday. In between they gave long letters seeking elucidation etc. I am sorry I have not read the reply wholly yet because I got it just a little before coming here. But I have read the significant parts of it, and in effect it is a rejection of those proposals. Now the Commission had told us that these proposals stand as a whole and while they were prepared to discuss any matter and would gladly do so, it was difficult—in fact it was not possible for them to accept conditional acceptances, because if we make some conditions and Pakistan naturally makes other conditions, what is exactly accepted and by whom? So they said that this thing was to be accepted as it is after being understood or if there were conditions attached it is not an acceptance but a rejection. Now, therefore, what the Pakistan Government have done is tantamount to a rejection. It is for the Commission to decide and to say what they are going to do. It is not for me to advise them. So we arrive at a curious state of affairs, that the country which was an aggressor nation according to its own showing, now even rejects and refuses a proposal for a cease-fire, or puts forward conditions which are tantamount to that refusal.

Now certain international consequences should follow from all this. What consequences follow? In a somewhat narrow sphere all those officers and individuals who are participating in this aggressive war against India in Kashmir territory—there are of course Pakistani nationals and others there too—are participating not only in an aggressive war but in a war after a refusal of a United Nations Commission's proposal for a cease-fire. Their position is worthy of consideration.

That is all that I wish to say on the Kashmir issue. Naturally the story of Kashmir goes on. It has been a saga during these ten months or so, and there has been a great deal of suffering and blood and tears involved in it. There have been high moments also. But for us in India, and for the Government of India, it has been a period of trial and difficulty from many points of view: still, at no time have we considered that we were wrong or that we took a step which we could not fully justify in regard to Kashmir. It is in that faith that we are going to continue and may I say one word, that in all these consultations with the United Nations Commission and in other matters affecting Kashmir we have kept in close touch with the Kashmir Government under Sheikh Abdullah and consulted him in all these steps that we have taken. That was natural and that is inevitable in the circumstances that we should march together in full consultation with each other. Proceeding on that basis, we shall go ahead, whether in the military spheres or in other spheres, and I am quite convinced that, if we adhere to a right course, and that, if we do not stray from it, even from an opportunist point of view of some present advantage, we shall win through, and any country that bases its case on an essential falsehood cannot gain its ends.

United Nations

Nations Unies

The United Nations Commission for India and Pakistan

Karachi, 13 August 1948

Sir,

I have the honour to transmit to you herewith the attached Resolution which was adopted by the United Nations Commission for India and Pakistan at its meeting held on 13 August, 1948.

The Commission drafted this resolution after very careful consideration of the observations which have been presented to it by the Governments of India and Pakistan.

This Resolution is intended to present the principles which may serve as a basis of discussions leading to the creation of the necessary prerequisites for a final solution of the situation in the State of Jammu and Kashmir.

I have the honour to be,

Sir,

Your obedient servant,
ALFREDO LOZANO,

Chairman

The Honourable Pandit Jawaharlal Nehru,
Prime Minister and Minister for External Affairs,
Government of India.
Delhi.

United Nations Commission for India and Pakistan

Resolution adopted by the United Nations Commission for India and Pakistan at its thirty ninth meeting on Friday, 13th August, 1948, in Karachi.

The United Nations Commission for India and Pakistan

Having given careful consideration to the points of view expressed by the Representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and

Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation,

Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal:—

PART I

Cease-fire order

A. The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.

B. The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.

(For the purpose of these proposals "forces under their control" shall be considered to include all forces, organised and unorganised, fighting or participating in hostilities on their respective sides).

C. The Commanders-in-Chief of the Forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.

D. In its discretion and as the Commission may find practicable, the Commission, will appoint military observers who under the authority of the Commission and with the cooperation of both Commands will supervise the observance of the cease-fire order.

E. The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

PART II

Truce Agreement

Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their Representatives and the Commission.

A. 1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.

3. Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

B. 1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part II-A 2, hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agree to begin to withdraw the bulk of their forces from the States in stages to be agreed upon with the Commission.

2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.

3. The Government of India will undertake to ensure that the Government of the States of Jammu and Kashmir will take all measures within their power

to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

C. 1. Upon signature, the full text of the Truce Agreement or a communique containing the principles thereof as agreed upon between the two Governments and the Commission, will be made public.

PART III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the Truce Agreement both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

New Delhi, 20th August, 1948

Excellency,

On the 17th of August, my colleague, the Minister without Portfolio, and I discussed with you and your colleagues of the Commission now in Delhi the resolution which you had presented to us on the 14th instant. On the 18th, I had another discussion with you, in the course of which I tried to explain to you the doubts and difficulties which members of my Government, and representatives of the Government of Kashmir whom we consulted, had felt as the result of a preliminary but careful examination of the Commission's proposals.

2. During the several conferences that we had with the Commission when it first came to Delhi, we placed before it what we considered the basic fact of the situation which had led to the conflict in Kashmir. This fact was the unwarranted aggression, at first indirect and subsequently direct, of the Pakistan Government on Indian Dominion territory in Kashmir. The Pakistan Government denied this although it was common knowledge. In recent months very large forces of the Pakistan regular army have further entered Indian Union territory in Kashmir and opposed the Indian Army which was sent there for the defence of the State. This, we understand now, is admitted by the Pakistan Government, and yet there has been at no time any intimation to the Government of India by the Pakistan Government of this invasion. Indeed, there has been a continual denial and the Pakistan Government have evaded answering repeated inquiries from the Government of India.

In accordance with the resolution of the Security Council of the United Nations adopted on the 17th January, 1948, the Pakistan Government should have informed the Council immediately of any material change in the situation while the matter continued to be under the consideration of the Council. The invasion of the State by large forces of the regular Pakistan Army was a very material change in the situation, and yet no information of this was given, so far as we know, to the Security Council.

The Commission will appreciate that this conduct of the Pakistan Government is not only opposed to all moral codes as well as international law and usage, but has also created a very grave situation. It is only the earnest desire of my Government to avoid any extension of the field of conflict and to restore peace, that has led us to refrain from taking any action to meet the new situation that was created by this further intrusion of Pakistan armies into Jammu

and Kashmir State. The presence of the Commission in India has naturally led us to hope that any arrangement sponsored by it would deal effectively with the present situation and prevent any recurrence of aggression.

3. Since our meeting of the 18th August, we have given the Commission's resolution our most earnest thought. There are many parts of it, which we should have preferred to be otherwise and more in keeping with the fundamental facts of the situation, especially the flagrant aggression of the Pakistan Government on Indian Union territory. We recognise, however, that, if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed, we should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before Your Excellency:—

(1) That paragraph A. 3 of Part II of the resolution should not be interpreted, or applied in practice, so as

(a) to bring into question the sovereignty of the Jammu and Kashmir Government, over the portion of their territory evacuated by Pakistan troops,

(b) to afford any recognition of the so-called "Azad Kashmir Government", or

(c) to enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State.

(2) That from our point of view the effective insurance of the security of the State against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important than the observance of internal law and order, and that, therefore, the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by this overriding factor. Thus at any time the strength of the Indian forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder.

(3) That as regards Part III, should it be decided to seek a solution of the future of the State by means of a plebiscite, Pakistan should have no part in the organisation and conduct of the plebiscite or in any other matter of internal administration in the State.

4. If I understood you correctly, A 3 of Part II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3 (1) of this letter. In fact, you made it clear that the Commission was not competent to recognise the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.

As regards paragraph 3(2), the paramount need for security is recognised by the Commission, and the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India.

Finally, you agreed that Part III as formulated, does not in any way recognise the right of Pakistan to have any part in a plebiscite.

5. In view of this clarification, my Government animated by a sincere desire

to promote the cause of peace and thus to uphold the principles and prestige of the United Nations, have decided to accept the resolution.

Accept Excellency, the assurance of my highest consideration.

JAWAHARLAL NEHRU,

Prime Minister of India

His Excellency M. Josef Korbel,

Chairman

United Nations Commission for India and Pakistan,

New Delhi.

New Delhi, 20th August, 1948

Excellency,

You will recall that in our interview with the Commission on the 17th August, I dealt at some length with the position of the sparsely populated and mountainous region of the Jammu and Kashmir State in the north. The authority of the Government of Jammu and Kashmir over this region as a whole has not been challenged or disturbed, except by roving bands of hostiles, or in some places like Skardu which have been occupied by irregulars or Pakistan troops. The Commission's resolution, as you agreed in the course of our interview on the 18th, does not deal with the problem of administration or defence in this large area. We desire that, after Pakistan troops and irregulars have withdrawn from the territory, the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to us. (The only exception that we should be prepared to accept would be Gilgit). We must be free to maintain garrisons at selected points in this area for the dual purpose of preventing the incursion of tribesmen, who obey no authority, and to guard the main trade routes from the State into Central Asia.

Accept, Excellency, the assurance of my highest consideration.

JAWAHARLAL NEHRU,

Prime Minister of India

His Excellency M. Josef Korbel,

Vice-Chairman,

United Nations Commission for India and Pakistan,

New Delhi.

United Nations

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UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

Faridkot House, New Delhi, 25th August, 1948

Excellency,

I have the honour to acknowledge the receipt of your communication dated August 20, 1948, regarding the terms of the Resolution of the United Nations Commission for India and Pakistan which the Commission presented to you on the 14th of August 1948.

The Commission requests me to convey to Your Excellency its view that the interpretation of the Resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1) (c) the local people of the evacuated territory will have the freedom of legitimate political activity. In this connection, the term "evacuated territory" refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command,

The Commission wishes me to express to Your Excellency its sincere satisfaction that the Government of India has accepted the Resolution and appreciates the spirit in which this decision has been taken.

I wish to avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

JOSEF KORBEL,
Chairman.

H. E. Pandit Jawaharlal Nehru,
Prime Minister and Minister for External Affairs,
Government of India,
New Delhi.

UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN
Faridkot House, New Delhi, 25th August 1948

Excellency,

I have the honour to acknowledge receipt of your letter of 20 August 1948 relating to the sparsely populated and mountainous region of the State of Jammu and Kashmir in the North.

The Commission wishes me to confirm that, due to the peculiar conditions of this area, it did not specifically deal with the military aspect of the problem in its Resolution of 13 August 1948. It believes, however, that the question raised in your letter could be considered in the implementation of the Resolution.

Accept, Excellency, the assurances of my highest consideration.

JOSEF KORBEL,
Chairman.

H. E. Pandit Jawaharlal Nehru,
Prime Minister and Minister for External Affairs,
Government of India,
New Delhi.

Shri B. Das (Orissa: General): May I suggest that the statement which the Honourable the Premier has made and the statement laid on the table may be circulated to us by this evening.

Mr. Deputy Speaker: All that can be assured is that as soon as possible the statement and the speech will be circulated. I cannot say whether they will be circulated before the evening.

Shri H. V. Kamath (C.P. and Berar: General): Is there going to be no statement on Hyderabad?

Mr. Deputy Speaker: Yes, there will be one.

Shri Mahavir Tyagi (U.P.: General): With regard to those Foreign Officers who are fighting on behalf of Pakistan, may I know if they are British nationals?

The Honourable Pandit Jawaharlal Nehru: Some of them, yes.

Shri B. Das: Shame on England!

STATEMENT ON HYDERABAD

The Honourable Pandit Jawaharlal Nehru (Prime Minister and Minister for External Affairs and Commonwealth Relations): I shall now address the House, Sir, on an entirely different topic, unrelated completely, but it is difficult really to separate things in the organic life of the country. So one thing affects another. But in effect what I am going to say now in regard to Hyderabad is something which stands apart from what I have said about Kashmir and does not bear any relation to it.

For over a year now, we have been making earnest attempts to come to a peaceful and satisfactory settlement with the Government of Hyderabad. In November last, our efforts led to a Stand-Still Agreement for a year. We hoped that this would be followed up soon by a final and satisfactory settlement. In our view, this settlement could only be based on the establishment of responsible Government in the State and accession to India. That accession meant of course, that the State would be an autonomous unit in the Indian Union enjoying the same powers and privileges as other autonomous units. What we offered Hyderabad was, in fact, an honourable partnership in the great brotherhood of the Indian Union.

2. Popular responsible Government in Hyderabad or in any other State or Province of India has long been our objective and we are glad to say that it is very near fulfilment all over India, except for the State of Hyderabad. It was inconceivable to us that, in the modern age, and in the heart of India which is pulsating with a new freedom, there should be a territory deprived of this freedom and indefinitely under autocratic rule.

3. As for accession, it was equally clear to us that a territory like Hyderabad, surrounded on all sides by the Indian Union and with no outlet to the rest of the world must necessarily be part of that Indian Union. Historically and culturally, it had to be a part, but geographic and economic reasons were even more peremptory in this matter and they could not be ignored, whatever the wishes of particular individuals or groups of individuals. Any other relationship between Hyderabad and the rest of India would involve continuing suspicion and, therefore, an ever-present fear of conflict. A State does not become independent by merely declaring itself to be so. Independence connotes certain relationships with independent States and recognition by them. India could never agree to Hyderabad having independent relations with any other power for that would endanger her own security. Historically, Hyderabad has at no time been independent. Practically, in the circumstances of today, it cannot be independent.

4. Further, in conformity with the principles that we have repeatedly claimed, we were agreeable that the future of Hyderabad should be determined after a reference to its people, provided that such a reference was made under free conditions. It cannot possibly be made under the conditions of terror which prevail in Hyderabad today.

5. Our repeated attempts at a settlement, which came near to success on one or two occasions, ended unfortunately in failure. The reasons for this were obvious to us; there were sinister forces at work in Hyderabad State which were determined not to allow any agreement with the Indian Union. These forces, led by completely irresponsible persons, have progressively gained in strength and now completely control the Government. The resources of the State were and are being mobilised for war in every way. The State army has been increased and irregular armies have been allowed to grow up rapidly. Arms and ammunition were smuggled in from abroad; this process, in which a number of foreign adventurers have been taking a prominent part, is continuing. No country, situated as India is, would have tolerated these warlike

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preparations by a State in the very heart of India. Nevertheless, the present Government of India patiently continued negotiations in the hope that they would lead to some settlement. The only other step they took was to prevent, in so far as they could, the flow of warlike material into Hyderabad.

6. The private armies that grew up in Hyderabad, notably the Razakars, have become more and more aggressive and brutal within the State and sometimes across its borders, in India. I do not propose to give a full account of this here as full particulars are available partly in the White Paper on Hyderabad which the Deputy Prime Minister presented to the House earlier during the session, and partly in other published documents. This growing terrorism and frightfulness inside Hyderabad State against all those, Muslims and non-Muslims, who are opposed to the Razakars and their allies, both official and non-official, has produced a very grave situation and has had its repercussions on the bordering areas of the Union and in India generally. At the present moment, our immediate and most anxious preoccupation is this mounting wave of violence and anarchy inside Hyderabad State.

7. A full account of Razakar activities will take long. I shall mention only some recent incidents and a few figures. The inhabitants of a village inside the State, which, under the spirited leadership of its headman, had offered stout resistance to these gangsters, were, when resistance became impossible owing to the exhaustion of ammunition, put to the sword and the village itself burnt. The brave headman was decapitated and his head carried about a pole. In another village, men, women and children were collected in one spot and shot dead by the Razakars and the Nizam's police.

A large party of villagers fleeing in bullock carts to some haven of safety in India, was brutally attacked; the men were beaten up and the women abducted.

A train was held up, the passengers looted and a number of coaches burnt. The House is aware of the attacks on our troops seeking to enter our enclaves within State territory and of Razakar incursions into our own villages along the border.

According to reports received yesterday, Razakars and a unit of the regular Hyderabad army with armoured cars went into action against Indian troops on Indian territory. They were repulsed; one armoured car was destroyed and one officer and 85 other ranks taken prisoner. The incident further illustrates the mounting aggression against India.

Since this provocative campaign of violence started, according to information which has so far reached us, over 70 villages have been attacked inside the State, about 150 incursions have occurred into our territory, hundreds of persons have been killed, a large number injured and many women raped or abducted, 12 trains attacked, property worth over a crore of rupees looted. Hundreds of thousands have fled the State in order to seek refuge in the neighbouring Provinces of India.

8. The House will agree that no civilised Government can permit such atrocities to continue to be perpetrated with impunity within the geographical heart of India; for this affects not only the security, honour, life and property of the law abiding inhabitants of Hyderabad, but also the internal peace and order of India. We cannot have a campaign of murder, arson, rape and loot going on in Hyderabad without rousing communal passion in India and jeopardising the peace of the Dominion. Let the House consider what our predecessors in the Government of India would have done in these circumstances. For far less, they would have intervened drastically; the lapse of the Paramountcy of the British Crown cannot alter the organic inter-relation of Hyderabad and the power whose responsibility for the security of India as a

whole is, and should continue to be unquestioned, or the mutual obligations of the one to the other. We have been patient and forbearing in the hope that good sense would prevail and a peaceful solution be found. This hope has proved to be vain and not only is peace inside the State or on its borders nowhere in sight but peace elsewhere in India is seriously threatened.

9. We have been criticised for having been too patient and too forbearing. That criticism may have some justification. But we have tried to act on the principle that no effort should be spared at any time to avoid conflict and to secure a settlement by peaceful methods. Except in the last resort, any other course would be a sad contradiction of the ideals and principles to which we have repeatedly pledged ourselves from the beginning to the termination of our struggle for freedom from foreign rule. But we cannot blind ourselves to cruel facts or shirk the hard responsibilities that such facts might impose. At the present moment, let me repeat the issue that compels immediate priority is that of security of life and honour in Hyderabad and the stoppage of the brutal terrorism that persists in that State. Other issues may well be taken up later, for indeed peace and order are essential for the consideration of other questions.

10. The Hyderabad Government have demonstrated both their unwillingness and their incapacity to put down the terrorism that has made the life of the law abiding citizens of the State so extremely insecure that large numbers of them are fleeing to the neighbouring provinces and States. We feel that internal security in Hyderabad will not be assured at this stage unless our troops are stationed at Secunderabad as they used to be until India withdrew them early this year. In reply to a recent letter from the Nizam, His Excellency the Governor General made this suggestion to His Exalted Highness who has replied that no such action is necessary as conditions in Hyderabad are entirely normal. This, of course, is contrary to all known facts and we have now asked the Nizam for the last time to disband the Razakars immediately and, as suggested by His Excellency the Governor-General, to facilitate the return of our troops to Secunderabad, in such strength as may be necessary to restore law and order in Hyderabad State. If they are so stationed, there will be a sense of security in the people and the terrorist activities of private armies will cease.

May I add a few words more. First of all I should like to state to this House and place before this country that we have tried to look upon this question of Hyderabad as far as possible entirely away from the communal point of view and I should like the country to look upon it in this non-communal way. I know, as I have just stated, that communal passions have been roused. But it should be the business of all of us, to whatever religion or community we might belong, to lift this question away from the communal plane and to consider it from other, and, I think more valid and more basic points of view.

We wish to send our troops to Secunderabad to ensure security in Hyderabad, the security of all the people there, whether they are Hindus or Muslims, or they belong to any other religion or group. If subsequently freedom comes to Hyderabad, it must come to all equally and not to a particular group. Therefore I would like to lay stress on this and I would like those organs of public opinion who can influence the public so much at any time, and more specially during times of stress and strain, always to lay stress on this non-communal aspect. Also, whatever steps we may have to take in the nature of police action or other, our instructions are going to be definite and clear that any kind of communal trouble from any side will be most sternly dealt with.

There has been, as I mentioned to this House, a large migration from Hyderabad of terror-stricken people. I do not know how many have come out,

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but in the Central Provinces even now there are large camps of tens of thousands—probably several hundred thousand people may have come out in the course of the last two months. Now, if I may give advice—although the giving of this advice means the assumption of a certain responsibility—I would give this advice and take the risk, that people should not migrate from Hyderabad or from any part, wherever they may be.

An Honourable Member: And get butchered.

The Honourable Pandit Jawaharlal Nehru: Somebody said get butchered. I can only speak in my own terms. If I am there I would not migrate, what ever happens—butchery or no butchery. I think that when we have to face a serious situation, nothing can be worse than running away from it: and especially in the present instance I see no benefit in regard to that matter. Because, the person who runs away exposes himself to that very danger more than a person who sits or stands normally speaking. Of course I am not considering exceptional cases and some things may happen here and there. But my general point is this, that we may be on the eve of grave happenings in this country, and because of that our Government has paid the greatest and the deepest attention to these matters. We have discussed them, not only amongst ourselves but with our advisers: we have considered various possible consequences, for every action has to be judged from the possible consequences thereof. We cannot just take an action in the air. So we have done that. And having done that, we have come to certain conclusions which I am placing before you. At any time I would have advised the country to be calm and poised and I refuse to be panicky and refuse to run away from any difficult situation. At this time particularly I do call upon with all the earnestness in me that we should maintain our peace and calm and face any situation that might arise not only in that calm and collected and disciplined way but also always remembering the fundamental principles and lessons that our Master placed before us.

AJMER-MERWARA TENANCY AND LAND RECORDS BILL—contd.

Mr. Deputy Speaker: The House will now proceed with the further consideration of the motion moved by the Honourable Shri Jairamdas Doulatram on the 6th September re the Ajmer-Merwara Tenancy and Land Records Bill.

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): Sir, yesterday evening when the House rose for the day I was discussing the soundness of the relative claims of the *Istimrardars* and their tenants to the proprietary title in the soil. These estates though originally eleven in number, gradually increased to seventyfour and are covering 1,376 out of a total of 2,400 square miles of the area of the province. I had drawn the attention of the honourable House to a very very patent fact that the British officer, Mr. Cavendish as early as in 1829, after elaborate enquiry, had come to the conclusion that these feudal chiefs had originally been life grantees of the estates from the Moghul rulers of the day in lieu of certain military services to be rendered to the Moghul emperors, that subsequently the Maharattas commuted the military service in lieu of tons of money, and fixed an assessment over these estates. When the Ajmer district was ceded to the British in the year 1818 the problem arose as to what recognition was to be given to the feudal chiefs. It was remarked by Mr. Cavendish and Mr. MacKenzie that their enquiries showed that the feudal chiefs appeared in these estates merely as strangers on behalf of the rulers of the day, and that the tenants had been in possession of the holdings for generations and they had valid rights of occupancy therein. Notwithstanding the result of the enquiries of Mr. Cavendish and Mr. MacKenzie, which was totally in favour of the tenants, we find that Mr. Sutherland came about

the year 1874, and the full proprietary title of these feudal chiefs in these estates was recognized, and the *sanads* that were granted to the feudal chiefs in the year 1874 laid down that they were to remain as the full proprietors of these estates and further that the government of the day waived its right to enhance the assessment and fixed the assessment in perpetuity. The same assessment was recognized as was made by the Maharattas, the then rulers of the day. The Maharattas were calling this assessment by the name of *mamala*. They were making a number of additional recoveries, but the British Government of the day chose to relinquish all its claims to these additional recoveries and recognise the assessment. This recognition of assessment and fixation of it, and the waiver of the right to enhance it in perpetuity has caused an enormous loss to the public revenues. This assessment was made, as I submitted a minute back, a century before the British came and it was this very amount that was recognised.

The other right that was recognised in the *sanad* was that on succession to these estates, each successor was to give a certain *nazarana* to the British Government. But even that right of recovery of the *nazarana* remained a mere dead letter and was formally relinquished in the year 1923. It shows that while the British Government was very particular and anxious to give every possible concession to these feudal chiefs, it altogether ignored the rights, the valuable rights, of the cultivator in the holdings. As I had pointed out yesterday, in condition No. 9 of the *sanad* the *istimrardar* and his successors in title had bound themselves to respect and protect the rights of the cultivator, which clearly shows that there were certain valuable rights of the cultivators existing at the time which required protection at the hands of the rulers of the day.

But, Sir, notwithstanding this condition No. 9 in the *sanad* what do we find? When Mr. Sutherland came in, Regulation II of 1877 was enacted and a law, so far as the tenants were concerned, was incorporated in the form of Section 21 of Regulation II of 1877, which laid down that all occupiers of cultivable and non-cultivable land comprised within the *istimrardari* estates of Ajmer-Merwara were to be presumed to be tenants at will until the contrary was proved. This contrary has not been proved in any case, and there is no record where the court of law has found that the burden has been satisfactorily discharged by any one of the tenants. The result was that from 1877 up to the present day, these tenants have been victims to a process of ruthless exploitation and have been more or less mere slaves in these estates. From 1877 up to the year 1931 we find that these tenants were being exploited in a number of ways, and the demands from the feudal chiefs were increasing day by day. There was consequently a big agitation and we find that in 1932 in one of the premier *istimrardari* estates of Masuda there was a serious agitation and also the declaration of a non-rent campaign. The ruthless might of the British rulers of the day in the shape of their representative, the Chief Commissioner whose position in the old set up of things was no less than that of a Nawab or a ruler of the neighbouring Rajputana State.....

Babu Ramnarayan Singh (Bihar: General): Mr. Deputy Speaker, is there a quorum in the House?

Mr. Deputy Speaker: There is.

Pandit Mukut Bihari Lal Bhargava: The result has been that for over a century these down trodden and poverty-stricken tenants have been subjected to a ruthless process of exploitation at the hands of their feudal chiefs 12 Noon who have been enjoying full liberty and license under the patronage extended to them by the representative of the bureaucratic Government, that is the Chief Commissioner. When this agitation grew and came

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to a head in the year 1932, it was suppressed with a ruthless wave of repression and subsequently an *Istimrardari* Inquiry Committee was appointed in the year 1932. This Committee was presided over by the Assistant Commissioner, Mr. De la Fargue. No representation was given to the representatives of the tenants in this Committee, for whose benefit it had been brought into existence. We find that excluding the Assistant Commissioner as the Chairman of this Committee, there were three officials—the S. D. Os. of the different Divisions of Ajmer-Merwara—and there was one non-official representative, Rai Bahadur Munshi Mitthan Lal who was the standing counsel of the *istimrardars*. The result was that the recommendations made by the De la Fargue Committee were of a very, very reactionary type. They proposed to enhance the powers of these *istimrardars* still further. They proposed that they may be able to recover their dues—the rent, the cesses, etc.—as land revenue; there were many other recommendations which were more or less of a very, very reactionary character, wholly in favour of the *istimrardars* and against the tenants. Naturally, no Government, in the face of the serious agitation going on, could venture to accept these reactionary recommendations of the De la Fargue Committee. Notwithstanding this, no ameliorative reform was undertaken by the administration of the day with the result that the misery and sufferings of the tenants were piling more and more. In the year 1937 Mr. C. J. Irwin, a retired experienced revenue officer, was called from C. P. and he was entrusted with the job of inquiring into all these estates. He submitted a report and within the four corners of this report he also made a draft of a tenancy legislation which he recommended to the Government of the day to replace the existing "black Act" of 1877. Now, Sir what happened? The Government found that the report submitted by Mr. Irwin was wholly in favour of the tenants and therefore it was put in cold storage. That clearly shows that there was not only connivance but definite collusion between the representatives of the Administration and the feudal chiefs. This report did not see the light of the day till 1946. It was only after repeated interpellations by me on the floor of this House and only after the advent of the Interim Government, on which Congress was represented, that this Report was placed on the Table of the House. As the agitation was growing, a special officer was appointed by the Government of India to make enquiries for the third time and that special officer is the draftsman of the present Bill which has been sponsored by the Honourable Minister for Food and Agriculture.

Sir, I had submitted yesterday and I repeat it today, that this Tenancy Bill, so far as its drafting is concerned, is all right. It is a good draft, made on modern lines and if it is compared with tenancy legislation in other Provinces it is a distinct improvement, but still the question is that in 1948, a year after India has attained independence, when this Bill is being sponsored by the Congress Government, the drafting of this Bill should have been based on the assumption that *zamindari* exists in Ajmer-Merwara. I heard it argued very vehemently a few days ago, in the course of the debate on inflation, that the abolition of *zamindari* and prohibition and other schemes of public utility should, for the time being, be deferred. Similarly, it may be argued here also that the abolition of *istimrardari* in Ajmer-Merwara may be treated on the same lines. I do not think it is justifiable for the Congress to shelve these schemes of public utility for any time whatsoever. So far as Ajmer-Merwara is concerned, this problem is very very simple and need not be deferred at all. This question was agitated on two occasions by me on the floor of this House and the Special Officer, Mr. Belgrami was asked to submit his own views after full enquiry into the whole question. He submitted to the Government of India a very detailed and comprehensive and elaborate report. The conclusion to which he has reached, I do not agree with, but that report contains all the same all material, facts based upon history, facts upon the recognised Settlement reports of the Government etc. This report was referred to a

Committee representative of *Istimrardars* and *Kisans* and I was also a member of this Committee. The representatives of *Istimrardars* on the Committee refused to participate. They refused to give any opinion. Therefore, all the opinion was from and on behalf of the representatives of *Kisans*. The other day, in reply to a question by me, the Honourable Minister stated that it was not the opinion of the Committee but of individual members. But I would like to ask him to bear this fact in mind that *Istimrardars* and their representatives refused to participate in the proceedings of this Committee or give any opinion. All other representatives gave their opinion and that was that the Government of India should accept the principle of abolition of *Istimrardari* in unequivocal terms and should forthwith appoint a Committee which would enquire into the facts and circumstances of the case and which may be called upon to submit a report as to the terms and time at which this abolition can take place. Though that report was submitted, as far as I remember, more than six months ago, no action was taken by the Government of India. The Advisory Council of the Chief Commissioner, of which I am also a member, has appointed a Sub-Committee during its last session about three months ago, and in the Resolution that was passed it was stated in unequivocal terms that the Advisory Council accepts the principle of abolition and it has appointed a committee to go into this matter and report as to the terms and the time at which it can take place. Now, Sir, the Honourable Minister stated in reply to my interpellation that the Government of India is awaiting the Committee's report, as also that the Committee has been asked to submit its Report and the Chief Commissioner has been asked to give his opinion by the 30th September.

Now, Sir, my submission is this: this report is likely to be received before the Select Committee examines the provisions of this Bill. So far as the provisions of this Bill are concerned, I have already stated that I hesitate to welcome them, because the Bill does not go far enough because it starts on the presumption of the non-existence of *zamindari* in Ajmer-Merwara. But still it is a distinct advance upon the unsatisfactory state of affairs prevailing today. One of the great achievements we wanted incorporated in this Bill is the abolition of cesses and lags beyond the share of rent. If you will refer to the Irwin Bill in 1937, no less than 150 lags and cesses were recovered by the feudal chiefs with the result that though the share of rent receivable by the landlord or the feudal chief was only one-third, the other one-third was being snatched away from the tenants in the shape of these cesses and lags, whose number was innumerable. I would not like to waste the time of the honourable House by giving an exhaustive list of these cesses and lags, but I would confine myself to saying that they are more or less of a barbarous age and reminiscent of medieval times. Some of these cesses are payable at the time of payment of rent along with a share of rent while the others are payable occasionally. For example, there are four cesses: *Neetha*, *Chaunri*, *Khansa* and *Ramnam Chaunri* is a marriage tax. Every resident of the village, if there is a marriage of a son or daughter, must make presents to the feudal chief. Then if there is any feast either on the occasion of death or marriage the tenant and every resident of the village must present his feudal chief with dishes; and it will amuse the House to know that these dishes should be the same in number as the kind of food that is served. For instance, if it is *laddoos* that are prepared a number of dishes should go to the feudal chief, and not only to the feudal chief but to his retinue which consists of a number of persons. If it is *halwa* a number of dishes must be furnished. Recently in the last few years these dishes in kind have been commuted in cash; and while the feudal chief receives them in cash his retinue must receive in kind. Similarly if there is any marriage in the family of the feudal chief the average tenant and resident of the village must make his presents to the chief. Then on ceremonial occasions and festivals like *Diwali* and *Holi*, etc. the tenant and

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[Pandit Mukut Bihari Lal Bhargava]

resident is expected to make some presents in the name of *Ramnam*. These are the conditions there. Mr. Irwin prepared an exhaustive list of these cesses in 1937 and he said that these cesses differ from village to village and in some cases from tenant to tenant. So the great benefit that is sought to be conferred by the provisions of this Bill upon the tenants is that numerous lags and cesses which were being paid in addition to the share of the rent that is prescribed by the Bill have been prohibited and their recovery is made illegal.

Then in this Bill there is a chapter on fundamental rights of the tenant. That chapter consists of clauses 6 to 8; and all those who have experience of tenancy law will wonder why a chapter like this should be included here. That itself shows to what extent the tenants have been exploited in the past.

Then I will mention certain things which the Select Committee should keep in mind. Clause 72 of the Bill provides the scale of rent. The scheme of the Bill is to divide the tenants into four kinds, and that is in clauses 9 to 18,—hereditary and non-occupancy tenants, occupancy tenants and ex-proprietary tenants. Under clause 72 hereditary and non-occupancy tenants will have to pay one-third of the share of the produce, the occupancy tenants one-fourth and the ex-proprietary tenants two-ninth. This is an exorbitant rate and must be brought down to one-fifth, one-sixth and two-fifteenth in the case of the three kinds of tenants specified here. Similarly the Minister should amplify the scope and ambit of this Bill and there should be a provision to allow the tenant to acquire full rights of ownership after the lapse of a certain period and on complying with certain conditions as to compensation as might be deemed just and proper in the particular circumstances and local conditions. Such a provision would make unnecessary any separate legislation for abolition of *zamindari* which must come sooner or later.

Again security of tenure which had not existed is provided in clauses 100 to 115. These also need careful scrutiny in select Committee and it should be made impossible for the feudal chief to eject a tenant.

My last suggestion is this. From the time the settlement operations commenced in the *istimardari* area and which were suspended after some time, that is, from 1940 onwards there have been a number of cases of arbitrary ejectment by the feudal chiefs. Whenever a tenant did not submit to their orders they took the law in their own hands and ejected him from his holding. These cases of arbitrary ejectment should be scrutinised after this Bill becomes law and the persons concerned must either be restored to their holdings or amply compensated.

Sir, I apologise for taking so much time but there were certain points which could not be known to my honourable friends and which I wanted to explain. I request the Honourable Minister to amplify and widen the scope of the Bill so that there may be automatic abolition of *zamindari* after a certain period and after certain conditions have been complied with by tenants who have been proved to be in possession of their holdings for generations. Sir, I support the motion.

Shri Gopikrishna Vijayavargiya (Gwalior State): Sir, I am very glad that this Bill has been prepared and it goes to the Select Committee, and I support the motion.

Sir, I have travelled widely in this small territory of Ajmer-Merwara and I know the heart of the peasants. I was very much amazed to see the condition of the peasants. Really they were like the slaves of the feudal chiefs who treated them with great harshness. There were large numbers of ejectments and they could even be exterminated from their villages. Very curious kinds of cesses were levied on them as was narrated by the honourable member from Ajmer-Merwara. In fact, there is great lawlessness and even if there were any laws, they were lawless laws. We used to wonder how this small piece of territory is administered, which is directly under the administration

of the Central Government. It was called a non-regulated province, that means, a lawless province. It is a matter of great importance that this Bill has at last been brought forward and we shall be able to remove all these hardships of the peasants there. I have nothing more to add except that this is a very important measure in relieving the hardships of the peasants in this unfortunate territory, which has suffered for over a century under the British rule.

Shri B. Das (Orissa: General): Sir, I must thank my honourable friend Mr. Mukut Binari Lal for his great efforts in the cause of the improvement of the position of the tenantry of Ajmer-Merwara and the relief he has brought to them through this Bill, and I support this reference to the Select Committee. My friend has given a peep into the feudal India and medieval India which runs today. British rule brought in barbarian rule also. It was the policy of the British to confer the dignity of Rajas and Maharajas on these *Jagirdars* and *Zamindars* and make them buy motor cars and British goods. They had to extort the tenants. Now that the Congress has brought home the ideal of equality of opportunity for all, we hope the situation will change and these *Jagirdars* will not extort. Therefore, while I congratulate my honourable friend that he has brought lots of advantages to his people, he has to satisfy himself with this agrarian measure now. He can't abolish the *Jagirdars* and uplift the tenants in a day. He had himself admitted that his people are feudal villagers. The Congress Government in spite of its good will cannot in one stroke abolish all *Zamindars* and nationalise all the agricultural lands in India. We have found that it has been difficult in the case of Bihar, Orissa or United Provinces to nationalise the *Zamindaris*, because the necessary money is not forthcoming from the Honourable the Finance Minister. The Bihar Government wanted only sixty crores of Rupees from the Government in the shape of bonds or otherwise from the Government of India. The Government could not agree. Therefore, we should go slow. Once Ajmer-Merwara has advanced forward, as my honourable friend the Minister has said, when the Congress comes to the decision that they will abolish *Zamindari* and nationalise land as they want to nationalise other industries,—if the national finances will permit that.—I am sure the people of Ajmer-Merwara will benefit equally with the people of India. For the most backward tract in India to claim the most advanced liberation, I think it is perhaps asking too much.

I find in clause 10 a *Jagirdar* who own 6,500 acres will get 437½ acres for himself, his family and dependants. This comes to about seven and a half per cent of land owned by him. We can easily understand how many dependents and relations there are and out of 437½ acres, about 150 or 200 acres would be only left to the *Jagirdar*. We are all familiar with the practice in Rajputana and it is no surprise if a *Jagirdar* has half-a-dozen wives. Another notable improvement is clause 85 under which a tenant could save himself from extortion and cheating. On the deposit of some money, the Tahsildar will go to the spot and settle the division of produce between the tenant and the landlord. I welcome those provisions.

Before the 15th of August 1947, the British Residents were using Ajmer-Merwara as their hunting ground. It was more barbarous than many of the Rajputana States. As soon as the Congress movement permeates into those parts, I hope there will be a definite improvement of the conditions of the village folks. With these words, I support the motion.

The Honourable Shri Jairamdas Doulatram (Minister for Food and Agriculture): Sir, in view of the general agreement expressed by the speakers with the main purpose behind the Bill, I do not propose to take up much of the time of the House. With regard to the details referred to by my honourable friends Mr. Mukut Bihari Lal and Mr. B. Das, these are matters which the Select Committee will thoroughly go into. I think there is only one major point I may

[Shri Jairamdas Doulatram]

mention and that is with regard to what the honourable member from Ajmer-Merwara said with regard to the abolition of the *Zamindari* system in Ajmer-Merwara. The Government and the Congress are pledged to the principle of the abolition of the *Zamindari* system. With regard to Ajmer-Merwara, as the honourable member from Ajmer Merwara himself has realised, unless the tenants who today are tenants at will and whose rights have not been properly recorded, are given a definite status, it is not possible simply to abolish the large areas, somewhere between 1,000 and 1,300 square miles, the rights of these *Zamindari* system, with nobody on whom to confer the right over land. Over tenants have not been properly recorded. Unless we go fully into this matter, and have a proper survey of the whole area and determine who has the right in which part of the land, it is not possible to build a superstructure of complete ownership of land by these ryots, with no intermediaries between them and the Government. As a matter of fact, a large part of the work to be done under this Tenancy Bill may come to be in the way of preparation for the abolition of the *Zamindari* system. Even in this Bill, there are about a dozen chapters which would remain even when the *Zamindari* system is abolished. Of course, there will be some modification of the present provisions. At present a Committee has been appointed by the Advisory Council of Ajmer-Merwara to go into the details.

Prof. Shibban Lal Saksena (U.P.: General): May I ask how the lack of proper records stands in the abolition permanently of *zamindari*?

The Honourable Shri Jairamdas Doulatram: Because when the zamindar is abolished, who takes the land? We must have a complete survey of the area and a complete record has to be maintained as to who is the tenant. All these are not tenants as in the United Provinces. These are tenants at will; they could be ejected and they have been ejected. Now who is the legitimate owner of a particular holding has properly to be gone into and given a certain status and recognized as occupants. You cannot abolish the *zamindari* system in that way. Therefore, it has been regarded as necessary to have a detailed survey of the land, to have a detailed examination as to the rights of various tenants.

As I was saying a Committee has been appointed and this Committee will go into the details and its report will be of great help to Government also. Then it has to be realized that Government must plan, as I suppose it is being planned in some provinces as to on what lines the future agricultural operations will be carried out. Will they be on an individual basis or co-operative basis or on some other basis? Under what conditions production can be improved and increased after the abolition of *zamindari*? Therefore, exactly what system of agriculture, will operate is a matter to be decided before we can easily abolish the *zamindari* system. Therefore I would move that this Bill be referred to the representative Select Committee I have proposed to report within a week after the commencement of the next session.

Shrimati G. Durgabai (Madras: General): I suggest that Mr. Sidhva's name might be added to the list of members of the Select Committee. I hope the Honourable Minister will have no objection.

The Honourable Shri Jairamdas Doulatram: I have no objection. His name may be added.

Maulana Hasrat Mohani (U.P.: Muslim): The Honourable Minister has just said that it is the Government policy to abolish *zamindari*. If he proposes to make the *kisans* peasant proprietors, then I think it will be worse than the *zamindari* system, because in the place of two or three or ten *zamindars*, he will create thousands of *zamindars*. So on a point of information I would ask the Honourable Minister to explain what he means by the abolition of *zamindari* and if he wants to replace big *zamindars* and create smaller *zamindars*?

The Honourable Shri Jairamdas Doulatram: The question of abolition of *zamindari* is not under discussion now.

Mr. Deputy Speaker: The question is:

"That the Bill to declare and amend the law relating to agricultural tenancies, record-of-rights and other matters connected therewith in Ajmer-Merwara, be referred to a Select Committee consisting of Shri Ajit Prasad Jain, Shri Ram Sahai, Shri Gokalbhai Daulatram Bhatt, Shri H. V. Kamath, Dr. P. S. Deshmukh, Ch. Ranbir Singh, Prof. N. G. Ranga, Shri Mahavir Tyagi, Pandit Mukut Bihari Lal Bhargava, Prof. Shibban Lal Saksena, Shri V. C. Kesava Rao, Shrimati G. Durgabai, Shrimati Renuka Ray, Shri Satish Chandra Samanta, Shri Kishorimohan Tripathi, Shri V. S. Sarwate, Shri Brajeshwar Prasad, Shri Lakshminarayan Sahu, Begum Aizaz Rasul, Shri Mohanlal Gantam, Mr. R. K. Sidhva and the Mover, with instructions to report on or before the last day of the first week of the next Budget Session and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

INDIAN TARIFF (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce):

Sir, I move:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

I do not think that the House will thank me if I were to inflict a long speech in the atmosphere that prevails in the House this morning. I have circulated a fairly lengthy statement, explaining the various proposals, and I think that honourable members would have no objection, if I were to explain very briefly the purport of this Bill.

Sir, if honourable members would turn to the Statement of Objects and Reasons, appended to this Bill, they would find that the object of the Bill is two-fold. The first is to give protection to 12 industries enumerated in that list and secondly to extend the period of protection by three months, in the case of an industry to which protection was given last December by this House. So far as the 12 industries listed in the Statement of Objects and Reasons are concerned, I might explain that with the exception of two, these are cases in which the proposal amounts merely to the conversion of the existing revenue duty into a protective duty without any change at all in the rate of the duty. Now in the case of steel baling hoops and non-ferrous metals alone the question of any tariff adjustment comes in. In the case of non-ferrous metals again the proposal is to convert the revenue duty into a protective duty in respect of certain items, and provide for certain tariff adjustments in regard to other items. Now these are industries who applied for protection as usual to the Tariff Board and the Tariff Board after careful enquiry recommended that protection be given in terms of the present Bill. And this Bill merely seeks to carry out that recommendation. I do not think that I should be justified now to give any details about those cases where the proposal involves merely a conversion from revenue duty to protective duty except for the purpose of pointing out the difference between having a particular rate as a revenue duty and having the very rate repeated as a protective duty. Now, Sir, under section 4 of the Indian Tariff Act, the Government are authorised, if necessary, to adjust the rate of a protective duty, that is to say once the House allows a particular rate to be fixed as a protective duty with reference to any particular industry, then under section 4 of the Tariff Act, the Government have got the authority whenever necessary either to increase that duty or reduce it according to the circumstances prevailing at any time. That is the main advantage, apart from the psychological factor, namely that an industry is assured of protection. So in regard to these items, I do not think I need say anything more.

As regards the two other items where tariff adjustments are proposed to be made, in the case of steel baling hoops the protection is conditional upon the particular firm satisfying some of the requirements laid down by the Tariff Board and accepted by the Government. In the first place that industry is at the present moment run by a particular firm as a private enterprise and it has been laid down by the Tariff Board that this firm would qualify for protection only if it were to convert itself into a public limited company. So here again

[Shri K. C. Neogy.]

the protection is contingent upon this firm carrying out this particular recommendation. There are other recommendations also on the compliance with which this protection would become effective.

As regards the other item, namely the non-ferrous metals, the proposals are twofold. First we aim at the importation of certain virgin metals and scraps free of duty in order to serve as raw materials for the industries concerned. Secondly, certain protective duties are proposed for the purpose of giving protection to the resulting industry.

Now there is one point to which I should make reference, because I know the House attaches some importance to that, in regard to these two items where a tariff adjustment is proposed. There are differential duties proposed in the Bill; a lower rate of duty being contemplated in the case of articles imported from the United Kingdom and higher rates being intended to be applied against similar articles imported from countries other than the United Kingdom. No one likes this feature of the Bill and no one dislikes it more than I do. But the fact remains that under the present Indo-U.K. Trade Agreement, we have no option in the matter. But I can assure the Honourable House that the question of revising the Indo-U.K. Trade Agreement is under active consideration. But as the House is aware wider issues will have to be decided in defining our political relations with the United Kingdom and this question may have to be considered in that context. So I would beg of the House not to take exception to this feature of the Bill because we are absolutely helpless in the matter, but to wait for a few months during which period we will have made sufficient progress either in the revision of the Trade Agreement itself, or, in the wider context of constitutional issues we may have to consider some more comprehensive treaty of alliance and friendship, including trade relations. Sir, I move.

Mr. Deputy Speaker: Motion moved:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

If honourable members can be brief it might be possible to close before Lunch. We can even sit up till 1-30 p.m. if necessary.

Mr. R. K. Sidhva (C.P. and Berar: General): I do not want to speak at length on this matter. I wish to draw the attention of the Honourable the Minister that this Tariff Board was started for protecting our industries and whenever any question is referred to the Board a common reference is made by the Government to them. I will read an extract to inform the House about the aim and object of the Government in sending these cases to the Tariff Board, particularly bearing in mind whether the industry is worth being supported, whether it is on national lines and whether the consumers' interests are safeguarded. The extract reads:

"That, having regard to the natural or economic advantages enjoyed by the industry and its actual or probable costs, it is likely within a reasonable time to develop sufficiently to be able to carry on successfully without protection or State Assistance: or

That it is an industry to which it is desirable in the national interest to grant protection or assistance and that the probable cost of such protection or assistance to the community is not excessive. Where a claim to protection or assistance is found to be established, i.e., if condition (1) and condition (2) (a) or (b) are satisfied, the Board will recommend—

(i) whether, at what rate and in respect of what articles or class or description of articles, a protective duty should be imposed. . . ."

Then it says that the protective duty should not be for more than three years.

Here there are certain items brought before us and a very exhaustive survey has been made by the Tariff Board in recommending or rejecting some of the proposals sent by the Government. I wish the Government would supply all these copies to honourable members so that they may study them in advance, because I find no literature is being supplied to the members in this respect. It is a very important matter so far as the import duty is concerned, as well as protective duty and revenue, which after all affects the ordinary consumer and which in turn affects the economic condition of the

country, and it is not proper that the House should be given just a two-sheet Bill that such and such items require protective duties.

I was glad yesterday that at least we received in the early morning a note from the office showing for what these protective duties are required. But that is not sufficient. I would have really desired all members to be in full possession of the report because we must know what type of industry it is, whether it is flourishing and whether it is in the national interests. I want the House to take an interest in it. As far as glucose is concerned, I will tell the House that the glucose industry can produce today much more than what is required by the whole of India. I will give you some figures in support of this. Let me say that glucose is manufactured for alcohol, vinegar and particularly for confectionery preparations. Glucose is also meant for medicinal purposes. The import of glucose is 2,500 tons per year, whereas the three glucose factories in India have an outturn capacity of 3,600 tons per year. In other words they can turn out 1,000 tons more than what we require during the year. But instead of being able to produce 2,500 tons they produce only 346 tons. The reason is that glucose is manufactured from maize and that maize, due to shortage of food, is not available. What should be done? If the Government's intention is to protect the industry, then this food difficulty will go on for five years. If you are out to protect the industry, then you must certainly protect it by giving it a certain allotment for carrying on. After all you must do some good to your industry. But nothing is mentioned by Government whether they are going to give them more raw material required for the purpose.

I therefore feel, though I do not dispute that protective duties are necessary for the expansion of industry, that we should let them flourish so that we may have such industries for a short time to come and we may not have to depend on foreign articles. Today glucose is imported from foreign markets in large quantities. To what extent are you going to help this industry? I am glad to find that they can produce much more than you require and yet you cannot give them the raw materials. Your excuse is good, namely, that since it is required for food, the maize cannot be spared. But how long can you put that excuse in the forefront, although it is reasonable, tangible and necessary. You will have to set aside a certain portion of this commodity for the industry. The Anand Factory produces glucose at Rs. 44 per ton while the Rampur factory produces at Rs. 54 per ton and the Tariff Board recommended that this difference required looking into. I wonder whether Government, after giving protection will ask that factory why their cost is Rs. 10 more? While giving protection they must look in all directions to see that our industry prospers and is brought to such a level as to be able to compete with the foreign article. Today in this matter, even with c.i.f. price we can compete with the foreign goods provided Government gives the industry proper facilities.

Coming to starch: This is required for the textile industry in very large quantities and apart from that it is required for the paper industry also. Here also maize is required. During the war many such factories sprang up. There are in all 45 such factories. Out of that 28 are licensed factories; and those factories can produce today 40,000 tons of starch but their actual turn out is very little, because the raw material is not available. I was reading some literature recently and I found that in America they have discovered an alternative to maize. I would like to ask what our Forest Research Institute at Dehra Dun is doing. They have found that tamarind was a suitable alternative to maize. But no attention has been paid and no experiment has been done by our Institute at Dehra Dun, which is run at a high cost. They have not taken the trouble to find out whether there are any alternatives which can be useful for the promotion and expansion of our industry. . . .

Mr. Deputy Speaker: Was it tamarind seeds?

Mr. R. K. Sidhva: Yes, Sir. Our existing factories should manufacture as much starch as is required by all these industries without any foreign import. And yet we are not able to do anything. If you are going to give half-hearted support to our industries, it is wasting our money, in addition to the consumers' money. The Tariff Board merely give all this material. The reports were made in 1947 and I do not know why they have not come to us earlier. These facts should have been given to us earlier. The Tariff Board report was signed in January 1947. I do not know why such a long time should have been taken and the House has not been given an opportunity to go over the matter. Protection is not a revenue duty. It means the industry should prosper and for that purpose the Tariff Board have made certain suggestions. I would like to know whether Government have taken into consideration those suggestions or not. Otherwise protection has no meaning.

As regards steel baling hoops they were never known in this country. Before the war we always imported these hoops for jute and cotton from foreign countries. During the war one or two industries came into existence and they can produce a large quantity. Steel hoops are a very important industry. The J. K. Industries have a very fine plant and they can produce something like 16,000 tons but certain billets and raw materials are not available. 20,000 tons are required. I shall not go into the question of chloroform, potassium permanganate and sulphurous industries that require help. The Tariff Board has dismissed the demand of the manufacturers of chloroform. They say that they can stand on their own legs and they have not made out a case. As far as sulphuric acid etc. are concerned they desire that protection should be given. My point therefore in conclusion is that I want to tell the Government that merely bringing a Bill for giving a protective duty will not help the industry. We are anxious that we should be self-supporting in regard to all the articles imported from foreign countries. We have in our country certain industries and it is regrettable that the Government have not come forward with a definite plan whereby we can stop the foreign imports, help our economic condition and see that our consumers' interests are safeguarded and also to a very large extent give a fillip to our indigenous industries. I, therefore, would like to know from the Honourable Minister whether he has

I P.M. taken any interest as regards the other recommendations of the Tariff Board, besides the suggestion and recommendation made for a protective duty. Sir, with these words I support the Bill.

Shri Moturi Satyanarayana (Madras: General): Sir, I rise to support the Bill that has been placed before the House for consideration . . .

Prof. Shibhan Lal Saksena (U.P.: General): Sir, I do not think it would be proper to finish the Bill in half an hour. There are many speakers and amendments. It would be better if we adjourn now and meet for a short while after Lunch.

Shri T. T. Krishnamachari (Madras: General): Sir, if need be we shall sit till 2 o'clock and finish the business.

Mr. Deputy Speaker: I think the general sense of the House is to continue and finish the business as soon as possible.

Several Honourable Members: Yes, Sir.

Shri Moturi Satyanarayana: Sir, my support in respect of this Bill is very conditional, as I consider that some of these items have been placed before us—as the Honourable Minister himself stated—so as to be in consistency with an agreement that has been signed and therefore there does not seem to be any option, as the agreement has already been signed and this has to be ratified. But although this has been done in consistency with the agreement that has been signed, this gives us an opportunity to go into the whole question of the Tariff Board and the policy laid down by the Government in respect of giving

protection to various industries. I feel that in deciding the tariffs in respect of industries, the policy of encouraging rural industries has been completely neglected and I think that it is absolutely necessary and essential that the Government must have a policy that there shall be a very heavy tariff in respect of those industries that would be built up in our rural areas. Unless and until the Government decides on a rural economic policy or a cottage industry policy in respect of which there ought not to be any kind of concession or consideration of either a political or academic nature for the purpose of importing or exporting articles, it is not possible for us to develop our rural industries. We have got certain rural industries which can be developed, for instance porcelain, glass and similar industries. During the war there was a great deal of activity everywhere throughout India to support on a cottage basis a few glass industries. The moment the war was over various kinds of glasses began to be imported from outside countries and most of these rural glass factories had to be closed, as they had been organised on cottage lines. If we want the glass industry to compete with foreign industry, it is necessary for us to secure the machinery from outside and it is not possible for us to get this machinery in the near future. It should have been absolutely necessary and it should have been inevitable for the Government to see that heavy tariffs had been imposed, so that these small glass industries here and there were not killed on account of the cheap material that was imported or is being still imported from outside. If Government had decided that this industry should be treated as a rural industry, probably most of these small factories that had been started could have been saved and continued. In most of the countries even small porcelain factories have been organised by the Government on a rural basis. If we had started a small porcelain industry on a rural basis the import of porcelain from outside and its being sold to the rural population would have been easily stopped. If the Tariff Board decides hereafter that there should be a tariff duty, either protective or preventive, it should be done in terms of our industry being divided into two sections, namely rural and urban, and on the basis of things being considered completely necessary for rural or urban consumption as well as for state consumption. Then it would be better. I would request the Commerce Minister to review the tariff policy in the light of what I have said just now.

In the present Bill it has been said that in respect of starch and glucose it is only that what has been decided already is now being put into action. There is no special tariff imposed. But I was listening to the views expressed by my honourable friend Mr. Sidhva. I find that he is in favour of the starch industry being encouraged. I feel that I cannot subscribe to that view. My honourable friend Mr. Sidhva himself stated that in this industry maize is profusely used. Maize is an article of food. There is a food shortage. The starch is used only for textile and paper purposes. The textile and paper industries can afford to pay more and they can buy the starch from outside. Why should we not use the maize that is being utilised for this starch in our country itself? Therefore it is absolutely necessary that we should see that whatever food articles are now used for industrial purposes are obtained from outside, and the industry alone should be asked to bear more charges by importing these from outside. Our maize should not be used for industrial purposes. One may or may not agree with this view, but this is essential now as otherwise it will have grave repercussions on our food policy. Therefore this aspect should also be taken into consideration.

In the matter of giving this tariff protection I find that the Government have got a machinery, namely the Tariff Board. The Tariff Board goes into the details of the type of articles to be protected and the type of protection to be given, and evidence is collected by them. They go from place to place, collect evidence, examine the industrialists and various technical personnel,

and finally they come to certain conclusions. In spite of all that and in spite of the heavy protection given I see in the market that even now the foreign articles are better in quality than the Indian articles. What is the reason? Although heavy protection is given to many of the industries, although a good subsidy is given, a good bounty is given, and a high tariff imposed, even then the quality of the article is not improving. The reason may be that the industrialists first ask for tariff and then sleep over the matter and do not try to improve the quality of their article. That can be the only reason. Or it may be that although it is a very inferior article in quality people are willing to buy them and they are assured of their profits; and that is why they do not go into the question of improving the quality of their article. If you go to the market and ask for a motor to run a small press or a factory, the electrician advises you that the Indian motor is no good—I take it that the electrician is not interested in getting the motors from outside and getting them consumed. But the fact is there that after two or three years the Indian motors are not giving as efficient service as foreign motors are giving. Here therefore is an item: motors were given very good protection and motors are now produced in large numbers. There was an assurance that the motor industry will go on and improve. There is also a possibility of our becoming self-supporting in regard to the motor industry. But in the matter of quality it is not so reassuring as in the matter of number. It is quite possible the Government are now thinking of numbers and not of quality. It is probably because the number takes away the money it is thought that it does not matter if the quality is not paid attention to. The quality is as important as numbers. The present protection is only to attempt at perfection. Unless and until Government pays sufficient attention to the matter of making every article as perfect as possible it is not right to give the protection. It is good that we have also got such an amount of articles from outside in order to make our people feel what an inferior article is and what a superior article is. For the purpose of encouraging and infusing confidence in our people and also for giving a kind of warning to our industrialists, we must also see that this tariff is imposed in such a fashion that there is always competition for producing an article and that that competition acts as a kind of check if anybody tries to produce an inferior article and tries to give it to the people in the name of patriotism and in the name of swadeshi. Although I am in favour of swadeshi and feel that everything ought to be swadeshi, that incentive should not be killed and it ought to be encouraged. In this matter there is a heavy responsibility on the Government.

It is generally argued that the quality is impaired on account of the non-availability of technical skill or to the non-availability of experience. These should be supplied and can be supplied only by the agency of the Government. For instance it is said that we have got to give sufficient protection to our plywood industry. It is true that we should give sufficient protection to the plywood industry. But the industry is now giving a certain proportion of the plywood that is necessary for the purpose of making cases and things like that. This article is already tacked on to the various articles that we have to import from outside. Unless and until this plywood comes in profuse quantity it is not possible for making a good money out of this and out of the other manufactured articles. It is absolutely necessary that before we give protection to the industry we should see that we get as much plywood as possible from outside so that all our tea growers may have sufficient cases to export it outside. I hope the Commerce Minister will take into consideration the views that I have expressed and try to bring about a review of the tariff policy in the next session that we are going to have. With these words I give my support to the motion.

Shri B. Das (Orissa: General): Sir, I am a whole-hogger protectionist and I was glad to find my honourable friend Mr. Sidhva and myself together and

of one mind today. I remember the days when he and I were together in the Federation of Indian Chambers of Commerce where he and I fought for protection of Industries in India and for the industrial development of the country.

I am glad the Honourable the Commerce Minister referred to the hated preferential tariff to UIC and some dominions and I wish with him that in six or nine months preferential duty would be abolished.

I have only one information to seek from the Honourable the Commerce Minister. Most of the protection given is now being extended up to March 1949 or upto March 1950. I wish to know how Government is going to renew it. If it is to be under Section 4(1), are they going to refer it to the Tariff Board or will the Honourable Commerce Minister do it by executive action in his Department? Then somebody will have to see that the protective duties continue so that the industries are not affected.

Mr. Deputy Speaker: Prof. Shibban Lal Saksena.

Prof. Shibban Lal Saksena: I have tabled some amendments which I will move at a later stage.

The Honourable Shri K. C. Neogy: Sir, I am sorry that my honourable friend Mr. Sidhva is not in his seat just now. He first of all made a complaint that all the papers, particularly the Reports of the Tariff Board, are not supplied to honourable members of this House. I plead guilty to that charge. But I am afraid we are not free agents in the matter because as a result of paper shortage the number of copies of the Tariff Board Report that used to be printed has been considerably cut down, and all that we do at the moment is to keep the library supplied with a sufficient number of sets of these Reports. And from what enquiries I was in a position to make it does not seem that they constitute very popular literature.

Mr. Deputy Speaker: May I suggest to the Honourable Minister that in keeping with the earlier practice, as soon as Government comes to a conclusion and passes a resolution, to print and circulate the report as far as possible. If it is possible the practice may be pursued hereafter.

The Honourable Shri K. C. Neogy: I was coming to that point. I want to remind the House that in all such cases the Government publish their Resolutions as soon as they come to conclusions on the basis of the Tariff Board's recommendations. For instance, all the proposals that are now contained in this Bill are covered by Government Resolutions which were published in the Gazette of India on the 12th April, on the 10th May and on the 4th June. As a matter of fact, those Resolutions give a full summary of the recommendations of the Tariff Board and also indicate the conclusions which Government had arrived at with reference to all those various recommendations. If my honourable friends were to properly utilise the Gazette, a copy of which is sent to all of us regularly, then perhaps a wide awake member like my honourable friend Mr. Sidhva would be in a position to call for further information from the Ministry concerned. I can promise him that the moment any inquiry of this kind is received, it will be promptly attended to and whatever assistance is possible to be given by the Ministry will be gladly supplied.

Sir, my honourable friend referred to a few specific points to indicate that there are several steps other than mere tariff amendments or adjustments, that have to be taken for the purpose of giving protection to some of these industries. As a matter of fact, if my honourable friends refer to the Resolutions that I have mentioned, they will find that some of the recommendations which do not require any tariff adjustment are tabulated there, and it is also indicated there as to what action Government have taken or propose to take in

[Shri K. C. Neogy.]

those matters. For instance, take the case of tamarind seed being utilised for purposes of starch; actually research has been undertaken in this matter.

Another point was made by my honourable friend that these proposals might have been brought forward much earlier. All that I have to remind him about is that when a Tariff Board Report is received, it is subjected to a very careful scrutiny. In the first instance it is examined by a Committee of officers representing primarily the Finance, Commerce and Industries Ministries, and sometimes the Food Ministry and other Ministries also come into the picture. It is after they have completed their examination that the three individual Ministers—the Minister of Finance, the Minister for Industries and Supplies, and the Commerce Minister—individually as Ministers, have to go into the whole matter. It is only when these three Ministers come to an agreement that the matter is taken to the Cabinet. I wanted to indicate this procedure for the purpose of satisfying the House that the utmost care is taken, not merely by the Tariff Board for the purpose of inquiring into these claims for protection, but also by the Government, before they come to any conclusion. This, of course, is a rather dilatory procedure but it cannot be helped.

But apart from that, my honourable friend would remember that the partition of the country and the stand-still agreement between India and Pakistan that continued for some time and which in a way laid down some kind of a uniform economic policy so to say for the time being, all these factors made things rather uncertain. We could not therefore come forward with any specific proposals of this kind for the assent of this House earlier.

Mr. Deputy Speaker: Would the Honourable Minister consider the desirability of placing these matters before the Standing Committee also?

The Honourable Shri K. C. Neogy: I shall certainly consider that suggestion.

There is just one point which my honourable friend Mr. B. Das referred to, to which I should like to reply. My friend wanted to know that having regard to the short period of time during which the protection would be in operation, what did the Government propose to do if, for instance, protection was to be continued thereafter. Well, invariably in such cases the matter has to go up to the Tariff Board once again. The Government is not expected to go on continuing protection by taking advantage of any provision of the law that there may exist—I do not suppose there is any such law which empowers Government to do so, but even assuming there was—Government would never think of availing themselves of that power and avoid coming up before this House. But apart from that one other important point that I should like to mention is that according to a recent decision, the Tariff Board's sphere of activity has been considerably widened. Hitherto the Tariff Board was concerned only with examining a particular application when it was sent to them for inquiry and after they had made their recommendation they had nothing further to do with that particular industry. But now according to a recent decision the Tariff Board would be expected to keep a continuous watch on the protected industries with a view to securing fulfilment of the commitments that may have been made to effect improvements in production, improvement and maintenance of standards etc. so as to avoid any protected industry becoming an undue burden on the community. As they go on looking into the affairs of each industry, they would be in a position to give whatever advice they think necessary for the purpose of improving matters. This, I take it, will be approved by the House as a step that will remove much of the misapprehension that seems to prevail in regard to some of the points mentioned by some of my friends. Heretofore the Tariff Board was a kind of a detached

body which was concerned only in making an inquiry and making its recommendations; hereafter it will be more closely associated with industries for which protection has been recommended by them and adopted by the Government with the approval of this House. In future they will be acting as a kind of 'friend, philosopher and guide' for these industries, and I think that is a feature of the future functions of the Tariff Board which will be approved by the House and will lead to a lot of improvement in the industries themselves.

Mr. Deputy Speaker: The question is:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

The motion was adopted.

Shri B. Das: Sir, on a point of information, how can the Honourable Minister who has introduced the Bill, move an amendment? Some other Minister has to move it.

Shri T. T. Krishnamachari: It has been done before.

Mr. Deputy Speaker: It is permissible, though it is advisable for the Honourable Minister to ask some other member to do it. I do not see any illegality in it; this point came before the House on a prior occasion and it was ruled that it is open to the Minister to bring forward an amendment to his own motion, but it is always desirable to have it moved in the name of some other member.

Any way that amendment is in Clause 1. We shall now take up Clause 2 first. There is an amendment by Prof. Shibban Lal Saksena. As it seeks to enhance the protective duty it requires the sanction of the Governor-General. May I know if he has obtained it?

Prof. Shibban Lal Saksena: I have applied to the Secretary to ask for permission.

Mr. Deputy Speaker: No reply has been received. No sanction has been given. I rule the amendment out of order.

Prof. Shibban Lal Saksena: I may say a few words, Sir, I think. I am sorry that sanction has not been received, but I have given notice of an amendment to Clause 2 which would have removed the discrimination between British and non-British goods and there would have been the same tariff duty provided for all.

Mr. Deputy Speaker: I have given my ruling. I may explain to the honourable member, if necessary. Whatever may be his object, I am not questioning the *bona fides* or the advantages. The duty that was imposed was 30 per cent for British goods. The honourable member wants to raise it from 30 per cent to 40 per cent. It is imposition of additional duty. That is not permissible. Therefore, whatever the justification, sanction of the Governor-General is necessary.

Prof. Shibban Lal Saksena: Sir, I do not want to move my amendment, but I wish to say a few words on this subject. I am very sorry that in this Bill, probably the first tariff Bill that we as a sovereign legislature are passing, we should have retained this Imperial Preference. Today the House is in no mood to discuss this at length. We are probably aware of the momentous statement made by the Honourable Prime Minister this morning. Probably our troops have marched towards Hyderabad. So we are in an indifferent mood, but this is an important Bill. When I read the debate in the Assembly on the Ottawa Agreement, I have seen volumes and volumes of

[Prof. Shibban Lal Saksena.] speeches by honourable members and probably the Honourable Commerce Minister himself was one of those who spoke against it. It is an irony of fate that today he should sponsor a Bill siding with Imperial Preference. It is an irony of fate that he should state that because our relations with Britain have not been settled, therefore, it is not possible to have this Treaty annulled. I do not know what particular kind of association with Britain we are trying to have. I should tell the Honourable Minister that after passing the Resolution declaring India as a sovereign Independent Republic, it cannot have any other relationship with the British Commonwealth and as such, when we have decided that we shall be free, I see no reason whatsoever to come and say that because our relationship with Britain has not been settled, we want to continue the Treaty. Whatever else may happen, I think the Resolution that we have passed that India shall be an Independent Sovereign Republic should not be changed. After our constitution is passed, and after we are thoroughly independent, perhaps we shall be in a better position to have bargaining power and determine our relations with Britain, America or anybody else. But I do not want that because of this Treaty we should keep this Imperial Preference and this special relationship with Britain. Britain is a free country and with America her relations are more intimate. So when India is free we can certainly determine our relationship. But simply because our relations with Britain are not yet settled, I do not agree that Imperial Preference should be continued. I want to protest against this Bill. It is really something against our cherished ideals and we have been opposed to Imperial Preference not today, but since 1932 when the Ottawa Act was passed. I want this clause to be removed from the Bill and I wish that the Honourable Minister could see his way to annul this treaty which forces us to keep these things. It is not proper for India as a sovereign nation to discriminate between Britain and other countries. She should treat all countries on a par. We have already declared that we are a neutral country and we should not align ourselves with any particular bloc. In view of that declaration, we must remove all semblances of a suspicion about special treatment to Britain. I therefore wish that the Honourable Minister would see his way to amend this clause to see that there is no Imperial Preference in this Bill.

Then, Sir, this Bill imposes protective duties. I am not opposed to protective duties as such, but I do want that deserving industries should be given protection. There was a time when we should have given protection to any industry, but with our freedom the position is changed. My experience, as I have repeatedly stated in the case of the sugar industry, is the time has come when the protection should be removed. It should be able to compete in the world market. We should not give protection to everything even though it may be inefficient. India could have a sugar market which will be able to compete with the world market; we can produce enough for our requirements and even for export outside. So I am not wholly in favour of protection being granted indiscriminately after we have become a free country. I wish to see a different kind of protection. We must give protection where we could not compete with the world market. Items included here deserve protection and I support this. In fact, I want this duty to be increased, as they show preference to Britain. Although the principle of protection is not one which we can go the whole hog, still I think protection must be given to industries which are in an infant state and need to be developed. Secondly, I do wish that the Honourable Minister will see his way to remove this blot of imperial preference from the Statute Book. With these few words, I appeal to the Honourable Minister to give us an assurance that he would not push this principle through.

The Honourable Shri K. C. Neogy: I do not know whether my honourable friend was in the House when I made my opening remarks.

Prof. Shibban Lal Saksena: I was.

The Honourable Shri K. C. Neogy: I thought I had anticipated him there. I pointed out that we have inherited this Indo-U.K. Agreement from the previous Government.

Prof. Shibban Lal Saksena: We can end that inheritance.

The Honourable Shri K. C. Neogy: Yes, we can. As a matter of fact I said the question of the revision of this Agreement is under consideration, and I also pointed out that the matter may assume a very much wider scope. That would depend upon what political relations would subsist between India and U.K. The whole question deserves to be considered comprehensively; and as a matter of fact we are not doing anything new. In a sense we are adopting a principle which has been known in the past. If my honourable friend would look up the Indian Tariff Act, and the Schedule attached thereto, he would find in each page a column which says: Preferential rate of duty if the article is produced or manufactured in one column: "U.K." and in another column: "British colonies." So my honourable friend's objection goes to the very root of the Indian Tariff Act and it does not relate to this small Bill.

Prof. Shibban Lal Saksena: What I say is this: our relations with Britain need not affect this thing.

The Honourable Shri K. C. Neogy: It is rather a complicated matter. I may as well point out—though I do not attach any great importance to that Pact—that India also gets certain tariff advantages as an equal partner from the colonies and the British Empire as a *quid pro quo*, although opinions differ as to the value of those concessions. It would not do for us unilaterally to put an end to one part of the Agreement while the other part of the Agreement remains in operation.

Prof. Shibban Lal Saksena: I am asking for the abolition of the whole thing.

The Honourable Shri K. C. Neogy: As a matter of fact, that requires very comprehensive examination and as I promised him, the examination is being done at the moment. I do not think I need reply to any other point.

Mr. Deputy Speaker: May I know if all these items which are embodied in this Bill are mentioned specifically in the Agreement with Britain for special preference?

The Honourable Shri K. C. Neogy: These are items that are covered by the Agreement. I have the Agreement before me and they specify there the nature of the articles in regard to which preferential rates of duty will be allowed.

Mr. Deputy Speaker: There is no new article?

The Honourable Shri K. C. Neogy: No.

Mr. Deputy Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

The Honourable Shri K. C. Neogy: Sir, I move:

"That in sub-clause (2) of clause 1 of the Bill, the words, brackets and figure 'of sub-section (1)' be omitted."

These words are actually redundant.

Mr. Deputy Speaker: The question is:

"That in sub-clause (2) of clause 1 of the Bill, the words, brackets and figure 'of sub section (1)' be omitted."

The motion was adopted.

Mr. Deputy Speaker: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. C. Neogy: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Deputy Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

Mr. Deputy Speaker: The House now stands adjourned *Sine die*.

The Assembly then adjourned Sine die.

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