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THE CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

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(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Wednesday, 6th April, 1949

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 ON FOREIGN INVESTMENTS IN INDIA

The Honourable Shri Jawaharlal Nehru (Prime Minister and Leader of the House). By your leave, Sir, I would like to make a statement to the House. Some days ago my honourable colleague, the Minister for Industry and Supply, introduced a Bill before the House to provide for the development, regulation and control of certain industries. Sometime later today, I understand that he is going to make a motion to refer the Bill to a select committee.

Honourable Members will have noticed that no specific provision relating to participation of foreign capital in industries has been made in this Bill. We had thought at first that it would be necessary to make some specific provision, but we find on further examination that such regulation as is necessary can be secured through existing laws. The policy as regards participation of foreign capital has already been announced in broad terms in Government's resolution of the 6th April 1948. The stress on the need to regulate, in the national interest, the scope and manner of foreign capital arose from past association of foreign capital and control with foreign domination of the economy of the country. But circumstances today are quite different. The object of our regulation should therefore be the utilisation of foreign capital in a manner most advantageous to the country. Indian capital needs to be supplemented by foreign capital not only because our national savings will not be enough for the rapid development of the country on the scale we wish, but also because in many cases scientific, technical and industrial knowledge and capital equipment can best be secured along with foreign capital.

In this context, foreign investors would no doubt wish to have some clear indication of our policy on certain matters, like the repatriation of capital, the remittance of profits, and the treatment of foreign enterprise *vis-a-vis* Indian enterprise. I propose to make the policy of Government quite clear in this matter.

In the first place, I would like to state that Government would expect all undertakings, Indian or foreign, to conform to the general requirements of their industrial policy. As regards existing foreign interests, Government do not intend to place any restrictions or impose any conditions which are not applicable to similar Indian enterprise. Government would also so frame their policy as to enable further foreign capital to be invested in India on terms and conditions that are mutually advantageous.

[Shri Jawaharlal Nehru]

Secondly, foreign interests would be permitted to earn profits, subject only to regulations common to all. We do not foresee any difficulty in continuing the existing facilities for remittance of profits, and Government have no intention to place any restriction on withdrawal of foreign capital investments, but remittance facilities would naturally depend on foreign exchange considerations. If, however, any foreign concerns come to be compulsorily acquired, Government would provide reasonable facilities for the remittance of proceeds.

Thirdly, if and when foreign enterprises are compulsorily acquired, compensation will be paid on a fair and equitable basis as already announced in Government's statement of policy.

Government have stated before that, as a rule, the major interest in ownership and effective control of an undertaking should be in Indian hands. They have also stated that power will be taken to deal with exceptional cases in a manner calculated to serve the national interest. Obviously there can be no hard and fast rule in this matter. Government will not object to foreign capital having control of a concern for a limited period, if it is found to be in the national interest and each individual case will be dealt with on its merits. In the matter of employment of personnel, Government would not object to the employment of non-Indians in posts requiring technical skill and experience, when Indians of requisite qualifications are not available, but they attach vital importance to the training and employment of Indians even for such posts in the quickest possible manner.

I should like to add a few words about British interests in India which naturally form the largest part of foreign investments in India. Although it is the policy of the Government of India to encourage the growth of Indian industry and commerce (including such services like Banking, Shipping and Insurance) to the best of their ability, there is and will still be considerable scope for the investment of British capital in India. These considerations will apply equally to other existing non-Indian interests. The Government of India have no desire to injure in any way British or other non-Indian interests in India and would gladly welcome their contribution in a constructive and co-operative role in the development of India's economy.

Shri H. V. Kamath (C.P. and Berar: General): Sir, the honourable the Prime Minister has made a statement of tremendous significance and it inevitably raises several issues of serious import. A brief debate might have been desirable on this statement, but the pressure of legislative business on the limited time at our disposal rules out that possibility. I would therefore respectfully urge on you, Sir, as a special case, either to relax the rule, that you have adopted during all these months of not allowing questions on statements soon after they are made, or to devise some other method like, for instance, kindly seeing to it that short notice questions are answered on the subject. I am making this suggestion, because I think that the silence of the House on this vital matter is liable to be variously misconstrued, and I am sure we all agree that such a thing should not happen.

Mr. Speaker: As regards the first part, I regret I am unable to accept that. When a statement of importance is made, I think honourable Members must first study that statement carefully so as to understand its implications, before starting to put questions. That is one part of it. As regards the other part, let members study this particular statement and if they want to put any short notice questions on it, I shall consider the matter when the questions come to me, as to whether, in the first instance, they are admissible or not. If the questions are really very important and of an urgent nature, I will consider the matter and I am sure the Government will also be willing, to meet the wishes of the House.

Shri B. Das (Orissa: General): May I request, Sir, that copies of the statement be made available to Members within half an hour so that we can discuss the subject an hour later when Dr. Mookerjee's Bill is being considered.

Mr. Speaker: That can be done. I shall see that honourable members get copies of the statement as soon as possible.

Maulana Hasrat Mohani (U.P.: Muslim): When we are not allowed to put any questions are we entitled to express our disapproval of the whole thing?

Mr. Speaker: I might say in answer that the matter is not for debate now and hence no question of approval or disapproval is involved.

ELECTION TO THE STANDING COMMITTEE FOR MINISTRY OF FOOD

The Honourable Shri Satyanarayan Sinha (Minister of State): 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 Standing Committee on the subjects with which the Ministry of Food is concerned, until the end of the current financial year *vice* Pandit Govind Malaviya 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 Standing Committee on the subjects with which the Ministry of Food is concerned, until the end of the current financial year vice Pandit Govind Malaviya resigned."

The motion was adopted.

ELECTION TO THE COMMITTEE TO REVIEW THE WORKING OF THE RAILWAY CONVENTION

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Railways and Transport): Sir, I beg to move:

"That this Assembly do proceed to elect in such manner as the Honourable the Speaker may direct, one Member in place of Pandit Hirday Nath Kunzru who has resigned from the Committee recently elected by this Assembly to review the working of the Convention adopted under the Central Legislative Assembly Resolution dated the 20th September, 1924, for the separation of Railway from General finance, to examine the constitution and administration of the Railway Depreciation Reserve Fund, the Railway Betterment Fund and the Railway Reserve Fund as well as other ancillary matters and to make recommendations before the 31st December, 1949."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect in such manner as the Honourable the Speaker may direct, one Member in place of Pandit Hirday Nath Kunzru who has resigned from the Committee recently elected by this Assembly to review the working of the Convention adopted under the Central Legislative Assembly Resolution dated the 20th September, 1924, for the separation of Railway from General finance, to examine the constitution and administration of the Railway Depreciation Reserve Fund, the Railway Betterment Fund and the Railway Reserve Fund as well as other ancillary matters and to make recommendations before the 31st December, 1949."

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
1. Standing Committee for the Ministry of Food. 2. Committee to review the working of the Railway Convention.	6-4-1949	7-4-1949

[Mr. Speaker]

The nominations for these Committees will be received in the Notice office up to 3 P.M. to-day. 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.

INDUSTRIAL FINANCE CORPORATION (AMENDMENT) BILL

The Honourable Dr. John Matthai (Minister of Finance): Sir, I beg to move for leave to introduce a Bill to amend the Industrial Finance Corporation Act, 1948.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Industrial Finance Corporation Act, 1948."

The motion was adopted.

The Honourable Dr. John Matthai: Sir, I introduce the Bill.

INDUSTRIES (DEVELOPMENT AND CONTROL) BILL

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

"That the Bill to provide for the development, regulation and control of certain industries be referred to a Select Committee consisting of Shri Homi Mody, Shri M. Ananthasayanam Ayyangar, Dr. Bakshi Tek Chand, Shri Ramnath Goenka, Shri H. V. Kamath, Shri T. A. Ramalingam Chettiyar, Pandit Lakshmi Kanta Maitra, Shri Khandubhai K. Desai, Shri R. L. Malaviya, Shri V. C. Kesava Rao, Shrijut Kuladhar Chaliha, Shri Prabhu Dayal Himatsingka, Shri Biswanath Das, Shri Padampat Singhania, Shri Jaspat Roy Kapoor and the Mover, with instructions to report not later than the last working 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."

Sir, exactly this day last year, on the 6th of April, 1948, I had the honour of presenting before the House a statement of Industrial Policy of the Government of India. The House may well ask why it has taken just one
12 Noon year for the Government to come up before the House with its proposal to enact legislation for the purpose of implementing some of the important provisions of that statement. One of the main reasons was that we had not the constitutional power to legislate for some of the important matters which came within the purview of our statement of policy. The House will recall that in January last the Constitution Act was amended and we are now in a position to pass laws in relation to our new industrial policy as envisaged by the statement approved by the House.

Sir, the object of this Bill is to create a suitable legislative framework by virtue of which the industrial policy can be implemented. We have also proposed that the Industrial Disputes Act should be amended for the purpose of bringing within the purview of the Central Government the formulation of a centralised labour policy so far as the centralised industries are concerned. This Bill, I would say, constitutes a land-mark in the industrial legislation of India. It marks the beginning of a planning for the industrial development of this country. No doubt it is somewhat imperfect in its approach for there cannot be any planning for the whole country unless we take into account the needs of agriculture, of education, health and sanitation. I believe in the near future it will be possible for the Government of India to come before the House with proposals for a comprehensive planning which will add to the peace, prosperity and happiness of the people of this country. So far as industrial planning is concerned we have been proceeding with a certain amount of caution during the last few months. We have taken certain steps. They may appear

as steps taken individually, but I would submit that we have tried to move in as integrated a manner as possible for the purpose of securing the largest benefit to the people of this country.

There are some people who sometimes feel nervous when the word planning is uttered. But planning is nothing new even so far as this country is concerned. Previous to the war it was no doubt left to private enterprise to develop industries in such way as they chose; there was no overall policy of the government of the day. But the Indian National Congress appointed a National Planning Commission years ago, before Government contemplated the need for a systematic planning of the industrial and economic development of this country. Even apart from the valuable work which was done under the aegis of the Congress, the Government of India itself when Sir Ardeshir Dalal was Member in charge of development, placed an industrial policy before the Legislative Assembly of the day and indicated that some sort of planning was essential if India was really to emerge as an economically strong nation in this world. We have also a valuable Report from the Advisory Planning Board which made certain suggestions in this direction. Soon after we came into office on the 15th of August 1947 we summoned an Industries Conference in Delhi which was attended by Provinces, States, representatives of industry and labour, and we evolved our national policy which was duly placed before Parliament on 6th April last. I would therefore submit that we are not doing anything revolutionary today, we are not doing anything new today which need make anybody feel nervous. The policy of Government has already been decided and accepted by the House. What we propose to do it to implement that policy and to take certain powers which would make it possible for Government to discharge the obligations which must obviously fall upon any national government.

You will see from the Bill that the object is to select certain industries which we consider to be of all-India importance, and to provide a machinery for the purpose of securing their regulation and development. So far as the list of industries is concerned, I do not wish to take the House through the details; an opportunity will come before the Select Committee as also at a later stage when the justification for including those industries will obviously be debated upon. But you will notice, Sir, that there is one fundamental feature behind the preparation of that list. Whether you look at it from the point of view of the defence requirements of the country or from the point of view of utilisation of the vast raw materials that this country possesses, or from the point of view of the development of other industries for which certain basic industries must develop, the list of industries that we have included in the schedule is certainly capable of being fully justified. We do, however, realise that it may not be feasible for Government to regulate immediately all the industries that have been mentioned here. As you will see, we have provided for an exemption clause and if it appears to Government at any stage that exemption for a certain period may have to be given with regard to some industries, no doubt necessary action will be taken.

One important feature which the House will no doubt notice is that we have not included small industries. These industries do not touch the cottage, the small and the medium-size industries which, according to the present policy of the Government, must develop in this country on a regional basis and in accordance with an all-India planning. We have emphasised over and over again that while it is essential that India must have a number of heavy industries for the purpose of securing national development, at the same time the prosperity of the country will lie in the development of smaller and medium-sized industries which, on an economic basis, may be developed in various parts of the country adding to the wealth and prosperity of the common man.

[Dr. Syama Prasad Mookerjee]

So far as the powers that we propose to take are concerned, there have been some criticisms in some sections of the Press and among some sections of the industrialists that they are too wide and sweeping in character. I may very briefly indicate here the procedure that we have followed in preparing this Bill. We placed the outlines of this measure before the last meeting of the Industries Advisory Council which met in Delhi in January. At that meeting there were representatives of Provinces and States as also of industry and labour. Later on, we circulated a copy of this outline to all the Provinces in India and requested the Premiers to communicate to us the considered views of their Governments. We also selected a small team of industrialists and labour representatives including men like Mr. Homi Mody, Mr. Birla, Lala Shri Ram, Mr. Khandubhai Desai and Mr. Ashok Mehta. We discussed with them the provisions of the Bill as also the proposals underlying the Bill. I am not suggesting that all these persons and bodies that we consulted were a hundred per cent. in agreement with the proposals that I have the honour of bringing forward before the House today, but in any case there was a consensus of opinion that there must be some legislative enactment providing for development and regulation of important industries which from an all-India point of view had to be developed throughout the country. There were some differences with regard to details into which I need not enter here, but at the time that the Bill is considered by the Select Committee, and later on by the House, I may assure every section of interest represented here as also outside that any reasonable proposals which may be made by anybody will receive the most serious consideration of Government.

There are no two opinions today that basic industries must be centrally developed and regulated. The question arises: what sort of machinery should we set up for the purpose of ensuring that the industries do develop in a way that we like them to develop, at the same time Government does not interfere in the day-to day working and create dislocation by such interference? Another important point which arises is what should be the role of Provinces in respect of the development of such industries. If the House will refer to the statement of policy which I placed before you on the 6th of April 1948, you will find that that statement refers to certain classifications of the important industries. We first indicated that there would be some industries which would be under State control, State ownership and State management—100 per cent. nationalised. There would be certain industries where, so far as the present undertakings are concerned, we will not interfere for a stated period, but so far as future development was concerned we would certainly prefer that they should develop under State ownership and management. Then we had a series of about 18 industries in respect of which we declared that we will allow scope to private enterprise, but it would be open to the State to establish any new industrial undertakings in respect of that sphere. That is a sphere which would be centrally regulated and controlled. Then we had the other undefined larger sphere of industrial activity which we left free to private enterprise altogether.

The House will find that we have made a very important change with regard to the structure of this Bill in the sense that we have not mentioned these categories separately. This was a matter which we considered very carefully amongst ourselves, the Ministers, as also the Provinces and representatives of industry. We felt that it would be much better to have a flexible scheme of licensing whereby it would be open to Government to start any new industrial undertaking if it was so advised, and at the same time to allow full scope to private enterprise to come and develop industry in accordance with a Centrally regulated policy. The whole structure of the scheme is that all industries which are at present functioning will be registered within a certain date. This

fact of registration means that it will give us complete information as regards the existence of the present industrial undertakings. This registration will apply to all industrial undertakings which may be in private hands or which may be in the hands of the Government.

With regard to new undertakings, and substantial development of existing ones, we have laid down that there will be a system of licensing. Before any new industrial undertaking comes into existence, a licence will have to be taken out. Obviously it will not be necessary for the Central Government to take out a licence in respect of an industrial undertaking that it may itself establish, but at the same time I would like to assure the House and also people outside, that there is no intention whatsoever on the part of Government that there should be two different standards of approach with regard to industries which are in private hands and industries which may be in the hands of the Government. In other words, whatever policy that may be approved by Government, will apply equally to all industrial undertakings whether they are under private control or under State control. That, obviously, is the condition which many people will insist on Government accepting. We do not want any favoured treatment to industrial undertakings which Government may bring into existence; rather, we would like that the full floodlight of public opinion should fall on such industrial undertakings for, after all, Government will there be handling public funds and it will be open to Government to justify the successful working of such undertakings before the House as also before the public outside. This scheme of licensing will be done in accordance with the rules which will have to be framed under the Act. Obviously, it is not possible that the entire framework should be decided here and now embodied in the Bill. For this reason, rules have to be framed. But these rules should be framed in a manner which will secure that the opinion of provincial governments, the opinion of industries and the opinion of the House will also be reflected in the final preparation of these rules. We have suggested that while the rules will be framed after consultation with the Advisory Council, to which I shall presently refer, they should be placed before the House and within a certain period, it will be open to the House to make any changes that the House may choose to make and such changes will be binding on Government. We have deliberately made it flexible in this way. If we decide that every rule ought to come before this House and secure previous approval, it would become unworkable. On the other hand, if we said that the rules will never come before the House for discussion, that also would have taken away from the House its legitimate right to demand satisfaction in respect of matters of policy and even of administrative detail with regard to the industrial development of this country.

Now, so far as the Advisory Council is concerned, we have not indicated here what its composition will be. We are not prepared to accept a Council which will become more or less autonomous, a body sitting over the Government. The responsibility for giving effect to this Act must belong to the Government and the only authority which can change that Government will be the Legislature to which the Government is responsible. But Government cannot and should not act arbitrarily. We have therefore thought it desirable that this Advisory Council should come into existence. It should be a small business-like body including representatives of industries, labour and perhaps consumers, who may be in a position to speak with authority on questions which will come before the House. We have indicated in the Bill itself that with regard to the major questions falling within the purview of the Bill, consultation with the Advisory Council will be compulsory. It is not possible for me to indicate in the Bill definitely that the advice given by the Advisory Council will be binding, but I take is that if any Minister in charge of this Department overlooks the recommendation of an Advisory Council, obviously he will be called upon to explain why he did so, and he should be able to do so on grounds which can be justified not only before the Advisory Council but before the public at large.

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So far as the powers that we have mentioned in the rules are concerned, you will see that we have taken the widest possible powers. We thought that these powers were necessary for the purpose of enabling Government to determine what the national industrial policy should be. If industrial undertakings are run properly and efficiently, there is no reason to suspect that any Government which is responsible to the House and to the country for the increasing betterment of the conditions of the people will act in an arbitrary way. At the same time, so far as the present powers of Government are concerned, the powers which we are now exercising under the Essential Supplies Act or under some other emergency legislations are of a sweeping character. We have not taken such large powers here. If necessary, amendment of the Act may be made later on, but we have simply indicated at this stage the sort of general powers that Government should take under the rules for the purpose of development, regulation and control of basic industries.

There is one clause here to which I would make a special reference. If you refer to clause 7, you will find under some circumstances it may be open to the Government to direct the control and management of a particular industrial undertaking. There is some misgiving in the minds of industrialists lest this power should be exercised arbitrarily. I may give this assurance that this power can only be exercised in an emergency or in circumstances where Government feel convinced that an industrial undertaking which is dealing with a vital industry, in order to be protected, has got to be so taken over by Government for the time being. Government will not act in respect of this matter without previous consultation with the Advisory Council. In other words, the facts leading to such taking over will be placed before the Council which will include industrialists themselves. You will see from the wording of clause 7 that we have indicated that previous notice should be given calling upon the industrial undertaking to do certain things or not to do certain things. It is only on its failure to carry out the instructions of Government, where Government feels that interference becomes urgently called for, that Government will proceed in the manner indicated in clause 7.

I would also refer to the power which Government proposes to take under the clause dealing with delegation. You may rightly ask: Are all these powers to be overcentralised at Delhi? That is not the intention of Government. It would be necessary to decentralise the power which will be now vested under this law in the Central Government, and those powers may be delegated either to provincial governments or such authority or authorities as the Government may consider it fit and proper to constitute. But the power of delegation we have expressly made extremely wide in character for the purpose of the smooth working of the Act.

You will see next the provision with regard to penalty. There is none in the Government today and I believe there is none in the House also who would for a moment feel that we can either run an industrial undertaking or control and develop industry through police methods. That cannot be the intention or the policy of any Government. At the same time, there must be some penal clauses if there are breaches of the provisions of the law. We have indicated there that any prosecution order under the penal clause will be launched with the previous sanction of the Central Government or such authority as the Central Government may appoint. It is not our intention that with regard to these important industries which we are regarding as of all-India importance, the provincial governments will launch prosecutions following different standards and thereby create confusion. There must be a central policy and for that reason the protection that we have indicated in the Bill relates to powers to be given to the Central Government.

There is also the clause dealing with the vicarious liability of companies. When there are companies whose authorities are responsible for not carrying out the provisions of the law, the question arises as to who will be deemed responsible in the eye of the law. There are some legislative enactments where the vicarious liability vests in every director, manager or other officer. The House may recall that in the last few months protests have been received from various quarters in this country dealing with industry against such a provision. This matter we considered very carefully. So far as the technical liability is concerned, the company has to be made liable, but so far as the actual liability is concerned, if it is possible for the company to nominate some officer or director who will be deemed responsible for carrying out the provisions of the law, Government will not object. But, the Government would certainly insist that every company should declare the names of certain officers who will be responsible for carrying out the provisions of the law. If the company does that, then no question of any vicarious liability will arise so far as those companies are concerned. You will see, Sir, that we have also made a provision so far as the taking over of any industrial undertaking is concerned. It will be done only by the Central Government or by a Provincial Government with the previous concurrence of the Central Government. Thereby, we will make it possible that there will be no attempt on the part of particular provinces to act in any manner they like, but there will be an all round central policy, although it is quite possible and, in fact, it is desirable that in many cases the actual operational part should be left in the hands of the Provincial Government concerned.

I now come to the question of the Provincial Governments. We have received from Provincial Premiers letters with regard to the provisions of this Bill. Naturally, in some cases they do feel nervous that large powers should be taken over by the Central Government and the provinces may be placed in a more or less subordinate position. What is it that we are doing here? What we are doing is that we are laying down that there are certain industries in this country which can develop only if there is a centrally regulated policy. There are no two opinions in the country, and the provinces also agree, that a centrally regulated development is essential. So far as the provinces are concerned, what are the points in respect of which they may rightly feel nervous. They may ask, if any Provincial Government desires to start any industrial undertaking, will its case be considered by the Central Government in a fair and equitable way. We have indicated that that will depend on the circumstances in which such an industrial undertaking is brought into existence. I may just give an illustration, say, with regard to the steel works. We have before us now a proposal to establish two steel works which may go to produce about one million tons of steel per year. Now, supposing you leave it to a particular Provincial Government to decide where both of them or one of them will be located; obviously, it is not possible for the Provincial Governments to agree to the location. What will happen is, as is happening now, the Central Government will obtain information from all the provinces on points such as availability of raw materials, transport facilities, economic conditions and so on, and then, after consultation with the provinces, ultimately take the responsibility for deciding where the works will be located.

Another point which the provinces have raised is of some importance. They ask, if it is decided that say five industrial undertakings should be established with regard to one particular industry, will it be left open to the provinces to decide as to who actually will run those industrial undertakings within the province. There, obviously, if a new industrial undertaking is to come into existence in a province, the final permission should be given on the recommendation of the Provincial Government. It will really depend on the way in which

[Dr. Syama Prasad Mookerjee]

the whole scheme is worked in the months and years to come. It is not intended that the Central Government will act in a way which will ignore the needs of particular provinces, and ignore the importance of regional development of industries in this country. At the same time, when matters cannot be decided by one province, in particular, the only authority that can decide for all the provinces must be the Central Government. But, I can assure the House and through the House the Provinces as well that in the working out of this scheme, as we have ourselves laid down in clause 10, the policy of the Government will be to see that the Provincial Government is consulted and kept in the picture at every possible stage. This matter will be examined further when the Bill goes to the Select Committee.

Now, while dealing with the provinces, there is one other aspect which I would ask the House to bear in mind. You will see that this Bill deals only with the regulated development and control of the industries. We have not deliberately touched distribution of the finished goods, we have not deliberately touched control of prices. These are matters which we have not touched. We have only envisaged in this Bill the desirability of an all India planning for industrial development and also regulation of production of certain industries, which are of all India importance. In other words, as the House remembers, according to our present Constitution, unless the Central Legislature passes laws with regard to distribution, fixation of prices and so on and so forth, the matter will remain in the hands of the provinces. But, with regard to the centrally regulated industries, if the Central Legislature passes laws with regard to these matters, then, the provincial laws will stand superseded. But, we have not touched that point yet. If we desire to take powers in respect of these spheres later on, we will have to consider the matter carefully, consult the provinces and come before the House only afterwards.

I take, Sir, lastly, the fears that may exist in the minds of the industrialists. As I have said, this Bill is not a surprise measure. This Bill is nothing new or revolutionary, although I regard it certainly as a measure of considerable importance which enables the Government to reach its goal by a process of evolution. What were the options which were left open to the Government? I know that there are extremists on both sides who may not be satisfied with this Bill. There may be industrialists who may feel that any interference on the part of the Government with regard to their activities will be prejudicial to their interests. Fortunately, the number of such industrialists is now extremely limited. When I find co-operation coming in the framing of this Bill from industrialists like Sir Homi Modi, Mr. Birla, and Sir Shri Ram, I take it that the principal industrialists of India to-day have come to attain a new consciousness. They have realised that in their own interests and of the country as a whole, they must completely identify themselves with the interests of the nation whose spokesman the Government certainly claims to be. At the same time, there will be some industrialists who may feel that the powers which are being taken over by the Government are too drastic in character. I would certainly welcome a discussion of this problem, if not to-day, later on, when the Bill comes back to the House from the Select Committee and I hope, Sir, that I shall be able to convince every critic of the soundness of the entire scheme. It is not intended at all to interfere with the activities of any *bona fide* and honest industrialist of this country. The House has accepted the policy of the Government that our industrial policy will be of a balanced type. We do not want to do away with the existing state of affairs completely. We do not want to create chaos and confusion. What we want is that these improtant industries should develop in this country not on a merely profit basis, but in a way which will be calculated to advance the best interests of the people at large. The industrialists know as well as we do that left to themselves to-day, they can do nothing. They want raw materials; they want capital goods coming from foreign countries; they want technical assistance; they want to raise capital. Which industrialists are there in India to-day, who can stand up and say that unaided by Government, they can go ahead? They cannot. They have to come to Government at every step. It is therefore necessary that the Government, the industrialists and the interests represented by labour should combine in an all out effort for the purpose of strengthening the economic structure of this country.

So far as the criticisms from the other side are concerned, it is urged that the powers taken by the Government are too limited. When I find extremists on both sides criticising this Bill, I feel satisfied in my own mind that we have struck the right chord and that we are proceeding on lines which will be calculated to benefit the people as a whole.

Sir, it is not my intention to go further into the details to-day. Should, in the course of to-day's debate any other points are raised, I shall no doubt try to give replies to them but the only point which I would like to emphasise before I sit down is that I am fully conscious of the grave responsibilities that Government is taking in bringing forward this measure before the House. For I cannot ignore that the development of all these industries will depend not merely on the way in which industry and labour will react but also on the manner in which Government itself will discharge the obligations which it is taking upon itself under this Bill. In other words, it must be a new outlook on the part of Government as well. Government exists not for the purpose of merely criticising others, not for the purpose of creating obstacles but for sitting together with other interests and solving difficulties and obstacles. It will depend therefore on the machinery which Government succeeds in establishing, which will create confidence in the minds of industrialists, labour and the public and which, will make it possible for Government to run that machinery efficiently and quickly. There is a lot of criticism made that whatever Government touches involves delay. There is a lot of criticism which is made that when Government touches anything, it creates new problems. Now obviously these are criticisms which we will have ourselves to remove. We are to look at the matter from a completely new angle of vision. We are trying to develop the resources of this country in the quickest time possible, pooling together all the available resources, no matter what may be the political ideology of parties or persons involved. It is an all out effort on the part of the present Government to give a call to all interests so that we may carry into effect the policy which we have already announced and I am sure that if that co-operation is forthcoming, we will be able to make a complete success of this measure.

Mr. Speaker: Motion moved:

"That the Bill to provide for the development, regulation and control of certain industries, be referred to a Select Committee consisting of Shri Homi Mody, Shri M. Ananthasayanam Ayyangar, Dr. Bakshi Tek Chand, Shri Ramanath Goenka, Shri H. V. Kamath, Shri T. A. Ramalingam Chettiar, Pandit Lakshmi Kanta Maitra, Shri Khandubhai K. Desai, Shri R. L. Malviya, Shri V. C. Kesava, Rao, Srijut Kuladhar Chaliha, Shri Prabhu Dayal Himatsingka, Shri Biswanath Das, Shri Paddampat Singhania, Shri Jaspat Roy Kapoor and the Mover, with instructions to report not later than the last working 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 Harihar Nath Shastri (U.P.: General): I have great pleasure to offer my whole-hearted support to this Bill. As the honourable Minister has just said in the course of his speech, this Bill registers a landmark in the history of legislation in this country.

[Shri Harihar Nath Shastri]

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar).]

I feel, Sir, that this measure is the first concrete and practical step towards implementing the economic policy of this Government that has been announced several times during the course of the last two years. Reference has been made in the Bill in the Statement of Objects and Reasons to the Industrial Policy as announced by the Government on 6th April 1948. As you will find, Sir, the Government of India in their Resolution, dated the 6th April 1948, reiterated their resolve to establish a social order where justice and equality of opportunities shall be secured to all the people. As an immediate objective it was laid down that efforts would be made to promote a rapid rise in the standard of living of the people by exploiting latent resources of the country, by increasing production and by offering opportunities to all for employment in the services of the community. Again, repeated emphasis is put in the said Resolution on increase in national wealth and continuous increase in production. Now the question as to the extent to which the State should participate in Industry is considered in the context of the above objective. I need not repeat, Sir, the policy that has been laid down in detail in the said Resolution in which industries in this country are divided into three parts, *viz.*, one that would be exclusively in the hands of Government; secondly, those that in future shall be owned and controlled by Government; and thirdly, such industries as would be open to private enterprise. Now this Bill as has been stated by the Minister and as is clear from the Bill itself in regard to the planning and regulation of such basic industries a list of which is given in the schedule. Sir, it was about 10 weeks back that the first meeting of the Central Advisory Council of Industries was held in this Capital City where I had the privilege of representing the Labour interests of this country, and it was at that Conference that discussion took place regarding the advisability of bringing forward such a legislation. The matter was later on referred to a Committee of five persons and I believe that it is on the basis of the unanimous recommendations of that Sub-Committee that the present Bill has been conceived. There has been a certain degree of regulation in this country since the commencement of the last war in regard to regulation of industries in the form of controls. I myself have been a confirmed believer in the method of control but I felt and I feel now also that these controls did not succeed primarily due to two factors.

Firstly, this control took into account distribution, but the production aspect of industry was entirely untouched. The result was that in matters of production, it was the profit motive that was the prime consideration with the industries, and the consequent result was scarcity that the community experienced throughout the war and also during the post-war period up to this day. Now, Sir, the second thing that was not taken into account so far and which, I feel is largely responsible as an obstacle in the industrial progress of our country is the fact that while promulgating these controls, and while evolving the industrial policy of this country, one aspect was never taken into consideration; no account was taken in regard to the expenditure that was incurred by the industry from time to time. We find that, on the one hand, retrenchment of labour has taken place on grounds of economy, while, on the other hand, we find that the personnel managing the affairs of the company has been steadily increasing. They have been drawing fat salaries and allowances. They have been drawing commissions on sale, irrespective of the fact whether those companies make profit or they are losers. They have been drawing secret commissions on purchases and they have been making frivolous expenditure on various items, including entertainments. I have felt all along that unless these aspects are taken into consideration, namely, unless along with distribution the production aspect of industry is regulated, and, secondly, unless the expenditure in the industry is properly regulated, neither the industrial progress of our country is possible, nor can any control be effective. I am glad, Sir, that in formulating the proposals that are embodied in this Bill, these aspects have been properly taken into account.

Now, Sir, I would, while commending this Bill for the acceptance of the House, and while offering my whole-hearted support to it, just point out a few things that appear to me to be a sort of omissions; and while doing so, I may assure the honourable Minister that I am not doing so, as he has used the term as an extremist on either side. One of the omissions that has particularly struck me is that according to section 10(2) of the Bill, matters have been laid down that would be dealt with by rules. Now, in those matters that are proposed to be dealt with by rules, it is not clear whether action can be taken against any undertaking under section 7 and section 12, in case such an undertaking disturbs the industrial peace by flouting the award of industrial tribunals, or by any other devices. This point needs clarification. As the House may be aware, the working class of this country has been subjected to great hardships, and one of the reasons why production in this country has been hampered is the discontent that labour has been experiencing, due to the short-sighted and unhelpful attitude of a large section of industrialists in this country. Why I am particularly perturbed at this moment, while the Bill is before the House is this. There are certain provinces in this country where there are labour laws and labour legislations, and according to those legislations, the Provincial Governments are competent to take over any undertaking that flouts the industrial awards or that disturbs the industrial peace of the country. There are provisions, and according to those provisions there have been occasions in certain provinces, where some undertakings have been actually taken over by the State, and handed over to other people to be managed on behalf of the Government. Now, I want to know what would be the position of such provinces, in regard to those industries, several of whom are included in this Bill? On the one hand, you are keeping it absolutely vague as to whether you propose to take over a particular concern or whether you propose to punish a particular undertaking if it flouts industrial awards, or if it disturbs the industrial peace of the country. And on the other hand, you are taking over such powers as are already vested in the provinces in regard to such matters. So I want this position to be made absolutely clear by the Government, because I feel that if the position is vague, and if, at the same time, the powers as are already vested with the Provincial Governments, are taken away from them, it will create a situation much worse than hitherto, for the working class of this country.

Again, Sir, in clause 13 it is laid down that there can be no prosecution for an offence under clause 12 except with the previous sanction of the Central Government. Also in clause 8 it has been laid down that no Government other than the Central Government can take over the management or control of any industrial undertaking except with the previous permission of the Central Government. I submit that if these clauses remain as they stand they might create difficult situations. There are occasions when in a particular undertaking it becomes necessary not only in the interest of labour but in the interest of the industry itself for prompt action to be taken with regard to that particular undertaking or industry; and if the previous sanction of Government becomes necessary complications may arise. So I suggest that the Provincial Governments may be left free to take all necessary action to meet the ends of justice or to meet a situation that may arise from time to time, and later on they may secure the sanction of the Central Government. I can assure the

[Shri Harihar Nath Shastri]

honourable Minister that I am not one who is enamoured of the Provincial Governments having large powers in regard to these industries. On the contrary I agree with him that these are basic industries of national importance and it will be conducive to the interests of the community as a whole if they are controlled by the Central Government. All the same I do feel that the difficulties I have pointed out should be taken into account and the Bill suitably amended, so as to meet the points I have enumerated. Sir, I support this motion.

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: I understand that the statement made by the honourable the Prime Minister has been circulated to the Members. Those Members who have not yet got a copy of the Statement may get a copy from the Secretary at the Table.

Dr. P. S. Deshmukh (C.P. and Berar: General): The Bill before this House is a piece of legislation which is of immense and of the utmost importance to the country as a whole. As such one should not be surprised if it is found that there are strong likes and dislikes expressed with regard to the provisions of the Bill and there are wide differences of opinion. The pros and cons of the industrial policy of Government has been very clearly and very admirably explained by the honourable the mover of the Bill, and I think it is a correct description to say that the provisions made in this Bill seek to further that policy. The honourable Minister himself has admitted the fact that the Government is securing very large and wide powers, but in my opinion he has given a fair justification for all those powers which Government is seeking to take.

In the modern world, and for a country like India which is industrially and economically backward, it is necessary to take time by the forelock and strive to attain industrial progress as fast as and as early as possible. No fast progress from an economic or industrial point of view is possible unless there is some directing authority which has the necessary knowledge and the necessary technical skill as well as power and authority behind it. Under the present circumstances, therefore, it is inconceivable that in India we will have any other machinery or any other central authority than the Government itself.

We have often heard on the floor of this House honourable Members accusing Government that they have no plans, and we have also urged that under the present circumstances, we must have a planned economy. Now, all planning necessarily means controls. Controls in many respects are undesirable, but in some respects, and especially in the interests of speedier progress, I think controls are both essential and desirable. Therefore, if our efforts are to be of real value and of greater usefulness, there must be a driving force behind our policy of industrialization, and we must also be prepared to clothe that authority with the necessary powers. It is inconceivable that without such power and driving force, it will be possible for us to advance as rapidly as we desire. Therefore, Sir, I have no hesitation in saying that the Bill, so far as I am concerned, is a welcome measure.

It is true that there are many provisions in the Bill whose exact significance it is not possible to know at this stage. We do not yet know what will exactly be the attitude of Government in regard to any particular industry and to what extent and under what circumstances it will intervene and what would be the exact results and repercussions of such intervention and operation of controls. Yet the necessity for having with the Government the powers of interference, supervision and control, is, I think, self-evident. It is therefore gratifying that the necessary Bill has been brought forward, and it is still more gratifying that the honourable Minister has taken an eminently reasonable attitude in keeping, and stating on the floor of this House specifically and with emphasis that he kept an open mind with regard to many details relating to the provisions in the Bill.

In my opinion, this Bill is a half-way house between nationalization and non-nationalization. Of course everything will depend now how the Bill is operated. Everything will depend as to how the Government is able to shape its policy. I for one believe that under our present circumstances a wholesale nationalization of industries is undesirable. Wholesale nationalization, in my opinion, can work successfully under two circumstances: one is in a country where there is no Government, or where there was not much of an efficient Government, and I have the case of Russia before me after the revolution. It can also be resorted to without much danger and with confidence that it will work efficiently in a country like England, where they have long-standing traditions: where there is a stable Government: where there is no want of technical skill and the efficiency of the administration is well established. We are somewhere midway between the two. We have a Government, but not yet as efficient a Government as we would desire, and, therefore, I do not recommend wholesale nationalization.

I think we have indulged sometimes in loose talk in advocating wholesale nationalization of our industries. It has already done considerable harm to the country as a whole. We have, after all, a very big industry which is nationalized and it has, in my opinion, not yet attained the efficiency I would like it to attain. I mean our National Railways. Therefore, on the one hand we are experimenting on a sufficiently large scale so far as nationalization is concerned and if we go further with this industrial policy which has been announced by the honourable Minister, the House and the country can realize that there is ample scope for establishing State-controlled and State-run industries. That being so, I think the House should not be so insistent on trying to see that every possible industry is taken over by Government, belongs to the Government and is controlled by it. A fair amount of scope should, in my opinion, be given in our country for private enterprise, and I think after the experience of the difficulties we are passing through, we should give the utmost possible encouragement to private enterprise. I lay considerable emphasis on this point especially because it does in no way obstruct our policy of developing State-owned industries. Some of the honourable Members sometimes speak as if private enterprise can be encouraged without the incentive of profit. That is denying human nature or denying if you would like to call it the defects of human nature. No person is going to indulge in any industrial activity or risk his well earned savings in an enterprise where he is not assured of the highest amount of profit. Therefore while on the one hand it is the Government's responsibility to see that exorbitant profits are not made, yet, on the other, such persons should be quite free to indulge themselves in and take up private enterprise and to have a free scope and earn a fair dividend on their investments. The Bill, in my opinion, really steers clear of both the pitfalls, on the one hand, of unnecessarily restricting the scope of private enterprise and on the other of not being ambitious enough to take industry after industry or factory after factory under its own control without seeing whether they can undertake the responsibility of conducting them in the best interests of the country as a whole.

[Dr. P. S. Deshmukh]

I am sure the Select Committee would modify in many respects the Bill as it has been presented to us. Section 7 could be modified and the Schedule also should be amended in order to find out if the Bill would not restrict too many industries which are in infancy and over which there need not be much control at the present moment.

Section 9, especially sub-clause (3), should also in my opinion undergo some alteration, because I feel that although the honourable Minister has provided that the Advisory Council shall be consulted in certain matters, I think the Council's authority over for the purpose of consultation may be slightly enlarged in the course of the discussions in the Select Committee.

While supporting the principles behind this legislation and approving of the policy enunciated by the honourable Minister I must caution him about one danger, *viz.*, the manner and the method of enforcing the provisions of the Bill will have to be very carefully worked out. Otherwise the remedy we are forging may prove worse than the disease. There is every likelihood that over-enthusiastic members of the Secretariat of the Ministry may in effect stifle the establishment of industries on merely hearing some prejudicial views expressed by certain interested persons or some competitors who do not like a particular industry being established in a particular place. That question will arise when we pass the enactment and when we see how the policy is being worked out and enforced. But I would like to see that Government interference in every case shall always be the minimum required, will be exercised only where it is absolutely necessary and in a manner that will not hamper industrial progress of the nation.

So far as the establishment of factories is concerned there should be ample latitude allowed to people who are coming forward for the establishment of those industries and not only the Provinces but the States should also be included and encouraged to do this. I have expressed my apprehensions of Government control because I know of an instance of a State which wanted to start a sugar factory which on the strength of some notification of the Government of India hampered the establishment of a sugar factory. That was a State in Central India where sugarcane can be grown most profitably and where sugar factories are rare. The result was that the State was unable to make much progress in starting the manufacture of sugar during war time when sugar was so badly needed everywhere. I am certain that by the time we pass the enactment and have the rules framed thereunder, with the supervision which has been conceded to this House and with the care which all honourable Members exercise so far as the policy of the Government is concerned, I think we can be fairly certain that we will not permit any abuses of the wide powers which the Government is taking. Sir, I support the Bill.

Prof. K. T. Shah (Bihar: General): Sir, I thank you for calling upon me to speak at this early stage, even though I am afraid I am not prepared to offer whole-hearted support, as it is called, to this Bill. My support can only be half-hearted, because, at this stage, I am not prepared to say that even the reference to the Select Committee need not be made. For I hope that at the Select Committee stage, substantial improvements and amendments will be made, which might make the Bill a little more acceptable than it is now.

My objection, however, to this Bill is founded on its own claims, as given in the Statement of Objects and Reasons and as contained in the Preamble and Title. If it is a measure, as the Bill claims to be, to implement the Industrial Policy of Government, then I am afraid it falls far short of its claims. There are a number of omissions in the Bill, there are a number of restrictions on the

scope of the Bill, and there a number of conditions imposed in the Bill which make its basic principle cost in a haze of limitations. This, in my opinion, will detract very seriously from the usefulness of the Bill to attain the Bill's own objective, as stated in the several places I have just mentioned.

If I heard the honourable Minister correctly, he based his main claim for commending this Bill on its being a part or earnest of a plan. I hold, however, that the essence of planning is a more comprehensive, co-ordinated, and integrated programme of development than this Bill, which is confined admittedly to certain industries only, can claim to be.

The objectives, moreover, of the Industrial Policy of the Government, as stated in the resolution of the 6th April last in this House, were much too wide to be included in this Bill. In fact they were even far more generously worded than is to be found in this Bill, even though I did not agree with those objectives and the *modus operandi* for carrying out those objectives given on that day.

As I shall shortly show, the omission or *lacunae* are, in my eyes, so great that much of the praise that would otherwise fall to the share of the author of this Bill will have to remain in suspension until the Bill re-emerges in an amended form from the Select Committee.

The Bill is a piecemeal legislation attempting to control certain industries. But the definition of control itself is not given. We are forced to infer, so to say, our own meaning of the nature and extent of the control that will be exercised from the several disjointed provisions of this Bill, so that whether you deduce the meaning of control under the Rules, or in the shape of Licensing of new concerns, or in the shape of Registration of existing industries, or in certain clauses relating to inspection, supervision, or penalties on those who infringe these rules or clauses, in all these collectively, as it were, the meaning of the control intended to be exercised is not stated at all anywhere clearly, as far as I can see in the Bill.

The title of the Bill has also undergone significant variations. In the italicised title at the top, in the title in sub-clause (1) of clause 1 and in the preamble, there is intriguing variation in wording. Somewhere it is spoken of as "regulation, development and control" of industries; elsewhere it is described as "development and control" of industries. Why "regulation" is omitted there I do not understand. In the preamble, also, there are certain changes or variations. I am making these points in the hope that the honourable Minister will give me credit, for every desire to be helpful; and, perhaps, if he sees his way to accept them, corrections might be made at the appropriate stage before the Bill becomes law. But that these omissions have taken place is, in my opinion, significant; and until I see that these are duly corrected, and the Bill is properly mutually integrated and co-operated, even in its own limited scope, I am afraid the Bill cannot claim whole-hearted support from a person like me.

As I reminded the House only a few minutes ago, even when the Industrial Policy was put forward here in this House, I was unable to agree at all with the policy as there laid out, because I felt it fell much short of what was to be expected of this Government and what this country urgently needs. It is possible that opinion may legitimately differ on this point. Nor am I prepared, at the present moment, to press my opinion too far. But I do feel that, whether one looks at the industries selected for special treatment under this Bill, or whether one looks at the industries left out of its concern; whether one considers the nature and objects on which for instance the rules will be framed, or considers the machinery which is to enforce the

[Prof. K. T. Shah]

Bill. one feels that the claim to carry out or "implement the industrial policy" declared a whole year ago runs very little chance of being fully met and honoured.

It is by itself a commentary on the methods of government, or rather the machinery of government, that while the foundation stone, so to say, of the Industrial Policy was laid in December 1947, its clear announcement was made in 1948, on April 6, and the first stage so to say of its implementation comes a whole year thereafter. I do not know, therefore, what will be the time limit within which the entire Industrial Policy will be given effect to, whether within the lifetime of this Legislature or the next, or the next further or at any time at all.

Taking it as it stands, I feel, this kind of piece-meal legislation makes one lose sight of the real ultimate objective. As I shall point out a little later, there are very many reasons why one must feel that even the limited objective that the Industrial Policy has prescribed for itself will not be carried out, even in the limited scope with which this Bill concerns itself.

I shall now pass on to what I consider the serious omissions in this Bill because of which I feel that the Bill cannot claim unexceptionable support from every quarter in this House. I would like the honourable Minister to consider what is the proportion of the national wealth that the industries he has selected for control, development and regulation produce, and what is the proportion of the population which will directly benefit so to say as consumers from these industries when fully developed. If one considers these industries in their proper proportion of the national economy, if one looks at these industries that are enumerated in the Schedule in relation to the proportion of the wealth they contribute to the sum total of the nation's wealth or the consumers they serve, I feel that the claims, somewhat exaggerated, made on behalf of the aims and objects will hardly be realised. For instance—and there perhaps the Minister would be justified in saying I am talking not quite relevantly—perhaps the greatest national industry, namely Agriculture, is wholly omitted. The definition of industry, as nowadays accepted under the regime of private capitalist enterprise, considers only that to be industry which is either organised by joint stock companies, or is able to produce certain dividends and profits for its capitalist owners. That which supports 75 per cent. of the country's population, that which produces perhaps 66 per cent. of the wealth of the country, does not find a place in the list of industries.

Even if you think that this is a matter of definition, which necessarily must limit our scope unavoidably, I would say that, even within the industries selected, so many are left out which should have found a place in the list, that the framers of the Bill do not seem to have before them some logical principle according to which they had selected the industries. (*An Honourable Member*: "For instance?") I am coming to that. Be a little more patient with me. I am not going to talk without my book, even though I cannot read in this light.

The list of industries appears to me to have been selected *ad hoc*. Whosoever was able to put forward a claim has his claim honoured.

Take, for instance, a very important industry—it is of great value in nation-building—namely Cinema; not merely the cinema film production, or exhibition but also the cinema industry as such, the production of apparatus part of it. Now, this is highly important in the educational machinery of a modern State with such arrears of education of the electorate to make up as we have to. If you have left that out, you have given—and I do not quarrel with it—a proper place to your telephone, and telegraph equipment. (*Some Honourable Members*: "You have got control over it"). You have got control over it by means of the Advisory Committee in the Provinces and I will come to it later. But in regard to the production of the cinema material, the raw material with which the films are made, I am afraid you have given no place here. The objection, therefore, that there is control over it through the Film Censor Board, does not hold water. The nature of control there is not the "control" contemplated in this Bill; and, therefore, on that score those who object to my statement are I am afraid a bit out of court.

Take another industry, also of great educational value, namely the Printing Press and the printing machinery. I do not see any mention of these. Are these industries not essential for the nation-building of our country? I would most earnestly state that these are industries of such vital importance that their omission is highly significant, and does not allow those who have sponsored the Bill to claim that they are pursuing—even though piece-meal—the policy of increasing the national wealth in all the fullness of the meaning of that term. If by national wealth you only mean the sum total of only material objects; if by national wealth you mean only the increasing of the dividends of shareholders or filling the pockets of capitalists, I personally cannot agree. But if by national wealth you mean the well-being of the people, of all classes, in all states, in all aspects of their life and work, then I am afraid in this Bill you have very serious omissions, one part of which I have already illustrated, another part of which I am now going to illustrate and that again on the authority of the honourable Minister himself.

I know that that means that the omission is deliberate. I know that the omission will perhaps be rectified in one way or another, if not by control of this class of industries by control in some other way. I know that this form of control is necessary for the bigwigs, for the capitalist large scale industries, for the influential people who have their own way of getting round Government, or who have their own way of seeing that whatever happens to the industry at any rate their pockets are filled.

But what of those other items which are left out about which I made a mention just now. For instance take the case of Cottage Industries—they have been deliberately omitted I understand. I know that. But if anybody tells me that they are not an essential and an integral part in the building up of the national economy and in making the greatest contribution to the national economy, to the national wealth even in material form, then I am afraid his conception is rather limited. I am unable to tell you the exact proportion of the national wealth contributed by the small-scale or cottage industries. But let me tell you they need control, co-ordination, and assistance much more than perhaps the larger industries which will find their own way to get their own objective willy-nilly.

I started by saying that there was no clear definition of "control". By control is not meant only, necessarily, or exclusively just restriction or regulation. Control, at least as I understand it, would include, and quite justifiably, co-ordination, assistance and encouragement in every form. On that basis I should have thought that, in a comprehensive measure, which such a measure ought to have been, Cottage Industries should have found as good a place as any other. I might add, lest anybody should object to it, that there is in the Government resolution on the Industrial Policy, a very clear declaration of Government's solicitude for cottage industries; and, therefore, this is not one of the grounds in the indictment, if anybody should misunderstand me in this particular part. But I do feel that in the list of industries which

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the Schedule contains, the absence is, to say the least, noteworthy.

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Another part or aspect of the omissions is in regard—again it is deliberate, I know—to the distribution side of the industry. If the controlled industries are to be controlled only for the benefit of the producer—and that generally means the capitalist owner,—then I am afraid it is very half-hearted measure; and so naturally cannot command unstinted support from people like me. The distribution side is to me much more important than the production side. It may be that if you have not a very large amount of wealth you may not have sufficient subsistence. I quite agree. But even if what we have is evenly and equitably shared amongst us all, it is much better —I am only giving my opinion—than to have an increase of wealth which will go perhaps to the lot of ·1 or ·01 per cent. of our countrymen, and the rest may go hang themselves. I feel, therefore, to leave out either Prices or Wages from the scope of control makes the control very lopsided. It will make the control operate only for the benefit of the proprietors, the owners, who seem to be most prominently considered from the point of view of this measure.

I have, Sir, no desire to be personal in any respect; but the very list of the names of Members of the Select Committee that you read out, is headed by an outstanding industrialist, as though the Minister himself cannot be so important as the industrialist. This is significant, in my opinion, that the only thing that counts, and the only inspiration will be perhaps some perspiration for the honourable Minister and others that...........

An Honourable Member: May I ask, Sir, is the order of names of importance?

Mr. Speaker: Order, order.

Prof. K. T. Shah: Sir, I am only giving you my reading of it. Possibly it is utterly unconscious. But the very unconsciousness is a manifestation of the sub-conscious working of the mentality of those in power. If you lay your finger on the raw spot, in many cases I dare say the nervous reaction will be very forcible. But while I am fully aware of this nervous reaction in certain quarters, I am saying this is only a symptom of the disease that the order of the list indicates as it was read out in the House.

As I started by saying, Sir, there is nothing personal in this. There is in this point nothing at all personal I have no doubt in my mind—I am perfectly willing to make this confession here and now—that the names in the Select Committee are of individuals as competent as could be found in this House to shape the Bill even as I would desire to shape it, if they would wish to do so. But the great importance seems to be attached, as far as I can read this Bill, to the owning class, to the proprietory class, and not so much to the consumer class, or for the matter of that, to the labour class. That is all the point I am making, for the moment in showing to you the omission with regard to wages, the omission with regard to labour conditions, the omission with regard even to price control, so that the consumers would not benefit very well or adequately from these things.

It is an ancient complaint of those who have opposed fiscal protection to industry, that while we may be quite willing to pay indirectly through the consumers the price for developing industries in our country, when the time comes for that industry which has developed to such a stage at which it could easily withstand outside competition and inside competition, and meet the country's needs at lower prices without going out of existence, the industrialists will not come forward of their own accord to reduce prices and meet the consumers. We have the classic example of the Sugar Industry of this country, which has enjoyed for years together 150 per cent. or 180 per cent. protection. And yet when it comes to a question of continuing protection after 15 years, after the

industry has been able to supply the whole market of this country, after the very heavy and substantial sacrifices that the country has made in building up that industry, when you ask for a minor, very slight, reduction, they say, "No, no, this is not the time, when you should ask us to forgo protection even though you pay for it". They would at the same time claim freedom for export so that at the expense of the consumer they may build up the industry for the benefit of their pockets and export even while the country may starve for lack of that product.

Sir, my point, therefore, is that the Bill is defective not only because on the production side it has left out very large chunks of the industrial world from its purview, but on the distributive side still more so, because, as far as I can read the Bill there is hardly a provision which, without distortion or undue extension, can take into account these facts that I referred to. Neither wages nor labour conditions nor the rate of prices have been in any way mentioned as amongst the objects for which the control will be exercised—such control as may be.

Now let us come to the mechanism of control. Let us come also to the aims and objects with which it would be applied. The operative sections begin by requiring that all existing industries shall be registered. I take it they will be registered with all the details—though they have conveniently not been specified what those details would be; and that if in any case any detail leaves room for improvement, the controlling authority will see to it that it is brought up to a given standard. Then there is the Licensing of new industries which in my opinion is the most directly operative part of this Bill effectively to control industry. The Rules also will be made to grant or revoke licences. But the section which relates to Licensing, as I read it, does not give you all the details on which the licence will concern itself. It is worded, no doubt, in a very general way, so that if the controlling authority is so minded—I am free to admit—it will be able to exercise the widest possible measure of control through the licensing system. But the item in licensing which ought to be brought to the notice of the powers-that-be is in regard to, as they themselves say, the "size, technique, equipment", etc. What is exactly meant by size, I do not know. The definition of "size" is not given. Does the size mean the size of the buildings in which the industry is housed? Does the size mean the number of operatives who work it? Does size mean the number of machines which are there working or out of order?

Shri M. Ananthasayanam Ayyangar (Madras: General): I think it is capacity.

An Honourable Member: Economic value.

Prof. K. T. Shah: Economic value is used in another sense in the same Bill. As regards "capacity", it is also used in another place in the same Bill. Before you tell me that "size" means capacity, you must remember that these words have not been used as terms of Art, very accurate and strict definition and on the universally understood basis. Moreover, the term "capacity" itself needs to be defined. If you define one difficult term by another, then, logically speaking, you expose yourself to the same defect. That is to say, when I want to define the term "body" and you say that "body is corpus", then I say that you are only giving me one more unintelligible term for another intelligible thing. "Size" I can understand; "capacity" is a little more difficult for me to understand.

Shri B. L. Sondhi (East Punjab: General): It means economic unit.

Prof. K. T. Shah: Economic unit is so varying and uncertain and indefinite. If I may take my friend Mr. Sondhi as an authority for interpreting the mind of the honourable Minister on this subject, I am afraid "economic unit" is one

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of the most unfortunate expressions he should have used, because it is so very vague. I claim to be something of an economist; but I would be hard put to it to be able to give you an all-time-true definition of an economic unit. The economic unit is so varying an idea that it varies from time to time, from place to place, from industry to industry. Therefore, do not give us one difficult term in explanation of another.

Mr. Speaker: Order, order. Let there be no interruptions. Otherwise, his arguments are prolonged and he goes into side issues.

Prof. K. T. Shah: Thank you very much. While not much worried about interruptions—some times they are helpful—I am deeply grateful for this advice to the House.

I was speaking of the absence of any definition of the words "control", "size", "equipment" and "technique" for which the Licence will have some condition. I was just now on the question of size. There is the fear, particularly of protected industry getting into what are in American language called "trusts", "monopolies", "syndicates", "cartels" which are all dangerous to the consumer. Undoubtedly, the consumer is not considered at all in this Bill. I see also no precaution taken, so far as this licensing clause is concerned, in regard to preventing that development of the size which we call in ordinarily language "trustification". I remember, Sir, the National Planning Committee in one of its earliest sittings passed also what we called a "licensing" resolution. That licensing resolution was then aimed deliberately against the foreigner taking advantage of our protection, starting industries just by adding the word "India" in brackets—why brackets I do not know—after its ordinary name, and taking the fullest advantage of all the benefits that this country's fiscal policy legislation or administration could provide for him.

Investment in Indian industry of Foreign capital is a subject to which I attend a little later in regard to this Control Bill. But while on this question of the size, it is the one condition of any private industry, or rather industry of any country in private hands, that they shall be, at least within the country, competitive; that they shall be within the country able to give the best service, so to say, to the consumer. That can only be secured by the freest competition within the country itself. You may, in the interests of the national economy, in the interests of the future development of the country, grant a measure of protection to which I shall also refer a little later—a matter which does not find mention here. But while protecting your industries against foreign competition, while protecting your industries while they are in the stage of development so to say, if you don't consider the size to which individual units may grow, or what is worse, their combinations may grow, then you are exposing the consumer to the tender mercies of these great "masters" or "captains" of industry, as they are called, and nowadays equally also the labour force. For once there is a monopoly developed under such control and there grows up a monopoly of employment, the monopolistic employer will be able to dictate his own terms. Unless, therefore, this controlling measure, or any other measure of its kind, lays down very definite and stringent rules about protecting the interests both of the consumer and of the labour class, I am afraid the measure will suffer the taint of being one-sided, of being partial to the big business and hard capitalists.

Sir I fear that in regard to size, equipment and technique, for which the licensing clause particularly concerns itself—there may be other conditions—I must earnestly urge that precautions be taken, that some provision be inserted, whereby the undue growth of monopolistic industry in the country will be prevented. Monopolist industry in private hands—I am speaking only of private industry, please note—will be dangerous; and as such any tendency towards it ought to be stopped. The licensing clause should see to it that if an industry, for instance, is likely to get out of the control provided by this legislation, and either unduly breaks itself so as to make itself an uneconomic unit, or unduly strengthens and concentrates itself in the desire to be economic, then I hope the control or license machinery would be in a position to stop such developments, or at least control and regular such developments with a view to see that a fair level of industrial development is maintained.

Sir, we are to operate this control and license through a body called the "Advisory Council". The clause is very reticent about the constitution and functions of the Advisory Council. The nature and scope of its work are allowed to be inferred, either from the rules, or from some three or four items mentioned in the clause relating to the setting up of the Advisory Council. Without any desire to be disrespectful to anybody, may I say that the Advisory Councils will give little advice which will seldom operate. The advice of such bodies is accepted only in so far as it is agreeable. And when it is not agreeable, they just pass a resolution commending to the honourable Minister that the supplementary estimates, for example, were very excessive, and they hope that hereafter they will not be repeated.

That is all that the Advisory Councils can do. They cannot change the *fait accompli*. Usually, however, the permanent officials are so clever that they give us readily cooked meal which is like the tinned food from America. You have only to heat it and it is ready for eating. The Advisory Council has just to heat the material canned up ready for use by the Secretariat. And then, Sir, you can eat that spicy meal and feel yourself satisfied and go home.

The actual working of the Advisory Council has yet to be seen so far as concerns the provisions in this Bill. It is admittedly only advisory. The very first provision in the section is, to me, illuminating, that the Advisory Council has to revoke licences. It has nothing to do with granting licences, but it can revoke a licence. What a thankless task it would be to revoke a licence once granted? Is it intended that the Advisory Council should take up the washing of the dirty linen of Government by revoking a licence once given? Otherwise, I do not understand why this very cryptic, if I may say, order in which the rules—I mean the functions of the Advisory Committee—are suggested.

It is a dispensation of Providence, Sir,—I am not a very loud-mouthed believer in God, but at the same time, I cannot help recognising it is a dispensation of Providence—a very beneficient Providence—that my name has never even been thought of in connection with this Select Committee.

Shri T. A. Ramalingam Chettiar (Madras: General): May I propose his name, Sir?

Prof. K. T. Shah: I did not catch the interruption, otherwise I would answer it.

Mr. Speaker: Never mind the interruption. He may proceed.

Prof. K. T. Shah: While it is a privilege to serve on a Select Committee, people like me who are in the habit of finding faults in this manner are saved by this exclusion from the Select Committee from displeasing as many of their colleagues as may happen to disagree. What is more, not being on the Select Committee, I can reserve to myself a much greater freedom of dissecting, analysing, and cutting up the Bill when it comes again after the Select Committee stage. I therefore call it a dispensation of Providence that I am spared this rather dubious honour.

Shri H. V. Kamath (C.P. and Berar: General): You can write a minute of dissent.

Prof. K. T. Shah: Yes; a minute of dissent is also certainly a privilege. But, you are supposed to accept the principle; you are supposed to work within the frame-work of the Bill; you are supposed first to try and convince the other members. It is only when they refuse to be convinced against reason that you will have a chance of exhibiting yourself in a minute of dissent.

In the House, thanks to the rules, no time limit is imposed on speaking on a motion even for six hours, on a Bill when it comes from the Select Committee. We have had the same phenomenon in the House and I hope it will not be unparalleled.

The Honourable Dr. Syama Prasad Mookerjee: It will not be economic.

Pandit Hirday Nath Kunzru (U.P.: General): There is time limit on the Finance Bill coming from the Select Committee.

Prof. K. T. Shah: The Finance Bill has also its own considerations and limitations, into which I am not at present inclined to go.

While talking of the Advisory Council and its utility, may I point out that the machinery here designed is eminently suited to make the will of the permanent officials or the departmental demi-gods prevail over everything else. No less an authority than the former Lord Chief Justice of England has protested vigorously against what he calls the New Despotism; and that consists in departmental rules made in this manner. These Rules are supposed to be placed—I suppose it is stated here specifically—on the Table of the House; and if within 14 days nobody takes any notice of those Rules, or makes any motion, then, the Rules are taken to be adopted, even though nine out of ten members may not even have looked at them. Of course, it is their lookout; it is not the lookout of the permanent officials who prepare those rules very voluminously, and frighten you merely by the very size of the rules, so that, rather than exhibit your ignorance, you prefer to remain silent. Very often, silence is golden when speech is not even copper.

The clause relating to the Advisory Council has been cleverly drafted; and I do not know whether the Select Committee would be inclined to take in a suggestion for what I regard as an indispensable improvement in it. If the Advisory Council is really to do its proper business, that is to say, if it has to advise the Government with some hope that its advice would be adopted and acted upon, it must come at an earlier stage than the stage of revoking the licence. It must have some say in the initial stages. The rules are there, I am aware. But, the rules, I dare say, will be so framed as to give the Council little say in such matters. The Rules will also be prepared, in the first instance, at any rate, by the departmental experts. Those in authority who would come before us and speak before us will, of course, sponsor them, and will tell you what—I was going to say their masters' voice—what their servants' voice is. If a very painstaking member like Mr. Sidhva takes up the rules, microscopes them or ex-rays them, and comes before the House, very probably the business of the House would be so pressing that you would be looked upon as lacking in "co-operation" if you insist on taking up any time of the House on that. I am myself guilty of that now; but the importance claimed on behalf of this Bill by the honourable Minister himself is my authority and justification for taking the time of the House in the manner in which I have been doing on this Bill.

The Industrial Policy of Government has guaranteed, or, at any rate, has assured those who are to be their beneficiaries a ten years charter of exploitation of labour and consumer. If you operate these controls through such bodies as the Advisory Council, whose composition we do not know, whose terms of reference we do not know, i do not know whether that body would be responsible to this House, or whether this House would have any representation on it, whose mode of working we do not know, I am very doubtful

and hesitant about the utility of this organism is giving effect, in implementing, as the Statement of Objects and Reasons says the Industrial Policy of the Government. Mind you, I take my text from the Statement itself,—implementation of the objectives of the industrial policy. I feel on that touchstone, the effectiveness of the Advisory Council—merely because it is advisory—will be rather limited.

Unless and until I know the nature of that body, unless I have some idea of the composition of that body, some idea of its time and mode, its meeting, working, and procedure, the subjects that will come before it, I am afraid I will not be in a position to accord my whole-hearted support to such a provision. It is a matter on which I am prepared to suspend judgment for the time being; but it is a matter on which I cannot but sound a note of warning, and I trust the warning will not be utterly disregarded.

Next, I come to the Rules. It is curious, Sir, that the rules are provided for in some thirteen special sub-clauses. Thirteen is an unlucky number. I do not know why you should stop at (m). Of course you do not call it thirteen. I do not know whether it is deliberate or unconscious. But, I feel, Sir, that (a), (b), (c) right up to (m), are all items which do not indicate to me that the machinery would be very effective.

Shri T. T. Krishnamachari (Madras: General): They are not exhaustive.

Prof. K. T. Shah: I should have wished that some kind of omnibus clause (n) should have been added to make it at least safe from the unlucky number thirteen. However, we are in an age of enlightenment; we are rationalists, and do not believe in these superstitions. We are quite sure that the learned and honourable Minister is above these things. I therefore do not make a present of this idea to him. Let him take it if he likes; if he does not, let it be left over.

Scrutinising these items,—I hope I will not be trespassing on your patience too long,—one by one, I fear the rules do not amount to anything like able to provide a satisfactory measure of control being provided even on these twenty-five industries which have been selected for the benefit or advantage or otherwise of this measure. Here and there it is said that you may take over an industry. I am not quite sure whether what is meant is —I suppose that is what is meant—taking over a single industrial undertaking in a given industry, or the whole of the industry. I think the word "undertaking" is used. What is possibly intended is that a particular company, whose management having played ducks and drakes, has come to grief and therefore, the controlling authority would be helpful in taking it over.

If that is the intention, I am afraid the matter would be vitiated at the source. That is to say, if you think of taking over an industrial undertaking which has proved failure as if it was nationalisation, or taking it over for the benefit of the consumers or the country as a whole, then, I am afraid this particular machinery that is provided in the clause relating thereto, is not quite adequate, in my opinion, for that purpose.

The Industrial Policy we are committed to, whatever may be the disagreement of individuals, is a policy, I recognise, of allowing as much scope to private enterprise as possible, or as desirable, let me substitute the latter phrase. While accepting that policy, one cannot help pointing out that in so far as you have decided to control the industries, or even some of the industries, you must have control exclusively or predominantly in the interests not only of the owning classes. Your object should not merely be to increase the volume of production. Your test, your standard, your thermometer must not be merely how much the mere volume of production has been increased. A very amusing cartoon the other day in a famous weekly of this town has

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shown that for the decline in the Price Index noticed by the aid of a microscope by Government's Economic Adviser of 1 per cent., several honourable Ministers are depicted there as dancing for joy. If this is the idea (*An honourable Member:* "·5 per cent"). For a figure of something like 390 or so a reduction of :1 or :2 is not much. It is sufficient, according to the cartoonist's idea, to send the honourable Ministers dancing for sheer joy. If that is the manner in which one is to judge the adequacy and effectiveness of the controls. I am afraid the objective—once more I quote the Bible—of "implementing the Industrial Policy" will not be achieved.

I take next the Inspectors that are supposed to be appointed under this Clause. I am not sure—reading the clause, as I do, though my reading may be defective, and I am open to correction—I am not sure that there is any intention to create something like a regular force of Inspectors, who will visit, investigate, supervise or in any way scrutinise the working of given industries; and who would then report either to the Advisory Council or the Controlling authority—whatever the appropriate machinery may be—the reasons and all the features where control should be exercised, and also suggest the nature of the controls.

There are certain regular Boiler or Factory Inspectors in this country. There are bank inspectors elsewhere—I don't know if they are not here also. These Inspectors will lose their utility, the inspecting staff will not really be able to do its duty, unless you make it very clearly evident not only what their place in the whole machinery is, also their functions and their status so that they may not be regarded merely as tale-bearers, merely as a sort of spies. They must be regarded as the watch-dogs on behalf of the public, who act on proper authority, and who should have sufficient power to see that the industry is working and conforming with the policy of the country or the legal requirements under this Bill.

Sir, unless and until the Inspectoral staff is so recruited, so formed and so authorised, given sufficient powers, I am afraid that part of the machinery provided in the Bill, intended to be directly operative, will not be very helpful.

Sir, there is another aspect yet to which I would like to draw the attention of this House before I sit down; and that is with regard to once again an aspect of control that is not referred to in this Bill at all. I take it that the control is not only to act as a restriction or impediment. Control, I think, to serve the main objective, may also be helpful. In fact the title of the Bill does provide for "*development*" of industries also. While there may be regulation, and while there may be supervision or control, there is also to be *development* of industries. Accordingly, the means by which the most effective means by which the industry can be assisted, any given industry or any establishment in an industry safeguarded and encouraged, should also have been noted, at least in this measure.

I trust I would not be told—perhaps I may be—I cannot guarantee—that this is entirely outside the scope of this Bill. You define the scope and you limit it. Then an essential point is brought up and you say technically it is outside its scope. I hope that would not be the case here. I am referring to the measures of protection that every new industry in this country requires, if an adequate and optimum development of that industry is to be accomplished. Now, whenever one uses the term 'protection' one commonly thinks of fiscal protection in the shape of duties, on imported goods which are likely to compete adversely with home-made products. I am not thinking exclusively of that—though I am thinking of that also.

For that purpose we have a machinery called the Tariff Board which is an *ad hoc* creation. I think—I am speaking again under correction—it has not yet been made an integral and a permanent part of our Industrial Policy machinery. The Tariff Board functions only on the recommendation or rather reference by Government, not *suo motu*. The Tariff Board has no place, unless somebody interested in the industry brings it to the notice, and makes a *prima facie* case that the industry needs some protection. If the Tariff Board, after investigation, recommends, usually, the protection is in the nature of fiscal protection. When the Tariff Board investigates any case, it again is open to Government to accept or reject its recommendations, or implement in some manner partially. Now any machinery that you have of controlling the industry, if it is not co-ordinated with a similar machinery—I am going to say integrated with a similar machinery, which will also protect, foster, encourage and develop industries, I feel that the former machinery will be defective and unable to carry out its objective. Some place therefore, must be found, some mention at least must be made in this Bill if it is to be a really helpful control of industry, so that the industries may be properly developed as its title itself requires so that they can be protected and helped wherever necessary.

I now come to another factor in ensuring success of an Industry. We, Sir, have had an authoritative exposition of our national policy in regard to foreign capital. Sir, capital is a very important item and factor in the production of national wealth. The inclusion therefore of foreign capital or any capital and proper control and safeguard thereof is by no means an illegitimate function of Government. It is a perfectly legitimate function. I am willing to concede. But I don't feel convinced that we in India shall gain an unmixed blessing by the policy we heard enunciated this morning.

I trust I would not be charged with any irrelevancy when I bring in this matter while I am dealing with the machinery and methods of control which develop industries. Sir, we have had in the past, it is universally agreed a most bitter experience of foreign capital in this country. We have, Sir, in the past found innumerable ways by which the foreign capitalist in this country used to exploit the resources, not for the benefit of this country, but for his own class and his own country. We are told that those days have changed. I fully accept that proposition that those days have gone. We have now acquired supreme authority in our own country, and that there is no reason to doubt that that power and authority will be used in this country for the benefit of this country, primarily, if not exclusively. There is however one thing,—and I say this at the risk of being called parochial in my outlook, and narrow in my sympathies,—that foreign capital is not and can never be an unmixed blessing. For a country yet to be developed as we have to, it can not possibly be of unmixed benefit. Whether the capitalist is of brown complexion or white complexion, the capitalist is, of course, of the same brand every where. Therefore so far as the general outlook, the general tendency, the general objective of the capitalist is concerned,—I make no distinction between the white and the brown,—they are all birds of the same feather and must be tarred with the same brush. Foreign capital, however, has defects and disadvantages which we have not quite realised. I venture to say, as we ought to In the first place, foreign capitalist do not come to this country thousands of miles away from their lands and their fellows for our benefit. Whatever else capitalists are, they are not charitable. Even when they make charities, they are not charitable; they are making an investment in Heaven, and therefore they are expecting to make a handsome return on their investments. The capitalist, therefore, who comes from thousands of miles to this country is not coming in any desire to assist you. Primarily his object is to assist himself; and if incidentally we get benefit, well, that is really in the hope that further on he may get still better advantage. Gratitude, Sir, has been defined as a lively sense of favours

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done, and a livelier one of more to come. So, this, of course, is true of capitalists' gratitude. They feel grateful to this country for allowing them a free hand; but they also hope that this will be continued in a geometrical progression so that in times to come, they will recoup themselves for whatever risks or handicaps they are taking or working under now.

Let me briefly enumerate the dangers of foreign capital investment. In the first place, foreign capital, whether it is explicit or implicit, makes you dependent on others. If you attract or invite them to invest in your country—such capital will come to you in the form of their goods; you will for ever be tied to their apron strings. We are living in an age in which mass production of standardised articles has very much advanced. Once you commit yourself to one make of machinery, you will for ever be tied to that particular make for everything you want. You will have to get their machinery, their parts, their screws, their nuts, bolts, and all accessories. This is a commitment which those who open their arms freely to invite foreign capital do not quite realise. Of course, they agree to train up your technicians. They agree to share their patents with you. These are quite possible terms of agreement. I do not deny that. But the report of several Senate Committees in the United States will tell you how the A.E.G. managed to hoodwink American industrialists notwithstanding these agreements and succeeded in utilising their patents against the Americans themselves.

Sir, I have very high opinion of our Ministry, of their civil service, and of course, of the intelligence of this House, as well as of the capitalist class. But I am afraid, that once we commit ourselves to accept foreign capitalists, we will not be able to beat the Americans, perhaps not even the Germans. If Americans could be beaten by German ingenuity, I think it much more probable that we may be beaten by both, and by the Britishers also. The British, as we all know, had an empire over which the sun never set, and that for the good reason that God himself was afraid to trust the Englishman in the dark. The Englishman built up an empire by his diplomacy, by his enterprise, by his skill and by his abilities in other respects. And he now says with very charming alluring ways, that you should welcome them, not really for their benefit, but because we need their capital goods, to develop your industries. This is called a sense of world co-operation, and we must be really very cussed not to be able to understand, appreciate and honour the good intentions with which these people come to assist us in the development of our industries.

The capitalists will, I am sure, welcome them, because though the foreigner will have the lion's share, our capitalists will also profit to some extent.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar).]

Sir, another danger of foreign capital investment which is also not foreseen as it should be, I venture to submit, is in regard to entanglement that such capital brings in its wake, almost imperceptibly, and therefore, much more to be feared. Sir, I just now mentioned the risk of being committed to one form of equipment in the industrial sense. We become dependent on their capital goods, their machinery, their parts and accessories. But this other danger that I mention now is much more insidious, and much more invisible, and therefore much more to be feared. By the introduction of foreign capital by foreign countries, we may get involved in their political complications. We may wish, Sir, much as we like to keep aloof from international entanglements. But it is one thing to have such an intention, and it is another thing to implement it. In a world which is dominated by warring groups of the kind that are now in existence, in a world in which imperialistic nations of the two hemispheres are daily trying to steal a march one over the other, in a world in which economic power is dominating politics and policies of principal countries, to say that we shall remain steadily aloof, may be a measure of our good intentions, an index of our resolve not to be involved in power politics; but if we allow ourselves to be dominated, even indirectly, even imperceptibly, or invisibly by their machineries, by their equipments,—and in however small a measure we may be indebted to them, imperceptibly and insensibly, we will drift in their wake; and we shall drift and be dragged so far that perhaps by the time the crisis comes we may not be able to see that we have drifted. And then it may be too late for us to retrace, too late for us to prepare to stand up to our rights. A political agreement would perhaps be our only recourse.

I do hope that I am not becoming a jeremiac or too much of a pessimist. But I have had a long-standing fear of this kind of untoward consequences coming from foreign capital. I am not so confident in our sovereign authority and our capacity to take steps when the occasion comes, to safeguard our interests against these foreign countries. Sir, I fully believe, as I said before, in our power and authority to do so. But whether the opportunity will be there is the point, whether at the time the crisis comes we shall be able to do so; whether the slow infiltration with which this foreign capital would build itself up and take root, as it were, in our most essential and vital industries would give us the opportunity to do so, I feel doubtful. I do not know what is the experience—and I am not prepared to take the vote of the industrialists on this question—I do not know what is the experience of other countries who have invited foreign capital in matters of this vital character. I feel therefore that in this Industries (Development and Control) Bill we would do well to have some provisions, some clauses which would see to it that, even if foreign capital enters into our industries, it does not develop any untoward tendencies, or concentrate itself in one place, so that we might avoid economic or political entanglements. If the Bill contains some such provision, then it would improve itself beyond recognition.

Sir, I know I have taken a fairly long time of the House. I am thankful to you Sir, for this and to the House for having listened to me. I have no desire to be a carping critic. I have in all good faith put forth some suggestions, and I trust they will not be called destructive criticisms, but hope they will be taken as suggestions which may be taken for what they are worth.

Mr. Deputy Speaker: Mr. Mody.

Shri R. K. Sidhva: (C.P. and Berar: General): May I know whether you are making a departure from the healthy procedure laid down by the Speaker that the Select Committee members will not be given preference over others?

Mr. Deputy Speaker: No but we may have an exception occasionally, and here is one, with reference to Mr. Mody.

Mr. Homi Mody (Bombay: General): Sir, I desire to say a few words in support of the motion for reference of this Bill to a Select Committee. I missed the greater part of my friend Prof. Shah's speech, but on principle, I oppose everything that he has said. I am going to argue entirely the other way about; but unlike my honourable friend, I propose to be brief, to the point and sweetly reasonable. My honourable friend the Minister for Industry gave me and some of my friends a certificate this morning, and I do not wish to jeopardise it by saying something which would make him think that he had been a little premature or hasty.

Industrialists in this country are in general agreement with the principle of the Bill. As was pointed out by the Industries Minister, I was one of those who were consulted and, with certain reservations, I gave my support to the idea underlying the Bill. My object today is merely to repeat the

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caution which I urged in my discussions with him. The reason why we are supporting the principle of this Bill is that there has been a great deal of indiscriminate expansion in the past and a lot of unequal treatment, as between province and province, of industrial interests; and it therefore became necessary, if planning were to become something more effective than merely an idea on paper, that the Centre should acquire a general control over Industry. But I am sure my honourable friend the Minister for Industry will not deny that any regulation or control that he wishes to institute has got to be in conformity with the principles which have been repeatedly enunciated from time to time by Ministers of Government. And while it is true that in the main the general principle laid down at the Industries Conference in Delhi in December 1947 is being sought to be followed, I am sure my honourable friend will appreciate what I have repeatedly urged on him in the course of these last few weeks that the actual powers that he is seeking to acquire are very sweeping in character, and that if these powers are strictly interpreted and applied, I am afraid private enterprise will be left only with the name. The profit motive may be allowed to be there, but in every other essential respect, the control of industry will pass into the hands of Government. Now I am not suggesting for a moment that that is the intention of Government or of the honourable Mover of the Bill. I am merely pointing out that the actual powers sought to be acquired are so sweeping that if he were so minded, he could do whatever he liked in the way of control and regulation of Industry. I do not want to go into details; I only want to draw attention to one or two points to illustrate what I have been saying. Take for instance clause 10. Amongst the various sub-clauses in clause 10(2), I will draw attention to sub-clause (b), namely,

"the regulation of the production of any industrial undertaking and the use of raw materials therein and the fixation of standards of production."

That can cover almost anything. Then take sub-clause (c):

"the issue of directions for prohibiting any industrial undertaking from resorting to any act or practice which might reduce its production capacity or economic value."

Now who is to determine all this? Apart from the consideration that on grounds of principle, I would object to vesting any authority with wide powers over free enterprise, the point that I would urge is that there must be adequate machinery if these powers are to be exercised wisely or with fairness. There are various other things in this clause, but I do not wish to deal with them. I only want to emphasise that very drastic powers, which seem to me to be wholly unnecessary for the purpose in view, have been sought to be acquired by the honourable Minister for Industry. If this is the first dose of industrial planning, I am constrained to say that it is a pretty stiff dose. The honourable Minister said there is no reason to be nervous. I am not exactly nervous, but if an armed burglar were to enter my room, I would require some sort of assurance about his intentions before I gathered up courage. And so, my reply to him would be, I should like to know exactly what the intentions of Government are before I can say how I am going to feel. I would also like to point out that this is not a question of confidence in any individual Minister or in the Government. I have said on previous occasions—and I repeat—that we have the fullest confidence in the integrity and ability of the present Minister for Industry and Supply, and I think the country as a whole, has got a large measure of confidence in him and in the present Government. But we are not dealing with individual Ministers nor even with Governments; we are dealing with policies which may be executed

from time to time by Governments that might come into power. And from that point of view, I must view with a considerable degree of apprehension the sweeping powers which are sought to be acquired under this Bill. My own suggestion would be to proceed gently, to take planning by easy stages and start with the minimum powers for regulating industrial activity and preventing haphazard development. There are very many questions like regionalisation of industry, location of industry in suitable sites, and the availability of raw materials which can be controlled and regulated by the centre to the great benefit of the country as a whole without trenching upon the day to day province of the industrialists. And my suggestion would be that this Bill should be the first step and not the complete whole that Government intend it to be, and as experience and confidence have been acquired, and confidence has also been inspired, and Governmental machinery has been made more adequate for the purpose, wider and wider powers may be sought. If and when that is done, it will be with the greatest good will and with a large measure of support from industrialists themselves.

My honourable friend the Prime Minister made an admirable statement on foreign capital this morning, a statement with which most of us are in substantial agreement. The whole idea of that statement was to inspire foreign capital with confidence so as to attract it in the interests of this country. The Prime Minister stated that Indian capital was not adequate enough and that it was necessary to do something in order to attract the foreign capitalist to this country, not only because of his capital but because of the technical resources which he would bring with him. That is admirable; but I am putting it to my honourable friend here whether the provisions embodied in this Bill are not likely to neutralise, to a certain extent, that admirable enunciation of policy and whether foreign capital would come to this country readily when it finds that industrial enterprise is likely to be severely regimented. Let us be practical. We are, after all, looking to one country primarily for furnishing us with the necessary capital and technical equipment. That country is wedded to the idea of free enterprise; that country abhors anything in the nature of State regimentation of industry. Therefore, Sir, I should like my honourable friend not to forget that aspect of the problem in dealing with this question.

Sir, I do not wish to say anything more. The Bill is going before a Select Committee; I have every hope that the Select Committee will modify it suitably and that my honourable friend will agree to such suitable modifications; and I also hope he will not think that he is not receiving the support that he should get from the industrial community in this country. I started by saying that industrialists as a rule are supporting the principle of the Bill; they are prepared to go very far in the implementation of the policy which Government have in mind; but the only point of difference between the industrialists and Government is that Government want to proceed too far and the industrialists would like to sound a note of caution.

Shri T. T. Krishnamachari: Sir, after having heard the honourable Mover and his very eloquent plea in support of this measure it is rather difficult for any person to find fault with the details of the Bill which the Mover sought to explain at great length. Nevertheless, as the House has witnessed, the various sections of the House did not lend their full support to this measure for certain reasons. The two speakers who spoke before me—Prof. Shah and Mr. Mody—represented two different and opposite angles from which the Bill is being looked at; and both of them gave only a qualified support to the measure.

One of them is a completely control-minded persons who wanted greater control and over a wider field. The other was a person who held opposite

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views and he warned as against control and regimentation. There is also yet another side to this question: there are in fact two conflicting aspects on which the honourable Mover touched in making his motion for referring the Bill to a Select Committee: One was control and regulation of industries and the opposite of it and the other was the provincial aspect and the central aspect of this particular measure. In fact, within the few minutes at my disposal, I propose to touch on this rather than the control aspect.

As a student of Economics, as one who wants his country to prosper and that rapidly, I have no hesitation in my mind that this country can prosper only if there is well organized control and regimentation over every field of economic activity. I yield to none in my determination that this should come into being as soon as possible as otherwise we should be facing extinction.

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But it is the manner in which that particular objective is to be approached that has to be decided before we accord full support to a measure of this nature.

On the subject of the conflict of interests between the provinces and the Centre. I would at once like to say that I am not one of those who oppose Central co-ordination, Central direction and Central planning. These I assert are primarily Central fields of activity, and in a country with so many provinces, with probably more provinces to come into being in the future and with more State Unions coming into being, in will be idle to expect any progress if all the provinces were to be given unilateral control over the field of economic activity and no less in the field of industrial expansion. But I would like to take the last portion of this Bill first and invite the attention of the House to that portion: to take the Schedule and the 25 items made up in the Schedule.

I do agree that the Central Government must have the powers to co-ordinate. In fact I was a very keen supporter of Article 60 of the Draft Constitution of this country which was passed by the Constituent Assembly the other day, and to the extent of my ability defended the provisions of that Article, which gives powers to the Central Government, where it finds it necessary, to take to itself such powers as are needed for the purpose of co-ordination, for the purpose of planning and such like necessities that would arise in the future. I would also say that I was a supporter of the amendment to the Constitution as it stands today the Government of India Act, in which my honourable friend the mover of this Bill took part the other day, but that does not mean that I wholeheartedly approve of the provisions of this Bill: much less what is contained in the Schedule.

I would like to ask my honourable friend: What have you left to the provinces? And in asking him that question I would also ask him to remember that my honourable friend, Mr. H. P. Mody violently objects to any power being given to the provinces in the field of industries. It does happen that vested interests today are unfortunately very suspicious of the motives and intentions of Provincial Governments. I am not an unqualified admirer of the activities of many Provincial Governments in this country, or perhaps for that matter, all of them. I do know that they are making a lot of mistakes. But the way to deal with them is not to take away the powers from them for being mischievous and bad boys, but rather to leave them some field of activity in which you would like them to operate and encourage them to act in that sphere at the same time exercising distant control and interfering only when necessary. My feeling in this matter is this. Placed as we are in this House, being able to take a complete picture of the future economy of the country as we want it, we are rather apt to err seriously on the side of giving more powers to the Centre which would in effect stifle any initiative

that is left to the provinces. I want the honourable Minister to look at it from that point of view. If he had started with a Schedule with seven or eight items—items on which he proposes to embark immediately, industries for which he has already been in negotiation with various firms indigenous or foreign, which he is going to sponsor and which are going to come into being within the next three or four years—I would give him that unqualified support. But does he envisage that the Central Government is going to act without the help of the provinces in all these twenty-five items covered by the Schedule? And what are the provinces going to do in this matter. You are giving them very few industries—not even pharmaceutical and drugs in which many of the provinces have already taken a lead. Even those industries are to be controlled in future by the Centre. Some kind of control over these industries will be necessary because of the Drug Control Act and the Pharmacy Act but not the type of control envisaged in this measure. So my appeal to the Select Committee would be to go slow, not in the sense indicated by Mr. Mody, but to go slow in interfering with the powers in the provinces: to give them some powers and initiative: to let them try to expand. Many provinces have schemes which they are not able to implement for reasons of finance or lack of talent or imagination. But they do have the wish to make a start. Many of them have started industrial financial corporations, similar to the one this Legislature brought into being last year and they do want to proceed with their plans for industrialisation. Therefore, what is the object of merely telling them that the centre has more or less decided to throw a blanket over their initiative in the field of industrial expansion. We leave very little to their initiative. But it seems that the centre proposes to tell them that if they are going to be good boys, with their tails between their legs and with their arms folded behind their backs, that they will permit the provinces to act in this field subject to the centre's powers of supervision and control. Is the honourable Member going to increase the revenue by rail traffic and air traffic by making more people come to Delhi than those that do so today? Actually, the centre of attraction is Delhi. It is increasingly different for air passages because business men are coming here in large numbers for permits or for permission for capital issue. What is the object of increasing it further by more or less attracting to yourself all possible powers?

There is another aspect of this question which I would like to mention, with due apologies to the Government, the Cabinet and to the honourable Minister himself. I do not think that as we are placed at present we are administratively competent in the Centre to handle all the subjects that my honourable friend envisages in the Schedule of this Bill. Actually, I would like to tell my honourable friend that within the limits of my information, he has not enough technical assistance in his own department for him to be able to judge correctly which industry he should negotiate, and how he should tackle the foreign experts and businessmen who come to him with offers of help. Placed as we are with all these limitations, I would suggest to him and the Select Committee to shorten the list covered by the schedule. If the provinces want to go ahead with industrial expansion let them. Ultimately the control, if you want to take it, will be always yours because you can always legislate and declare any particular industry to be one which comes within the scope of the Centre and you can legislate to obtain control over prices and distribution. These are imperfections which my friend Prof. K. T. Shah sees which can be remedied at a moment's notice. It wants a draftsman, the patience of the House and the time of one week to be made into law. So these imperfections are not of such a nature that they bar future development either in the matter of the Centre controlling distribution or prices, or even for that matter insisting on a certain amount of minimum production from these factories that are to be established. These powers are there. These powers have been safeguarded under Article 60 of the future Constitution. They have been

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safeguarded under the amendment of the Government of India Act as the Constitution stands today. So why hurry? Why do you want such drastic powers and such a long list of industries within your control which will only stifle the initiative of the provinces? I am sure that my honourable friend has secured the agreement of many provincial governments—agreements which have been given in a tardy manner. In this connection I would like to correct a statement that I made yesterday while charging another honourable Minister of having allowed his department to extend the scope of a particular ordinance to a particular province without the previous consent of the provincial Government. In fact I should have explained it more clearly, because I do know that the particular matter was referred to the public department of that province and the public department never referred the matter to either the revenue or finance department but indicated its consent straight away. The revenue department then found that this particular ordinance had been made applicable to the province and they sent a letter of protest, because they knew what the consequences would be. Similarly some premier or minister might have given a qualified support for the simple reason that he did not fully appreciate the implications of a measure of this nature, for such a measure will undoubtedly stifle the initiative of the province. The result of it all will be that ministers of the provincial government will then say to this Legislature that industrial expansion was not their job and that it was the duty of the Central Government. And that is a very dangerous weapon which you are putting into the hands of the provincial ministers, *viz.*, to go to the legislature and plead that this legislation as an excuse for their inaction. They will say "The Central Government have all the powers necessary for the purpose of industrial expansion and we have no power and so we shall not do anything." That is a very great danger. In a federal constitution such as ours is and will be, the responsibility in regard to such matters should be fairly and squarely placed on the provinces; except in so far as the Central Government can adequately discharge its responsibilities they cannot take unto themselves more powers than is absolutely necessary for the immediate future and leave the provinces to act in the particular field that is left open to them. I do feel that this is a matter on which both the Select Committee and the honourable Minister should exercise some more thought and if necessary narrow the field of the operation of the Bill.

With regard to the provisions I have something to say but before going into it I would like to say a few words about the statement made by the honourable the Leader of the House in regard to foreign capital and I think it has a relevance to this particular discussion. I must plead guilty to having been associated in the past, or if I may put it in our own vernacular it was my *purva karma*, to have been associated with industry and business in my past life so to say. The fact of this association provided me with an opportunity to meet several people who are now ineterested in industries in India and who are likely to be interested in the future; when I was in England last summer. I must say this, which probably Mr. Mody will not like, that when the industrial policy of the Government of India was explained to those foreigners they expressed that the treatment accorded to industrialists in India or the possibilities envisaged in that industrial policy statement were far more liberal than anything provided for them in England.

Mr. Homi Mody: Who says that?

Shri T. T. Krishnamachari: Quite a number of them. I have met a number of people and explained the Industrial policy of the Government of India to them. That was the opinion that was expressed to me by many of them, very many leading industrialists probably of equal eminence, if not greater than that which my honourable friend holds in this country.

Shri B. P. Jhunjhunwala (Bihar: General): What was the opinion expressed by the British industrialists?

Shri T. T. Krishnamachari: Their opinion was that the terms in which the industrial policy of the Government of India was couched were very liberal, in fact, far more liberal than what was offered to the industrialists in England today and the hopes that are held out for people who invest capital in this country are much greater than anything that they had in their own country. That was the view expressed by many of them. I do not think it is quite correct for my honourable friend Mr. Mody to say. "There it is: people are not likely to be induced to invest in industrial enterprises on account of the attitude of the Government."

Unfortunately there is one other objection that has been brought forward by my honourable friend Prof. K. T. Shah. Prof. Shah, with whom I am in agreement on very many matters, apparently feels that he cannot get over a particular prejudice that he has against foreign capital though he should realise that our circumstances are now changed and we can afford, since we have the stature, since we have the power and we have the influence to treat all people alike and not be afraid of anything that is likely to be done by foreigners against the interests of our country because we can at any time nip, any such conspiracy in the bud. I do agree that the central problem in regard to foreign capital is a problem which is the headache of the Finance Minister. That is the problem of the balance of payments and it is a problem not only for the Finance Minister of today but also of tomorrow. If we have to pay interest and dividends to foreigners who invest in this country such far in excess of our normal balance of trade, then will become a headache. But that is a matter which is more or less a self-operating mechanism. If industries are started in this country our dependence for imports on foreign countries is reduced to that extent and an adverse balance of trade becomes a favourable balance of trade. We can then without much difficulty allow a small portion of such favourable balance to be taken away by means of interest or dividends to the extent we might be willing to allow subject to the conditions that we impose on those foreign industrialists similar to what we impose on Indian industrialists.

There is another aspect that I would like my honourable friend Mr. Mody to consider. You, Sir, the other day are reported to have said that capital in this country has become dry I would like to improve on it and say that Indian capital has become calcified. I am afraid it will become non-existent before long, if things go on at this rate. What do the capitalists of this country want the Government to do? If they are not going to help the Government naturally they have to satisfy the people's demands and the only justification for the present government with all its imperfections to exist is that it want to raise the standard of living of the common man. If the Indian Capitalist will not help the Government, I think the Government is perfectly right in going to a foreigner, no matter what the terms are; so long as the ultimate interests of this country are not jeopardised. To the extent to which the Indian capitalist offers to come to help the Government to that extent foreign capital will automatically be discouraged. The germs of such discouragement are there in that statement. It is up to Mr. Mody and his friends to go back to Bombay and see that Government securities sell at par from tomorrow, that government loans are subscribed to very freely and that the flow of money through treasury bills is in the region of 20 crores every week, instead of its being nothing as at present. If he does that I think he has every right to castigate the Government and the Ministry and he can expect my support in that particular act of his, if Government still throw impediments in the way of Mr. Mody and

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his class in helping to improve the standard of living of the common man in this country. You cannot have it both ways. Either you must completely help the Government with all your resources if necessary. In fact I would like the capitalists of this country to say to the Government "Well, you make a capital levy tomorrow, if you find that you do not have enough money to help to start new industries. We are prepared voluntarily to give up anything upto 25 per cent. of our capital." If there is such a gesture on their part the common people who have small hoards of Rs. 10, 20 or 50 will see that the capitalist has trust in the Government and therefore they may also trust the Government with their small savings.

Mr. Homi Mody: Are you prepared to take 25 per cent of my over-draft?

Shri T. T. Krishnamachari: On the other hand there are also capitalists like myself without even a bank account. But that is by the way. I do welcome the statement made by the Leader of the House. It was a considered statement which I think ought to place India on the map of the world as a country which is not afraid of foreign capital, which is prepared to treat the foreigner on the same terms as it treats the indigenous capitalist, provided he plays ball and I am afraid so far as the Indian capitalists are concerned it cannot be said that they are playing ball at the present time.

There is one reference which I would like to make in regard to clause 10 of the Bill. My honourable friend Prof. Shah to whom an adequate answer will undoubtedly be furnished by the Mover himself, has somewhat mistaken the scope of the enumeration of the various provisions under clause 10. He referred very rightly in this connection to that book "New Despotism" by Lord Hewart. I remember it very well for it was published in the days of my political apprenticeship. It was a very useful weapon against any government that used what was called Star Chamber legislative methods.

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Railways and Transport): It is ancient.

Shri T. T. Krishnamachari: It has been revived today and the honourable Minister was absent at that time. The report of the Parliamentary Committee that was appointed as a result was that these rule-making powers should be permitted but that there should be a general enumeration of the nature of those powers. The governments in India, both Central and Provincial, have not been slow to follow up that dictum of the Parliamentary Committee. The enumeration of the various prescribed powers has to be taken along with what precedes it that is "without prejudice to the generality of the foregoing power", which means the generality of that power is something all-embracive and the government could do anything under the rule-making power; but the sub-clauses merely specify possible contingencies which a harassed official in the secretariat imagines is likely to arise in the course of the implementation of the particular measure. So in effect it does not mean that the enumeration counts for either a lot or for nothing so long as the generality of the rule-making powers of the Government are there for doing anything that is necessary for implementing the provisions of the Bill. The only limitation on it happens to be that the Legislature is afforded an opportunity of having a say because the Rules will be placed before the House. That is all I have to say about the rule-making power.

But there is one particular provision in the Bill to which I would really object and that is in regard to clause 8. I do agree that Provincial Governments, as I said before sometimes go off the rails. But do not treat them

as bad boys and give them a slap on the cheek or something on the bottom and prevent them all the time from moving in a direction in which it would be very wise for them to move. I know some Provincial Governments want to start a lot of industries themselves, but I think a specific mention of this nature is derogatory both to the Central and the Provincial Governments. I think the Central Government has got enough powers without taking any statutory power into itself to control the actions of the Provincial Governments. I therefore think the Select Committee and the honourable Mover would do well to leave this unsaid because impliedly it is always there. If the Central Government has powers for licensing all undertakings the power is always there. There will be a change of ownership if it is going to be taken over from a private person by a provincial Government and in that process the Central Government will have to be asked for the purpose of licence because it will be a fresh personality that will be taking over the undertaking. But to put a clause like this in the statute that Provincial Governments starting shall not be bad boys is, as I said, derogatory both to the Central Government and the Provincial Government.

With these observations and also with an expression of hope that the Central Government might, if it is disposed to do so, if between now and the time the Select Committee sits it invites the opinions of the various Provincial Governments on paper particularly in regard to the schedule, improve the scope of this Bill which I think has room for improvement, I support the motion.

Pandit Hirday Nath Kunzru: This Bill implements the Industrial Policy laid down by Government in the Statement published on the 6th of April 1948. That Statement did not deal with all the industries that were in existence in the country then or that could be started in the future. The Bill before us therefore could not be a comprehensive measure in the sense desired by my honourable friend Prof. K. T. Shah. But I am not at all sorry that the scope of the Bill is more limited than that of the Reports of the Planning Committee of which Prof. Shah was the Secretary. I think that the Bill so far as it goes takes sufficiently wide powers for the control of industry. But what I should like to know from the Minister of Industry and Supply is what is the actual programme that is going to be pursued by Government during the next few years. The Bill before us contains nothing that the Statement of 6th April 1948 did not. What we desired then and what we desire more eagerly to know now is what is the plan that will be followed by Government for the development of industries in this country. It is obvious that the resources of the Government both in respect of capital and technical skill being very limited as the honourable the Deputy Prime Minister pointed out the other day in Madras, they cannot develop even all those industries whose development under central regulation and control might be declared to be necessary. Government have from time to time let us know what they propose to do in regard to certain industries, for instance in regard to ship-building and the expansion of the iron and steel industry. But they have laid before us no co-ordinated programme which they propose to follow, say, during the next five years. It is not enough that we should have a fairly comprehensive measure of control over this. What we would like to know is what steps Government propose to take in practice in order to increase production in this country in certain essential respects, say, transport or food or any other such things. If this programme is limited to half a dozen things on which Government propose to concentrate we can know the direction that the efforts of the Government will take in the immediate future. Unless the honourable the Minister for Industry and Supply gives us some such indication of the policy of the Government I am afraid that the measure before us, even though it may be approved in principle by a majority of us, will not satisfy the country. In this respect we are now further off than we were when the report of the last Industrial Conference was published.

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To know what is the policy that Government propose to follow in connection with a large number of industries is not enough. Government used to follow such a policy in regard to the implementation of the recommendations of the Famine Inquiry Commission. Almost everything said by that Commission had their approval. In principle they agreed to such a large number of things that in practice they became totally ineffective. They have at last been forced to announce a policy that is somewhat more definite in that matter. I hope that the honourable the Minister of Industry and Supply will take a warning from what has happened in connection with the development of agriculture in this country and see that Government's plans with regard to the development of industry are not as nebulous as those relating to the "Grow more food" campaign were.

Sir, in order to carry out their policy, Government will need a large number of technically qualified men. The deficiency of technical personnel in this country is well-known. Their need will be felt in connection almost with every aspect of this measure. Take the question of location. How is the question of location to be determined? Our economists have been asking for a number of years that industries should be so developed that there may be no "black areas" in the country. Nevertheless, in order to know where a particular industry should be permitted to establish itself, mere executive control, if that is not fortified by proper technical advice, will not be enough and may even be harmful. I am all in favour of Government taking into account the important question of the location of industry in connection with the planning of industrial development in the future, but their intentions can be effectively carried out only when they receive adequate technical advice. I know that the Government have, during the last two years, sent a number of young men and others to England and America for technical training. I do not, however, know whether as soon as they come back they will be fit to shoulder the responsibility that the implementation of this measure before us will throw on Government. It is necessary for us to know, therefore, what steps Government propose to take in order to secure the technically trained personnel that they will require and also what steps Government propose to take to increase the number of persons who might be competent to act as their technical advisers in the very near future. I understand that the system of giving scholarships to young men for training abroad has for the time being been abandoned. Has my honourable friend the Minister of Industry and Supply thought of taking steps himself in order to remove the deficiency that I have just referred?

[*At this stage Mr. Deputy Speaker vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava (one of the Penal of Chairmen).*]

Take again the question of Government participation in industry. A place may be allotted to a project, but whether Government should participate in that project is to be determined not by the general desirability of promoting the development of any particular commodity but by its prospects of being technically sound. I am sure that my honourable friend the Minister of Industry and Supply knows that some of the decisions of Government in regard to participation in private enterprise have not received the approval of the public. I do not want to mention any particular enterprise but from what I know I feel that the criticism of the decision of the Government was due to the belief—which was correct in the opinion of many technically capable men—that Government had not been properly advised before they took the decisions complained of. I think this is a very important matter and it is necessary that Government should be advised in regard to such matters not by executive officers or by pure scientists but by people with adequate business knowledge and technical training.

Sir, the Prime Minister referred this morning to the willingness of the Government to allow private capital to be invested in this country under certain conditions. Though the danger that foreign capitalists might try to obtain some control over the economy of this country is entertained by many persons whose opinion is entitled to respect, yet I do not see how in the present stage of development of this country we can do without the help of foreign capital and foreign technical personnel and equipment that will come with foreign capital. I should, however, like to know in what form foreign capital will be allowed to participate in the industrial development of this country. The Prime Minister spoke of the need for answering certain questions regarding the transmission of profits and the re-payment of capital. This statement shows that what is intended by Government is not merely the investment of foreign capital in this country, but of partnership with foreign capital. In any case, Government, before making up their minds on this subject, must have considered in which industries the assistance of foreign capitalists should be invited. There are certain industries that Government want to develop exclusively under their own ownership and control. No indigenous capital is to be employed in these industries and there is to be no partnership with Indian capitalists in regard to them. I take it, therefore, that foreign capitalists will be in the same position in this respect as Indian capitalists. What are then the other industries in which foreign capital will be welcomed by Government? I think the House and the country will expect Government to say something more on this point than was said by the Prime Minister this morning.

One more point before I bring my remarks to a close. Before the war, whenever the question of industrial planning was discussed, it was admitted on all hands that war-time controls would have to be continued and it was thought that control over the distribution and prices of manufactured goods would have to be retained in order to determine the flow of capital in proper channels. Now, I know that by taking the power to license new undertakings and to permit the expansion of existing ones, Government will be able to decide in which industries capital should be invested more than in others. Unless the price structure is such as not to place a premium on the investment of capital in certain industries, Government will find themselves in a serious difficulty in exercising the control that this Bill will place in their hands. In the first place, they will have to take upon themselves the odium of refusing probably many applications for licences in connection with industries that happen to be brought under control. In the second place, they will lay themselves open to criticism in regard to the choice of the agencies whose applications will be favourably considered by them. It is far better to have a proper price structure, so that all these difficulties might be got over easily. I know that Government's statement of industrial policy was issued at a time when the policy of decontrol was in the air. That statement could not therefore deal with the distribution and price of industrial products. But as Government have happily grown wiser by experience and have changed their policy, it is I think incumbent upon them now to state what measures they propose to take now both in order to attract capital to all necessary undertakings and also to protect the interests of the consumers. My honourable friend, the Minister for Industry and Supply drew attention to the omission of this matter from the Bill, but he did not attempt to justify it. The amendment of the Government of India Act last December placed in the hands of the Central Government the power not merely to control production but also to control distribution and prices in regard to those industries whose development is declared by legislation to be necessary to be under central control. There is no reason, therefore, why the Bill should suffer from this omission. It is not necessary for Government to control the distribution and price of every commodity, but I submit that in view of the discussions that have taken place in the past and the recent amendment of the Government of India Act, 1935, it is necessary that this omission

[Pandit Hirday Nath Kunzru]

should be rectified. The Government can make rules with regard to this matter just as they will with regard to other matters. But, there seems no adequate justification for not referring to this matter at all in this Bill.

Sir, there are other important questions that this Bill raises. But I should like briefly to say that in regard to decentralisation to which the honourable Minister for Industry and Supply referred in the course of his speech, I agree, generally speaking with what fell from my honourable friend Mr. T. T. Krishnamachari and I think that the Central Government should exercise their control in such a manner as to throw as much responsibility as practicable on the provincial Governments in connection with the development of industries. General control is essential so that progress might take place in accordance with a certain well thought out pattern. But, when this has been done, the actual implementation of the policy should, in connection with small scale and medium sized industries, be left as largely as possible in the hands of the provincial Government. Their sense of responsibility and their sense of initiative should be encouraged so that a too heavy burden may not be thrown on the Central Government. I am sure that my honourable friend the Minister in charge of Industry and Supply is well aware of the importance of decentralisation. But, what I am anxious about is that decentralisation should not be brought about merely where it is absolutely necessary, but to as large an extent as possible. Subject to central control and guidance, the development of all industries that are of importance to the country as a whole should rest as largely as possibly with the provincial Governments. With these remarks, I support the principle underlying the Bill and venture to express the hope that our future industrial development will be much more rapid and co-ordinated than it has unfortunately been in the past.

Mr. Chairman: The Honourable Dr. Mookerjee.

The Honourable Dr. Syama Prasad Mookerjee: Mr. Chairman, Sir,.......

Shri B. Das (Orissa: General): Sir, this is a very important Bill and we have not yet discussed it sufficiently. (*Interruption*). I am addressing the Chair and there need be no interruption. The honourable the Finance Minister, while introducing the Report of the Select Committee on the Finance Bill, stated that the honourable the Prime Minister will make a statement in this House on foreign investments in India. It was expected that this House will have an opportunity of discussing that matter. The whole point surrounding this Bill relates to that. We need thousands of crores of foreign capital to control and develop these 25 categories of industries. We have to examine all aspects of foreign investments. If you are to stop discussion on a measure like this, we have no chance of raising that question again after this Bill comes from the Select Committee, because we have committed ourselves to the principle of the Bill. I would request you not to close the debate now.

Srijut Rohini Kumar Chaudhuri (Assam: General): Sir, no motion for closure has been made. This is a matter in relation to the foreign investments. I would request you to allow further discussion of this matter.

Babu Ramnarayan Singh (Bihar: General): I want to address the House on this important matter.

Mr. Chairman: The time at the disposal of the House is very limited. We know there are so many Bills more to come. The point raised by the honourable Member Mr. B. Das is really a very important one. At the same time, this question of foreign investments, though relevant has not been put in this Bill. It is a statement apart from it. If the House so wishes, the honourable Member can certainly request the Leader of the House to give an opportunity for discussion before this is finally settled. But, as the time is very short, I have called upon the Honourable Dr. Syama Prasad Mookerjee to reply.

Shri B. Das: There are 25 Bills more. But this is a very important matter. Industry will need capital. Where will they get capital from, worth thousands of crores of Rupees?

The Honourable Dr. Syama Prasad Mookerjee: Sir, if I may say so with respect, as you have rightly pointed out, so far as matters arising out of the Prime Minister's statement are concerned, they may be relevant to the Bill which is under consideration, but they are quite apart from the Bill. If it is the wish of any member of the House to obtain further information, no doubt that opportunity may be given when the Bill will come back to the House from the Select Committee.

Shri Mahavir Tyagi (U.P.: General): I hope you won't bring it at the fag end of the session next time.

The Honourable Dr. Syama Prasad Mookerjee: The Report of the Select Committee is to come at the end of the first week of the next session; it would not come at the fag end of the next session.

I do not propose to make a long speech in answer to the criticisms which have been made, because, most of the suggestions which have been made by honourable Members will no doubt be considered by the Select Committee. I feel, Sir, thankful that honourable Members have extended their general support to the main principles underlying the Bill. There are just a few points which I shall briefly touch upon in my reply.

Pandit Harihar Nath Shastri referred to the question of taking over control of industrial undertakings for reasons arising out of awards of industrial disputes. If a reference is made to the relevant clause, it will appear that the powers given are really wide enough. If any such occasion arises, when an industrial undertaking has to be controlled for the reasons mentioned by the honourable Member, there is nothing in the Bill which would prevent the Government from doing so. In this connection, an important point was raised namely that the provincial Government should be given full power to take over this control in respect of industries which are centrally regulated. That point was also made out by my honourable friend Mr. T. T. Krishnamachari. If you look at clause 8, you will find that the provincial Government is not debarred from taking over this control. All that is stated is that it must be done with the previous approval of the Central Government. Obviously, that is a desirable precaution. If it is left to individual provinces to deal as they like with important industrial undertakings which the House considers should be centrally regulated, that would create a condition which will not be desirable from any point of view. It is not the provincial Government alone that is going to exercise this power; this Bill is going to be applied to the acceding States, which have already expressed their desire to come within the Indian Union so far as control of industries is concerned.

My distinguished friend Prof. Shah was good enough to extend his half-hearted support to this Bill. Usually; from him we receive whole-hearted opposition. In this case, at any rate, we are fortunate to receive half-hearted support and that I consider to be of some value. Apparently, he has misunderstood many of the provisions which he referred to. The main point which he made out was that this Bill was really intended to help the capitalist and proprietory class. But I believe, he must have changed his view after having

[Dr. Syama Prasad Mookerjee]

heard Sir Homi Mody, who felt that the powers which we were taking under this Bill were of a drastic character, which no capitalist or industrialist would look upon with equanimity. So far as Prof. Shah's desire to know as to what exactly control or regulation or development means, obviously it is not possible for us to define this exactly. If the honourable Member had read, as I presume he has read, clause 10 with a little care, then he will find that practically all that he is thinking of is included in clause 10 sub-clause (2). Under sub-clause (a) Government will have the power to require any industrial undertaking to take such steps as Government may consider necessary to stimulate the development of industry to which such undertaking relates.

5 P. M.

Now that sub-clause only by itself is of so wide a character that it is not contemplated that any important point may arise which may not come within its purview. Further he must have noticed that in any case these 13 sub-clauses mentioned here are in addition to the general power which the Central Government has taken to make rules for any purposes covered under this Bill. Sir, Professor Shah also referred to the functions of the Advisory Council. Here again it is very difficult for me to understand what exactly he means. Does he want that this Advisory Council which will include mostly non-officials will more or less replace the Government of the day? Does he want that this Council on which the interests of industry will undoubtedly be predominantly represented, will dictate the policy of the Central Government? Obviously that cannot be his intention at any rate, whatever else's may be. All that we want is that the Advisory Council will be there to advise the Government on all matters arising out of this Bill. The bill provides for compulsory advice being taken by Government in relation to certain important matters, including making of rules. Professor Shah made a lot of power being given to the Advisory Council to express opinion when a license is revoked and not when license is granted. Well, that is deliberate. We don't want the Advisory Council to come and dictate to Government to whom license should be given but if a license is given under proper conditions and later on if conditions arise which make it incumbent upon Government to withdraw a license or to revoke it, then obviously the Advisory Council should be consulted and should have the opportunity of being satisfied that revocation is not being made without reason. Now so far as protection is concerned, undoubtedly protection to industries is a matter which is not covered under this Bill. That will be dependent on the general policy which Government will pursue. How the Government will function with regard to giving protection to industry, with regard to other matters in the field of fiscal relations etc. obviously are not matters which may form part of any legislative enactment; that will depend on the general policy of the Government, based on the circumstances prevailing from time to time. So far as fiscal matters go, as the House is aware, a Fiscal Commission is about to be appointed and no doubt after that Commission has reported matters which will be recommended by the Commission will be taken into consideration and acted upon by Government.

Now Professor Shah said a lot about foreign capital. I am not going into that question except to say this that the Prime Minister's statement makes this clear that there will be no discrimination either in favour of or against foreign investors. Neither will they get any special privilege nor will they be subjected to any special disabilities. The Prime Minister also made it abundantly clear that they will function in this country in accordance with the general industrial policy of the Government and the Industrial Policy is to-day being crystalised in respect of the operational side through this Bill. Sir, I do not share the fear and pessimism of Professor Shah that by allowing foreign investment in this country a situation may arise which may make history

repeat itself. We are a free country and can take care of our own interests. In every case license will have to be taken out, conditions will have to be examined and while we will give every opportunity to foreign investment to play its proper role in this country, naturally national interests will not be subordinated to the interests of any foreign investor. Sir, I shall not refer to Mr. Homi Mody's remarks as he has already left the House and I believe he was not expecting my replies to any of his remarks.

With regards to my friend Mr. T. T. Krishnamachari, the main point which he has touched upon is with regard to the power and initiative left to provinces. As I myself emphasised in my opening remarks to-day, this is a matter which will be examined by Government at every stage. After all these Provincial Governments also are our own. There is no question of any rivalry or of any antagonism between the Central Government and the Provincial Governments. We have received replies from the Provincial Premiers. I shall place those replies before the Select Committee. I am prepared to consider the suggestions which Mr. Krishnamachari has made and obtain further views of the Provincial Governments on the detailed provisions of the Bill. There is one misapprehension in his mind which I would like to remove. There is no question of a provincial government being deprived of its initiative to start any industrial undertaking. In fact if you refer to proviso to clause 5, you will find that a Provincial Government will not have to take any license but it has only to take the permission of the Central Government if it wants to start any industrial undertakings itself. Mr. Krishnamachari says, 'You reduce the list and throw greater responsibility on provinces'. I would just ask him to consider that that is not possible. If with regard to important industries you desire to have an all-India policy, then obviously the ultimate deciding authority must be the Central Government; but the Central Government will be there mainly to grant the license. Once the license is granted, then it will be open to the provincial governments to develop that industry in such manner as it deems fit, subject of course that it will be in accordance with the general planning in relation to that industry as approved by the Central Government. Now you look at these 25 industries. Mr. Krishnamachari says you reduce the list. It is not a question of reducing the list Suppose a particular Government decides to have more cement factories; it goes ahead with its scheme and it places orders for capital goods from outside. Later on it appears that 4 or 5 other provinces are putting up cement factories, which it will be impossible for the country as a whole to maintain. Which is the authority barring the Central Government which can intervene and see to it that proper distribution is made? That applies with regard to all these important industries. Professor Shah said the list of industries has been prepared rather perfunctorily and more should be added. When asked by certain members he mentioned the omission of film industry. I did not know he had become a lover of film industry. Perhaps due to his advanced age he gets some relief by visiting some good films.

Prof. K. T. Shah: On a point of personal explanation, Sir.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I withdraw the remarks. In any case I may inform Professor Shah that this list was prepared with considerable care. The film industry itself was suggested to be added at one stage but it was decided to drop it for the time being. As the House knows that under the recent Amendment of the Constitution Act Film Censoring has been brought under Central control and if it is necessary at a later stage to include film industry as an All-India industry, Government will make necessary changes. In fact a Committee is about to be appointed to examine the working of the film industry and also to consider how it should develop in the future. The other industry that he could think of was Printing Machinery. So far as printing presses are concerned, they will

[Dr. Syama Prasad Mookerjee]

require certain basic things which are covered in the list. One point which I would ask honourable Members to bear in mind is that this list mainly contains certain basic industries and if these industries are properly developed in this country, that will enable other industries to develop without any interference from anybody. It is essential that these basic industries should come into existence as soon as possible under Central regulation.

With regard to Pandit Kunzru's remarks, unfortunately what he said was not quite relevant. But I can tell him in brief that Government has definite plans for industrial development. In fact that was a point on which I spoke at considerable length during the budget discussions. What are our objectives? It is three-fold. Firstly, we are helping existing industries to produce to the maximum of their capacity. That is an objective which we have kept in view and we have a machinery within our Ministry which remains in touch with all industries and which gives them every possible help and assistance so that they may keep up to the maximum of their capacity. Secondly we try and see how far existing industries can develop their resources and increase their production; and further, what sort of assistance can be offered to them, in accordance with an over-all planning.

Thirdly the Government of India has undertaken to start a number of key industries. As honourable Members know there is first of all the iron and steel industry, where we are exploring how we can increase the existing production. We are also examining the possibilities of establishing two steel factories which will produce about one million tons. We have a scheme for the establishment of factory for the manufacture of heavy electrical machinery. We have just made a provisional agreement for the establishment of a machine tool factory which perhaps will be the biggest in the whole of Asia. We have a scheme for the manufacture of dry cables. The fertilizer factory is going ahead. The telephone factory in Bangalore is under construction. We have also the scheme for the manufacture of locomotives. We have a proposal for ship-building and also the manufacture of air-craft. Over and above all these we have a number of river valley projects which are already in hand. These, in brief, are the important schemes which the present Government since taking office, has in hand, and they are in various stages of progress.

So far as the warning of Pandit Kunzru regarding technical advice is concerned, we are fully aware of the need for such advice and we are getting the best possible advice for all our projects. In regard to each one of these schemes, we are having technical experts from different parts of the world, and after we get their reports, they are examined by our men and then we come to final conclusions.

Pandit Kunzru has quite rightly asked what steps Government is taking to see that we have the necessary technical personnel ready. This is a matter which we keep in view with regard to every undertaking. Whenever a particular project is approved and contract entered into with a foreign firm, we provide for selection of a batch of Indians to be sent out for technical training so that by the time the factory comes into existence, as many of the important posts can be held by Indians as possible.

Sir, Pandit Kunzru has asked whether we can give any idea as regards the industries in which help of foreign capital will be available or asked for. Obviously, experienced legislator as he is, he knows that it is hardly feasible for any Government to declare from the house-top what are the particular industries for which we are calling tenders from foreign capitalists. That is not how it is done. When foreign investors come here, they come in touch with us. Foreign experts are invited in other cases and they come and sit down with us. We discuss matters. We sometime refer them to private industries here. We are trying to work out a scheme which, on the whole, will be of benefit to the country as a whole.

Lastly, certain remarks were made as regards absence of any provisions in the Bill for distribution and control of prices. That is the point which I myself emphasised in my opening speech. We are bringing the Bill forward mainly to see that production with regard to essential and basic industries reaches the proper level as soon as possible. We have not taken in hand here their distribution or fixation of prices. With regard to most of these industries, under the Essential Supplies Act, the Central Government has power to control distribution and prices. So there will not be any sudden crisis in the absence of such powers in the Bill. After the Bill comes into operation, after we consult the provinces with regard to their attitude, I am sure we will be able to come to a working agreement with the provinces so that the scheme for distribution and for fixation of prices is made in such a way that it will be fair to the industry as also to the consumers. If necessary later on we will have to ask for these powers also through another Bill.

All the other points raised will undoubtedly be considered by the Select Committee.

Babu Ramnarayan Singh: May I know whether cottage industry, especially *khadi*, has got any place in this Bill?

The Honourable Dr. Syama Prasad Mookerjee: As I explained while moving the Bill, this Bill relates only to factories, as the word factory is understood in the Factories Act, where twenty or more workers work. *Khadi* obviously does not come into the scope of this Bill, and it is not desirable that it should. May I, with your permission suggest that three more names be added to the Select Committee Members, who are specially interested in this Bill? They are Shri B. L. Sondhi, Prof. Shibban Lal Saksena and Prof. K. T. Shah.

Mr. Chairman: Then I will include these names in the motion. The question is:

"That the Bill to provide for the development, regulation and control of certain industries, be referred to a Select Committee consisting of Shri Homi Mody, Shri M. Ananthasayanam Ayyangar, Dr. Bakshi Tek Chand, Shri Ramnath Goenka, Shri H. V. Kamath, Shri T. A. Ramalingam Chettiar, Pandit Lakshmi Kanta Maitra, Shri Khandubhai K. Desai, Shri R. L. Malviya, Shri V. C. Kesava Rao, Srijut Kuladhar Chaliha, Shri Prabhu Dayal Himatsingka, Shri Biswanath Das, Shri Padampat Singhania, Shri Jaspat Roy Kapoor, Shri B. L. Sondhi, Prof. Shibban Lal Saksena, Prof. K. T. Shah and the Mover, with instructions to report not later than the last working 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.

Mr. Chairman: Now the Prime Minister will make a statement about the future business of the House.

STATEMENT OF BUSINESS

The Honourable Shri Jawaharlal Nehru (Prime Minister and Leader of the House): Two days ago I expressed the hope that we might be able to finish our legislative programme—at any rate, an important part of it—by the 7th afternoon. We are now at the end of the 6th, and we have not got through the greater part of it. The House undoubtedly has been working hard during these days. It has considered important measures, and it is not desirable to cut short debate on these measures; for instance on an important measure

[Shri Jawaharlal Nehru]

like the one just now passed. But the fact remains that about eighteen Bills still remain to be considered. Many of them perhaps will not take much time; some may. Any way, it seems quite impossible for us to dispose of them by to-morrow evening. So it has become inevitable I feel, that the House should sit for another two days, that is, up to the ninth.

Pandit Lakshmi Kanta Maitra (West Bengal: General): And not beyond.

The Honourable Shri Jawaharlal Nehru: No, not beyond the ninth. But it may have to sit for slightly longer hours on these days. I take it that on the eighth and ninth, there will be no questions, so there will be a little more time for consideration of legislative business.

Mr. Chairman: This matter has now to be communicated to the Speaker. He has to decide what to do. Intimation will be sent to Honourable Members later, by circulation.

The Assembly then adjourned to a Quarter to Eleven of the Clock on Thursday, the 7th April, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Thursday, 7th April, 1949

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.

ELECTIONS TO CENTRAL TEA BOARD, CENTRAL ADVISORY BOARD OF ARCHAEOLOGY, STANDING COMMITTEE FOR MINISTRY OF FOOD AND COMMITTEE TO REVIEW WORKING OF RAILWAY CONVENTION

Mr. Speaker: I have to inform the Assembly that upto the time fixed for receiving nominations for the Central Tea Board, the Central Advisory Board of Archaeology, the Standing Committee for the Ministry of Food and the Committee to review the working of the Railway Convention, two nominations in the case of each of the first and second and one nomination in the case of each of the third and the fourth 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. *Central Tea Board.*—Shri C. M. Poonacha, Shri Upendranath Barman.

II. *Central Advisory Board of Archaeology.*—Prof. Shibban Lal Saksena, Shri S. M. Ghose.

III. *Standing Committee for the Ministry of Food.*—Sreematty Annie Mascarene.

IV. *Committee to review the Working of the Railway Convention.*—Shri Mahavir Tyagi.

PAPERS LAID ON THE TABLE

AUTHENTICATED SCHEDULE OF AUTHORISED EXPENDITURE—OTHER THAN RAILWAYS:

Supplementary Expenditure for 1948-49

The Honourable Dr. John Matthai (Minister of Finance): Sir, I beg to 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 the year 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 33 thereof, I, Chakravarti Rajagopalachari, Governor General of India, do hereby authenticate by my signature the following schedule of supplementary expenditure from the revenues of the Dominion for the year 1948-49:

SCHEDULE

Amount (in thousands of rupees)

Service, Administration or Area to which Demand relates.	Voted	Charged	Total
1. Customs	25,27	..	25,27
2. Central Excise Duties	1	..	1
3. Taxes on Income including Corporation Tax	10,64	..	10,64
5. Stamps	15,89	1,32	17,21
7. Forest	5,32	..	5,32
10. Cabinet	1,82	..	1,82
11. Constituent Assembly	4,06	..	4,06
13. Ministry of Home Affairs	16,40	..	16,40
16. Ministry of Education	1,24	..	1,24
19. Ministry of External Affairs and Commonwealth Relations.	12,82	..	12,82
20. Ministry of Finance	5,00	..	5,00
21. Ministry of Commerce	12,43	..	12,43
24. Ministry of Communications	57	..	57
25. Ministry of Transport	5,79	..	5,79
26. Ministry of Food	16,08	..	16,08
27. Ministry of States	4,33	..	4,33
28. Ministry of Defence	3,71	..	3,71
29. Ministry of Industry and Supply	1,70	..	1,70
30. Ministry of Relief and Rehabilitation	1,45	..	1,45
32. Payments to other Governments, Departments, etc. on account of the Administration of Agency Subjects and management of Treasuries.	18,67	..	18,67
33. Audit	38,75	3	38,78
34. Administration of Justice	2,46	1,11	3,57
35. Jails and Convict Settlements	1	..	1
36. Police	7,88	..	7,88
37. Ports and Pilotage	1	..	1
38. Lighthouses and Lightships	1,25	..	1,25
39. Ecclesiastical	33	..	33
40. Tribal Areas	36,16	..	36,16
41. External Affairs.	63,85	..	63,85
42. Survey of India	8,78	..	8,78
44. Zoological Survey	50	..	50
48-A. Department of Scientific Research	4,57	..	4,57
53. Agriculture	72,36	..	72,35
54. Civil Veterinary Services	6,30	..	6,30
55. Industries and Supplies	5	..	5
57. Overseas Communications Service	12,09	1,40	13,49
57-A. Delhi Transport Service	45,58	62	46,20
57-B. Telephone Factory	95	38	1,33
59. Broadcasting	5,25	..	5,25
61. Census	1,58	..	1,58
63. Indian Dairy Department	79	..	79
64. Miscellaneous Departments	74	..	74
65. Currency	2,71	..	2,71
66. Mint.	11,89	..	11,89
67. Civil Works	11,50	..	11,50
71. Stationery and Printing	35,16	..	35,16
72. Miscellaneous	12,98,45	15	12,98,60
73. Expenditure on Refugees	9,11,32	..	9,11,32
74. Defence Services—Effective—Army	17,61,45	..	17,61,45
77. Defence Services—Effective—Supplies and Stores	20,65,36	..	20,65,36
78. Defence Services—Non-effective Charges	1,14,52	..	1,14,52
82. Civil Defence	1,08	..	1,08
82-A. Pre-partition Payments	20,61,27	13,7	320,75,00

Service, Administration or Area to which Demand relates—contd.

	Voted	Charged	Total
83. Delhi	74,11	19	74,30
84. Ajmer-Merwara	26,68	..	26,68
85. Panth Piploda	17	..	17
86. Andaman and Nicobar Islands	10,30	2	10,32
87. Relations with Indian States	7,68	..	7,63
Staff, Household and Allowances of the Governor-General.	..	4,17	4,17
Federal Public Service Commission	..	5,20	5,20
92. Capital Outlay on Industrial Development	2,55,61	..	2,55,61
95. Capital Outlay on Currency	5,90,11	..	5,90,11
96. Capital Outlay on Mints	4,83	..	4,83
99. Commuted value of Pensions	1,17,23	..	1,17,23
101. Defence Capital Outlay	11,34,08	..	11,34,08
102. Capital Outlay on Schemes of State Trading	1	..	1
103-A. Payments to Government of Pakistan for Unique Institutions.	5,07,98	..	5,07,98

NEW DELHI;
The 6th April, 1949.

C. RAJAGOPALACHARI,
Governor General of India.

STATEMENT OF CASES IN WHICH LOWEST TENDERS HAVE NOT BEEN ACCEPTED BY INDIA STORE DEPARTMENT, LONDON.

The Honourable Dr. Syama Prasad Mookerjee (Minister of Industry and Supply): Sir, I beg to lay on the table a copy of the half-yearly statement of cases in which the lowest tenders have not been accepted by the India Store Department, London.

HIGH COMMISSIONER FOR INDIA

INDIA STORE DEPARTMENT

ABSTRACT OF CASES in which tenders for stores demanded by the Central Government, other than the lowest complying with the technical description of the goods demanded were accepted on the grounds of superior quality, superior trustworthiness of the firm tendering greater facility of inspection, quicker delivery, etc.

HALF YEAR ENDING 31ST DECEMBER, 1948

Cases in which the discrimination is between British Firms only

Stores ordered	Quantity	Contract Number	Name of Contractor	Amount of Contract	Lowest tender not accepted	Reason for acceptance
				£ s. d.	£ s. d.	
P. I. L. C. Cable	945 feet	H 1996/638/ 6-12-48	British insulated Callender's Cables Ltd.	346 0 0 (British)	317 15 0 (British)	The stores were required in satisfaction of a defence demand. As the Lower tenderer offered delivery in 42/44 weeks, the higher offer for delivery in 8 weeks was accepted.

Cases in which British tenders were set aside in favour of foreign tenders

Stores ordered	Quantity	Contract Number	Name of Contractor	Amount of Contract	Lowest tender not accepted	Reason for acceptance
Petrol tanks	Nos. 200	H. 2041/S. 6566/ 7-12-48	Soc. An des Ateliers de Construction de Familleureux.	Belgian Francs 14,121,000 (at 176·5 to the £-£80,005·13·4)	71,600 0 0 (British)	The lowest tenderer offered delivery by October 1949—May 1950. The prices were referred to the Railway Board, New Delhi, who instructed that the order be placed with the Belgian firm at the higher price, in view of the earlier delivery promised viz. 100 tanks in August and 100 in September 1949.

POINT OF ORDER

REFERENCE OF THE INDUSTRIES (DEVELOPMENT AND CONTROL) BILL TO SELECT COMMITTEE WITHOUT DISCUSSING IN THE STATEMENT MADE BY PRIME MINISTER ON FOREIGN INVESTMENTS:

Shri B. Das (Orissa: General): Sir, before the proceedings are begun, I wish to draw your attention to the fact that yesterday the House accepted the motion to refer to the Select Committee the Bill to provide for the development, regulation and control of certain industries. The very first principle underlying that Bill is to accept the Statement made by the honourable Prime Minister on the floor of this House with regard to foreign investments in India. Unfortunately the House could not discuss that important statement made by the honourable Prime Minister nor offer its views. We raised a point in the House at the last moment and the honourable Minister for Industry and Supply agreed that the House should find an opportunity to discuss the question of foreign capital invested in our industries. I would like to have your definite ruling whether by referring that Bill to the Select Committee, we are committed to the acceptance of foreign capital in India or whether the Government owes a duty to the House to bring forward definite contracts or agreements before they are entered into with foreign capitalists and take the sanction of this House before foreign capital is invested in India.

Shri R. K. Sidhva (C.P. and Berar: General): There is no reference to the capital in the Bill, Sir.

Mr. Speaker: The honourable Member has raised points, which I must study, and there is no immediate hurry about this ruling just at present. I will consider the matter and then say, whatever I have to say in the matter.

INDIAN PASSPORT (AMENDMENT) BILL

The Honourable Sardar Vallabhbhai Patel (Minister of Home Affairs and the States): Sir I beg to move for leave to introduce a Bill to amend the Indian Passport Act, 1920.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Indian Passport Act, 1920."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: Sir, I introduce the Bill.

REGISTRATION OF FOREIGNERS (AMENDMENT) BILL.

The Honourable Sardar Vallabhbhai Patel (Minister of Home Affairs and the States): Sir, I beg to move for leave to introduce a Bill to amend the Registration of Foreigners Act, 1939.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Registration of Foreigners Act, 1939."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: Sir, I introduce the Bill.

DELHI ROAD TRANSPORT AUTHORITY BILL

The Honourable Shri K. Santhanam (Minister of State for Railways and Transport): Sir, I beg to move for leave to introduce a Bill to provide for the establishment and regulation of a Road Transport Authority for the promotion of a co-ordinated system of road transport in the Province of Delhi.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the establishment and regulation of a Road Transport Authority for the promotion of a co-ordinated system of road transport in the Province of Delhi."

The motion was adopted.

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

PAYMENT OF TAXES (TRANSFER OF PROPERTY) BILL—*contd.*

Mr. Speaker: The House will now proceed with the consideration, clause by clause of the Payment of Taxes (Transfer of Property) Bill, 1949. Clause 2.

Mr. Mohd. Tahir (Bihar: Muslim): Sir, I beg to move:

"That after part (ii) of clause 2 of the Bill, the following new part be added:

'(iii) who, in the opinion of the District Magistrate, is a citizen of India and wants to transfer his immovable property on any other ground pertaining to public or his private affairs.' "

Sir, this Bill contemplates three kinds of transfer by three kinds of persons: firstly, by those who have left India and have settled in any other country; secondly transfer by one who leaves India and thirdly transfer by one who is likely to leave India to settle in any other country. Sir, I have felt some difficulty and, therefore, I have put this amendment for those persons, who, for all intents and purposes, are citizens of India. They are born as citizens of India and also they are to die as citizens of India. For instance, let me take the case of a Muslim, who is a citizen of India for all time to come and he wants to transfer his property. The question is whether such a vendor can obtain a certificate under this Bill. Sir, he cannot obtain such a certificate under this Bill unless he declares himself as one who is likely to leave India or has already left India. Therefore that class of persons will be put to great difficulty. The purchaser is not going to purchase a property unless he is satisfied about the clearance of the taxes. Therefore it is necessary that some provision should be made for those persons. Of course, under the letter of the law, every citizen who wants to transfer his property will not be affected. But in the existing circumstances of the country I am convinced that if a Muslim is going to transfer his property, no purchaser will believe him if he says that he is going to remain in India, although it is a fact that he is a citizen of India and is not going to leave the country. One might wish to transfer his property for financial reasons; or one might wish to transfer his property to charitable institutions; or one might wish to transfer his property because of his inability to manage it properly. In such cases it will be very difficult to transfer property without financial loss. I, therefore, appeal to the House to see that by means of legislation such persons are not put to difficulty and trouble.

Another reason I want to urge in support of my amendment is this: The Ordinance which was the forerunner of this Bill applied to all the citizens of India, whereas this Bill does not. Although the letter of the law does not say that, it applies to a particular section of the people of India or a particular section of a community. In its spirit it does apply to a particular section of the community or people of India, namely the Muslims. Therefore, I submit that unless my amendment is accepted, this law will be illegal and *ultra vires*. Because, Sir, you will not find any country on the surface of the earth where discriminatory legislation is passed. Such legislation is always illegal. Supposing we want to introduce prohibition in the country and we introduce in favour of one community and not in favour of another community: that would be discriminatory law and perfectly illegal.

Sir, the Constituent Assembly of India, which is the sovereign body of our country has already adopted a provision that there shall be a uniform civil law throughout the country. I put it to you to decide and give a ruling on the question whether this Bill does or does not come within the purview of the civil law. If it does come within the purview of the civil law as I think, Sir, it does, I will say that this is not a uniform law for the country. It is meant for a particular section and class and therefore it is *ultra vires*. In view of this I have submitted this amendment which I hope the House will receive with due consideration. The other day, when the motion for consideration of the Bill was under discussion and Mr. Karimuddin spoke on it, I found that many of the honourable Members expressed their view that in spirit the Bill applied to a particular community. Therefore, I think it is not proper. Some

12 NOON arrangement should be made to see that the class of citizens of India I have mentioned are not put to trouble and difficulties by this piece of legislation.

Mr. Speaker: Amendment moved:

"That after part (ii) of clause 2 of the Bill, the following new part be added:

'(iii) who, in the opinion of the District Magistrate, is a citizen of India and wants to transfer his immovable property on any other ground pertaining to public or his private affairs.' "

The Honourable Dr. John Matthai (Minister of Finance): I do not accept the amendment, Sir.

Maulana Hasrat Mohani (U.P.: Muslim): I beg to support Mr. Mohd. Tahir because I have seen the attitude of the Custodian here. I have got definite cases where he has taken advantage of these things. For example, I may say that there is 'Alamein', an electric press.

Mr. Speaker: I may invite the attention of the honourable Member to the fact that the Custodian does not come into the picture in the manner he is suggesting. He may restrict his remarks to what is found in the Bill and not go beyond the scope of the Bill.

Maulana Hasrat Mohani: What I want to submit is this. Anybody who wants to transfer his property has got to obtain a licence for doing so. For getting that licence he has, in some way or another, to get the opinion of the Custodian. The Custodians are always suspicious. They suspect that people who want to transfer their property will go to Pakistan or somewhere else. I support Mohd. Tahir in this respect, because anybody who is a *bona fide* resident in India may not be subjected to suspicion of this kind. A certificate of good intentions from a magistrate or a custodian or anybody else, one may not be able to get. I, therefore, fully support what fell from the lips of my friend Mr. Tahir.

Shri Prabhu Dayal Himatsingka (West Bengal: General): I feel that the honourable mover is labouring under a misapprehension as to the intentions of this legislation. There are two definite classes of persons who are intended to be affected by this legislation. My honourable friend wants to extend its scope to more classes of persons. I do not know if that is to an advantage to anybody, nor do I see what difficulty can be created in the way of a person who is a citizen of India desirous of transferring his property. Every person is either a taxpayer or not a tax-payer. If he is a tax-payer and has paid his tax, there will be no difficulty for him in getting the certificate required. If he is not a taxpayer he can easily satisfy the authorities. The purchaser does not run any risk. I do not see how the provisions under clause 2 can affect any citizen of any community in India.

Then, he suggested that this is a discriminatory legislation. There also, I do not see how he can make that suggestion or insinuation. This Act says that it will apply to a particular class of persons who have left or who want to leave.

[Shri Prabhu Dayal Himatsingka]

or regarding whom a certain declaration has been made and sent to the registering officer. Therefore, the position is quite clear. I hope that the Bill will be passed quickly because the delay is causing a lot of difficulty in certain provinces where registration has been held up because the officers do not know what the position is: the ordinance has lapsed and no new legislation has been enacted.

I oppose the amendment.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, when I heard the honourable the mover of the amendment, I was rather surprised. As a matter of fact, when he wants to add a new part (*iii*) after part (*ii*) of clause 2, he wants to extend the scope of the Act. His complaint, as I understood him, was that this is a discriminatory piece of legislation. Instead of taking away part (*ii*) if he thinks it is objectionable, he wants to see that it applies to every Muslim, every Hindu, every Christian and every Sikh. He wants to lay an embargo on the disposal of property. We passed section 13 of the Constitution and in that we have enacted a fundamental right to the effect that every person shall be able to hold, acquire and dispose of his property. In fact, the right of disposal of property is a fundamental right. My friend wants that if parts (*i*) and (*ii*) are to remain, then, every citizen of India should be disabled from transferring property unless he obtains a certificate, etc. As I submitted on the day on which this Bill came up for consideration, the object of the original Bill was to see that taxes are collected from those who want to go away from India and settle elsewhere. As a matter of fact, it does not touch any Muslim of India if he wants to remain here. All the Muslims who want to live in India are on the same level as the Hindus. This is not discriminatory at all. In regard to those also who want to leave India for all time, and go away, it is not fair that they should go away without paying taxes which are legitimately due to the Income-tax Department. In fact, if we compare this legislation with the legislation which we have got in Pakistan, there is absolutely no comparison. The Pakistan authorities have gone a step further. In fact, even the Ordinance which this Bill seeks to replace was passed by the Pakistan Government first and then the Government of India passed that Ordinance just like the Ordinance of the Pakistan Government; but it was not on the same level. If today a person wants to go to Pakistan from here and dispose of his property, unless he disposes of his property and returns within 15 days, the man will not be allowed to return to India unless he pays the taxes. There is no such provision here, because we do not believe in retaliation. We have made our law quite consistent, quite fair that nobody can take any sort of exception to it.

In regard to the application of parts (*i*) and (*ii*) of section 2, also my submission is that there is absolutely no discrimination. If my friend wants to put part (*iii*) here, he has not realised the consequences. Now, it only applies to such people who want to leave India. If the amendment is accepted, it would apply to everybody. Nobody would be able to dispose of property; all business would be dislocated; all property would be depreciated in value. A lot of confusion would result if all the persons in this country are not allowed to transfer their property for good value without any certificate from the Income-tax authorities. So far, I have never seen such a restriction being placed on the citizens of this country. When this original Bill was referred to the Select Committee, it was brought into line with the intention of the framers of the Bill. I submit, Sir, that this amendment should at once be rejected by the House.

Kazi Syed Karimuddin (C.P. and Berar: Muslim): May I speak, Sir, opposing the amendment and also on the section?

Mr. Speaker: Yes.

Kazi Syed Karimuddin: When I argued that section 2 should not be enacted, I expected some reply from the honourable the Finance Minister. My chief ground in opposing section 2 was that it gives room for corruption. The honourable the Finance Minister in reply to the general discussion did not say a word about the points raised by me. There is another Bill pending on the agenda that there is influx of people coming from Pakistan, which means there are very few people who are going from here and all the travel is only one way. For a few people who are likely to leave this country and defeat the collection of income-tax, we are framing a law, the result of which will be that a large number of people will be harassed as they have been harassed in the past merely on the ground that there is a suspicion attached to the Muslims, because there was mass migration on a communal basis after August 1947. There is no doubt that it was on a communal basis that there was a mass migration. Hindus and Sikhs from Pakistan came this side and Muslims went that side. Therefore, the authorities interpreted that any Muslim in India wanting to alienate his property was likely to leave this country. Now, when the Government of India is of the opinion that a very few Muslims are going from here and a large number of Muslims are returning back to India, I do not think there is any reason why a discriminatory legislation like the present one should be enacted. The honourable Pandit Thakur Das Bhargava thought at the time of the general discussion and even today thinks that this is not a discriminatory measure at all. But, I maintain that it is a discriminatory measure. I do not say that this has been brought particularly to punish the Muslims. I do not maintain that point of view at all. But the result of this enactment would be that every Muslim who would like to alienate his property will be suspected as he has been suspected that he was likely to go to Pakistan or anywhere else. Therefore, with a view to avoid this, the provisions of section 4 would have been quite sufficient, if from the property that is to be sold or already sold the tax could be charged and could be realised as land revenue.

Pandit Thakur Das Bhargava: From the transferees?

Kazi Syed Karimuddin: From the property. You can proclaim to the whole world that the property has to be purchased subject to the payment of taxes. At the time when the purchaser wants to purchase this property, he should make enquiries. In every registration office, there should be a list, supplied, by the Income-tax Department, showing the persons who are liable to Income-tax or what is the amount to be realised against them. If this section 2 is passed, then the Collector, the Custodian and the Income-tax officer will have very wide and arbitrary powers. The Collector will issue a certificate on information, which may be unfounded, that a man was likely to go away. What would be the result? What we have been impressing upon the House and the honourable the Finance Minister is not that he has any intention of penalising the Muslims of this country: that is not our point. Our point is that this has been subject of great harassment in the past, even in the case of Hindus, as you will find in the Minutes of dissent, and more in the case of the Muslims, who according to the authorities were likely to go away to Pakistan. Therefore, my submission is that if the collection can be made by any other provision, then, you should not have this discriminatory measure, and particularly section 2 should not be enacted.

It is said that in the past several people from here had gone away to Pakistan and they have not paid the taxes. Section 3 enacts that a certificate should be taken from the Income-tax officer in regard to the payment of the Income-tax. Again, there would be very great difficulties in securing the certificates. As my friend Mr. Tahir says, suppose a citizen of India who is a Muslim wants to alienate his property, and if a certificate is issued by the Collector without any foundation that he is likely to run away or he is a man

[Kazi Syed Karimuddin]

from whom a certificate should be demanded, then, he has to go to the Income-tax officer and a certain procedure has to be adopted before he can alienate the property. Therefore, my submission is that it should be proclaimed by law that the transferee should make inquiries about the property that is to be transferred, that is, about the title and whether income-tax has been paid, etc; and that property alone will be subject to income-tax. My honourable friend Pandit Bhargava is right in saying that the amendment of Mr. Tahir extends the scope of clause 2. If this amendment is accepted it will mean that everybody will have to take a certificate. Now under clause 2 those against whom no certificate is issued by the Custodian or by the Collector or by the Income-tax Officer may be able to sell the property although the transferee may insist on the production of a clearance certificate. But if this amendment is accepted it will enlarge the scope and perhaps every citizen of India will have to take a certificate.

Now, Sir I expected at least an assurance from the Finance Minister that in the actual working of this clause 2 great care will be taken by Government to see that there is no unnecessary harassment. Even that assurance was not given. My honourable friend Mr. Krishnamachari has very well appreciated the argument that I advanced and also insisted that an assurance of that kind should have been given by the honourable Minister. For all these reasons I submit that this clause 2 if enacted will work to the great detriment of Muslims who have made India their homeland; and it is bound to be abused. This clause therefore should not be passed; it should only be provided that the property that is to be sold should be the subject matter of income-tax and a list should be supplied to the Registrar by the Income-tax Officer showing the income-tax of a person owning the property. Otherwise it will work as an engine of harassment and there will be wide scope for corruption. I hope the honourable Minister will withdraw this provision.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, my objection to clause 2 is based upon wider grounds. In fact when the Ordinance was promulgated and when the original Bill came before the House it was found that the Ordinance had created a good deal of difficulty and the Bill would simply repeat the process and be open to the same objection. The Bill was sent to the Select Committee with the specific request—unofficially expressed—that it should be so changed as not to bring all sorts of people within the mischief of the law but to restrict it to those who should really be affected by it. In order to be affected by it, there are two conditions to be answered, first, that they have taxes left unpaid, and secondly, that they are leaving. It is not merely the act of leaving that should bring a person within the mischief of the law but arrears of taxes. Now, clause 2 attempts to define the person to whom this Act shall apply. In clause 2(*i*) it is stated that the Act applies to such person as 'leaves' or 'has left'. This is very vague and it is difficult to find a distinction between the two expressions. Secondly, and alternatively, it applies to any person about whom a declaration is communicated to the Registering Officer that he is a person to whom the Act applies. This condition eliminated a large class and will not act as a hardship. By sub-clause (*ii*) it is definitely provided that the Registering Officer has to refuse registration of documents of persons against whom there is a declaration of applicability of the Act. So the law is that if a man goes to the Registering Officer he will register the document unless there is a declaration laid before him and communicated to him by the proper officer like the Custodian of Evacuee Property or the Collector. Therefore clause 2 (ii) removes a good deal of hardship and harassment. My difficulty is about clause 2(*i*) of which the intention is that it will apply to those who leave or have left India. It is to be considered in its practical application to clause 3 which says that the Registering Officer would refuse to register a

document executed by any "person to whom this Act applies". In fact the person to whom this Act applies, although attempted to be defined with apparent clarity, will not be quite intelligible to the Registering Officer. A man who may be out of the mischief of this law according to the Custodian or Collector, etc., may not appear to be so in the eyes of the Registering Officer. The Registering Officer should be satisfied that this is a person to whom the Act applies. If there is no declaration under clause 2 (*ii*) he is to take it that he is not a person to whom the Act applies. But what about clause 2(*i*) that he is a man who has left or is leaving? It is impossible for the Registering Officer to determine that he has not left or is not leaving. He will find that a man may have left or may be leaving and so according to clause 2(*i*) his document may be refused to be registered. I think the measure is not discriminatory but may work as a hardship for all classes of people. So the difficulty is not removed.

With regard to clause 2(*ii*) it is open to evasion. The Income-tax Officer or Custodian or Collector will send a declaration containing the list of persons to the Registering Officer of the locality. But a man is not bound to go to a particular Registering Officer. If he has properties in different places he has a choice of registering his document anywhere he likes. A man may have properties in Bengal as well as in Delhi; if he has any difficulty in Delhi he can go to Bengal and get the deed registered there. The Registering Officer of that place will have no declaration positively applying to him; and the person will go scot free in spite of the law. There are various ways of avoiding the registration law. It often happens that a man is at one place and he has no landed property. He may take a lease of some property—a house or a room. The leasehold interest from month to month is also transferable. So the man who is under a ban in Bengal will sell his property in Bengal in Delhi by inserting in the deed his leasehold interest in Delhi. In sub-clause (*i*) the description of the person to whom the Act applies is not quite clear. The Registering Officer would always be free to suspect that the man "leaves" or "has left". There is nothing to prevent him. This will cause considerable hardship throughout India. Though there may not be a declaration against a man, yet he will be suspected of leaving or having left. I submit therefore that the clarification, attempted in clause 2 is not complete or effective. I therefore suggest that this clause requires redrafting. The honourable Minister should at any rate clarify the position, or this clause should be redrafted by his draftsmen.

The Honourable Dr. John Matthai: I appreciate the fear that is in the minds of certain honourable Members regarding the possible way in which this particular section might operate. If the amendment which has been moved is accepted, the effect of it would be, as Pandit Thakur Das Bhargava pointed out, to expand the scope of the Bill to precisely what it was in the original Bill. The whole point of referring this Bill to the Select Committee was that there was widespread apprehension in the House that with the wide scope there was in the original Bill there might be serious abuses and the Select Committee, after a good deal of thought narrowed it down.

Mr. Mohd. Tahir: If the amendment extends the scope of the Bill, will it not benefit Government revenue?

The Honourable Dr. John Matthai: I accept all suggestions that would expand Government revenue. But I would like to balance that consideration against the possibility of public interests of other kinds being jeopardised.

The real point is this. I think this is the minimum scope that the Bill must have if it is to serve the kind of purpose that we have in view. A reference has been made to the possibility of this Bill being operated in such a way as to affect one community more than another. It is just possible it may work in that way. But as Mr. Karimuddin himself pointed out, the mass migrations

[Dr. John Matthai]

which have taken place since partition have followed communal lines. It was inevitable in the circumstances and therefore the problems created by these mass migrations have to some extent also assumed a communal aspect. It is conceivable therefore that cases which may come within the mischief of this Bill might affect one community more than another. It is just possible. But it is my intention and the intention of the Government, that such abuses should be restricted as much as possible and it seems to me—I have given some thought to this—that by executive instructions to the authorities concerned, it is possible to provide that the Bill is made applicable only to those people to whom it is really intended to apply and there is no extension of the scope of the Bill to cases where the recovery of tax is not likely to be prejudicially effected.

Mr. Naziruddin Ahmad pointed out that as sub-clause (*i*) stands now, it would not be possible for the Registering Officer to distinguish between the class of persons intended to be covered and others. The terms in which this class of persons is described in this Bill are terms in which evacuees have been defined in various Acts of the Legislature and this is as precise a definition as we could get. When a person who belongs to the category covered by (*i*) presents his documents for registration, is an evacuee who has left, then registration would be sought on his behalf, and that straightaway gives an indication to the Registering Officer whether the particular person is an evacuee or not. If, however, he is an evacuee who has not actually left but is going to leave a certain amount of difficulty may arise. But it seems to me that we can by administrative measures provide against abuses of the kind which Mr. Naziruddin Ahmad contemplates. If we can instruct District authorities to prepare a list based on careful investigation of people who are likely to leave the country and settle outside, there will be no serious administrative difficulty. It is only with regard to a relatively small number of people that this particular danger may arise and by issuing clear executive instructions that only in those cases where there is clear evidence of intention to leave registration should be refused. If we do that, I think most of the mischief which is apprehended by our honourable friends here who moved it and supported it, will be avoided.

With regard to the class of people covered by sub-clause (*ii*), it is my intention to instruct the authorities concerned that a declaration that this Act applies to them should not be issued except on evidence based on investigation that these are people in whose case the operation of the Act would be justifiable. In any case, there is provision for an appeal—there was no provision for appeal in the original Bill—to the Income-tax Commissioner, and I am going to see that he would exercise every possible care to ensure that abuses of the kind contemplated by some honourable Members do not occur.

I think I have said enough to remove the fears which are present in the minds of honourable Members that this Bill might be operated in a discriminatory manner. That is far from my intention. The only purpose of this Bill is to see that where there are people who have left the country, or who are going to leave the country for settling outside, there is no loss of public revenue. Apart from that there is no object behind this Bill and the working of the Bill will be so regulated that that object and nothing else would be served by it.

Mr. Speaker: I will first put the amendment to the House.

The question is:

"That after part (ii) of clause 2 of the Bill, the following new part be added:

'(iii) Who, in the opinion of the District Magistrate, is a citizen of India and wants to transfer his immovable property on any other ground pertaining to public or his private affairs'."

The motion was negatived.

Mr. 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: Sir, I move:

"That for clause 3 of the Bill, the following be substituted:

'3(1) No document required to be registered under clause (a) or clause (b) or clause (c) or clause (e) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (XVI of 1908) which purports to transfer, assign, limit or extinguish any right, title, or interest in any immovable property, other than agricultural land, shall be registered by the officer appointed under the said Act if the Income-tax Officer of the area where the property is situate has certified that the transferor has failed to pay his taxes or has not made any satisfactory arrangement for the payment of his Income-tax.

(2) The Income-tax Officer of each area shall prepare a list of persons who are liable to pay income-tax and to whom the Act applies and who have not paid their income-tax or have not made satisfactory arrangements to pay the same.'"

Mr. Speaker: I would suggest that all the amendments to this clause may be moved together. They practically cover the same ground.

Kazi Syed Karimuddin: Sir, I move:

"That in sub-clause (1) of clause 3 of the Bill,—

(*i*) parts (a), (b) and (c) be omitted; and

(*ii*) the following be added at the end:

'such person has or has not paid or has or has not made satisfactory provision for payment of all existing or anticipated liabilities under the Indian Income-tax Act, 1922, the Excess Profits Tax Act, 1940 or the Business Profits Tax Act, 1947.

Explanation: Certification under this sub-section shall be in the form of a list of assessees supplied by the Income-tax Officer to the registering authorities of the area where the property is situate and over which he has jurisdiction.' "

Mr. Mohd. Tahir: Sir, I move:

(i) "That in part (a) of sub clause (1) of clause 3 of the Bill, after the word, brackets and figures '(XXI of 1947)', the words 'and Municipal Acts' be inserted";

(ii) "that part (c) of sub-clause (1) of clause 3 of the Bill be omitted."

Mr. Speaker: I shall now put all the amendments to the House. Both the clause and the amendments thereon are now open to discussion.

Amendments moved:

(1) "That for clause 3 of the Bill, the following be substituted:

'3(1) No document required to be registered under clause (a) or clause (b) or clause (c) or clause (e) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (XVI of 1908) which purports to transfer, assign, limit or extinguish any right, title, or interest in any immovable property, other than agricultural land, shall be registered by the officer appointed under the said Act if the Income-tax Officer of the area where the property is situate has certified that the transferor has failed to pay his taxes or has not made any satisfactory arrangement for the payment of his Income-tax.

[Mr. Speaker]

(2). The Income-tax Officer of each area shall prepare a list of persons who are liable to pay income-tax and to whom the Act applies and who have not paid their income-tax or have not made satisfactory arrangements to pay the same.' "

(2) "That in sub-clause (1) of clause 3 of the Bill,—

(i) parts (a), (b) and (c) be omitted; and

(ii) the following be added at the end:

'such person has or has not paid or has or has not made satisfactory provision for payment of all existing or anticipated liabilities under the Indian Income-tax Act, 1922, the Excess Profits Tax Act, 1940 or the Business Profits Tax Act, 1947.

Explanation: Certification under this sub-section shall be in the form of a list of assessees supplied by the Income-tax Officer to the registering authorities of the area where the property is situate and over which he has jurisdiction.' "

(3) "That in part (a) of sub-clause (1) of clause 3 of the Bill after word, brackets and figures '(XXI of 1947)', the words 'and Municipal Acts' be inserted."

(4) "That part (c) of sub-clause (1) of clause 3 of the Bill be omitted."

Mr. Naziruddin Ahmad: Sir, the object of my amendment is very simple. In fact the honourable Minister has clarified the situation to a great extent and removed the difficulties to a large extent. My difficulty is with regard to sub-clause (i) of clause 2 which remains the same. The Registering Officer will not be in a position to ascertain whether the Act applies to any person within the meaning of clause 2, sub-clause (i). Under sub-clause (ii) he would have a declaration before him and if there is no declaration he is not to act against the person concerned. But there is no written guarantee or any easy way of finding out so far as registration is concerned that sub-clause (i) of clause 2 does not apply, that is in fact he is leaving or has left. There will be no means of ascertaining the reality or genuineness of this condition. My amendment in one word seeks to clarify only one matter; namely that there are two conditions on which the Act is supposed to apply. One is that the person is a defaulter of income-tax and secondly that he is leaving or has left. I want to make refusal of registration under clause 3 conditional upon one condition, namely, that there is a list supplied to the registering officer that the man has failed to pay taxes or that he has failed to make satisfactory arrangement for the payment of his taxes and that the Act applies to him. I want to make the declaration under sub-clause (ii) of clause 2 also applicable to him. In fact there should be a declaration on two conditions, namely that the man is a defaulter and has not made satisfactory arrangement for the payment of his taxes and that the Act therefore applies to him: and that he has left or is leaving. If the certificate sent to the Registering Officer mentions both the conditions in one list or declaration then there will be no difficulty. I ask the honourable Minister to clarify the situation. It is only to bring the matter to his notice that I have suggested this amendment. I do not desire to carry it to a vote.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar.)]

Kazi Syed Karimuddin: Sir, I am very thankful to the honourable Finance Minister for his assurance. In this amendment which I have moved I have accepted the principle underlying Section 3. My submission is that a person not liable to pay income-tax should not be compelled to produce certificates. If the clause as it stands is accepted then that class of people who are not liable to pay income-tax will be required to produce certificates. A reference to this has been made by Prof. Ranga in his minute of dissent:

"Secondly I suggest that none whose name has not been on the list of Income-tax payees shall be expected to produce such a certificate, until and unless a specific demand to that effect by an income-tax officer. The burden of proving that anyone who has not been an income-tax payee that he may have to pay income-tax for the current year must be placed on the Income-tax Officer."

In this case the presumption will be that he is liable to pay income-tax unless he produced certificates that he is not liable to pay income-tax. Therefore, my submission is that this burden which is placed on a non-assessee is very great and it will also be open to harassment. I accept the principle underlying clause 3 but the form of certification will be as given in the Explanation:

"Certification under this sub-section shall be in the form of a list of assessees supplied by the Income-tax Officer to the registering authorities of the area where the property is situate and over which he has jurisdiction."

My submission is that if this amendment is accepted it would relieve the non-assessee of the burden which is thrown upon him under clause 3.

Mr. Mohd. Tahir: Sir, I should like to say a few words regarding my amendments. I strongly support the amendment moved by my friend Kazi Karimuddin. If his amendment is accepted I think my fear on account of which I had moved an amendment in clause 2 will be satisfactorily met with, because if a list of such assessees is present in the registration office, then any document which is presented for registration can be registered very easily. The registration officer will be able to see whether there is any tax due from the seller or not. It will also be to the satisfaction of the purchaser to know whether any tax with regard to that person is to be paid or not and the purchaser or any body will not make any serious objection and it will be of great help to every individual who wants to have his property transferred.

I would like to submit a few words regarding my first amendment which seeks to insert the words "and Municipal Acts". All dues under the Income-tax Act, the Excess Profits Tax Act and the Business Profits Tax Act are to be realised before the transfer is made. I want also that if a property is sold which situates in a municipal area then because the municipal tax is the first charge on such property therefore this tax should also be realised. I know that the realisation of this tax will not add anything to the purse of the Finance Minister, but still it will be of great help to the Provincial Governments and local bodies and I hope therefore that the Finance Minister will accept the amendment.

My second amendment seeks to omit part (c) of sub-clause (1) of clause 3. I want its omission because specific provision has already been made as regards the working of the Act. Under this part we are going to give certain discretionary power to the officer concerned and this in my opinion is nothing but an encouragement towards bribery and corruption. Therefore, I do not want that this part of the sub-clause should exist.

Pandit Thakur Das Bhargava: Sir, in regard to these four amendments which have been moved I fear that the real purport of this Act and the method in which the work under this Act should be done has not been properly appreciated. The persons to whom this Act applies are divided into two classes: number one those who leave or have left, and secondly those who are about to leave. In regard to persons who have left or who are leaving clause 2(i) applies. In regard to persons of the latter class—who are likely to leave part (ii) of the clause applies. In regard to part (ii) power has been given to the Custodian of Evacuee Property or the Income-tax Officer or the Collector that they can send a declaration to the registering officer and when that declaration is received the Act shall apply to them, because as a matter of fact these are the three classes of officers who are in touch with those to whom this Act applies.

In regard to part (i) this part will apply in the case of persons who have already left. There also they will be included in the list. But apart from the list if it is proved before the registration officer that part (i) applies to

[Pandit Thakur Das Bhargava]

a particular person then the Sub-registrar shall not have the right of registering the document unless the conditions are fulfilled and registration will be refused. This is the scheme of the Act.

Now, all these amendments want that the Custodian, the Income-tax Officer and the Collector may not have any power to send a declaration. As a matter of fact by moving these amendments they want to take away the effect of clause 2, whereas clause 2 has already been passed by the House. My humble submission therefore is that these amendments are out of order.

Kazi Syed Karimuddin: My amendment does not contemplate that.

Pandit Thakur Das Bhargava: I am coming to your amendment also. Legally speaking these amendments are out of order inasmuch as we have already passed clause 2.

The method in which this Act shall work is like this. A certificate has to be obtained and the certificate deals with three things. One is that such person is not liable to assessment under the Income-tax Act. My friends want that the words 'not liable to assessment' may be deleted. If a person has not been taxed and if he is liable to be taxed by having a taxable income, then he is liable to be called by the Income-tax Officer and his income is bound to be assessed. They want a list of persons who have already been taxed so that a list may be sent to the registering officer. The list of persons who are liable to assessment is not present with any Income-tax officer. How can he make such a list? It is out of question. It can be done only in respect of persons who have already been taxed. Part (*a*) refers to cases in which the assessment has not yet been made but who are potential assessees. In respect of them also the law wants that any person who wants to leave the country for the purpose of settling outside may not be allowed to go away unless he pays the taxes which are legitimately due from him. Similarly in regard to (*c*) also the position is the same because I should say that (*c*) is a sort of a clause which safeguards the rights of the Income-tax Department. I do not see how the movers of these amendments, when they are anxious even to enlarge the scope of this Bill, still claim that the certificate may not be on these lines. My honourable friend Mr. Tahir has moved an amendment that even a municipal tax should be included in the category of Income-tax. My humble submission is that if the municipal taxes are also to be tacked on to Income-tax it will constitute a real grievance to the people and it would place a real difficulty in the way of persons who are likely to leave. As a matter of fact the Income-tax Department does not want to do that. After all these sums will be very small and it is fair that we should allow these people to be harassed for non-payment of municipal taxes. As a matter of fact in the original Bill the wording of clause (*c*) was a bit wider, but the Select Committee has corrected it in the manner indicated by these lines and now the position is quite clear. Now (*a*), (*b*) and (*c*) are fool-proof and no person who has any liability to pay taxes can escape without paying those taxes and he has to get a certificate of this nature.

I do not think any sort of difficulty will be involved. It is very easy for a person to go and ask the Income-tax Officer or even the higher officers that the certificate may be given. And after the explanation of the Finance Minister that he wants to give executive instructions to the effect that the list will also be sent to the registering officer, the matter is still further simplified. If any person is aggrieved by not getting the certificate under clause (2), clause 5 of the Bill provides that an appeal can be made and the matter can be set right. I therefore submit that these amendments should be rejected.

The Honourable Dr. John Matthai: I agree with what Pandit Thakur Das Bhargava has said. In reply to the amendments moved by Mr. Naziruddin Ahmad and Mr. Karimuddin I do not think it is necessary for me to say anything in addition to what I have already said with regard to the last amendment. We have two definite categories here. One category is those evacuees who are a definitely ascertainable class because they are defined in terms of a definition which is well understood at present; further, most of them are people who have already left and therefore any application for registration would be made in the absense of the original transferor. With regard to the other class we insist upon a prior notice from certain specific authorities and without that prior notice the registering officer cannot refuse registration. It seems to me that we have made the position as easily workable from the administrative point of view as possible. In addition to that I repeat the assurance that I gave in reply to the original amendment that I am going to see that executive instructions are issued which would eliminate the abuses apprehended by honourable Members. I think that is sufficient reply to three of the amendments which have been moved.

With regard to municipal taxes I do not think it is within the competence of the Central Government to move in this matter. Further, as far as I know, unpaid municipal tax is a charge upon the property and therefore it is not necessary to make a provision of this kind. I am therefore unable to accept any of these amendments.

Mr. Naziruddin Ahmad: Sir, I beg leave 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: Then I will put Mr. Karimuddin's amendment to vote.

The question is:

"That in sub-clause (*1*) of clause 3 of the Bill,—

(*i*) parts (*a*), (*b*) and (*c*) be omitted; and

(*ii*) the following be added at the end:

'such person has or has not paid or has or has not made satisfactory provision for payment of all existing or anticipated liabilities under the Indian Income-tax Act, 1922, the Excess Profits Tax Act, 1940 or the Business Profits Tax Act, 1947.

Explanation: Certification under this sub-section shall be in the form of a list of assessees supplied by the Income-tax Officer to the registering authorities of the area where the property is situate and over which he has jurisdiction.'"

The motion was negatived.

Mr. Deputy Speaker: The question is:

"That in part (a) of sub-clause (1) of clause 3 of the Bill, after the word, brackets and figures '(XXI of 1947)', the words 'and Municipal Acts' be inserted."

The motion was negatived.

Mr. Deputy Speaker: The question is:

"That part (c) of sub-clause (1) of clause 3 of the Bill 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 8 were added to the Bill.

Shri L. Krishnaswami Bharathi (Madras: General): Sir, I beg to move:

"That for clause 9 of the Bill, the following be substituted:

'9. *Effect of expiry of Ordinance XXI of 1948.*—The expiry of the Payment of Taxes (Transfer of Property) Ordinance, 1948 (XXI of 1948) shall not affect—

(a) the previous operation of, or anything duly done or suffered under, the said Ordinances; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Ordinance; or

(c) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced as if the said Ordinance had not expired.'"

Sir, this is only a substitution or amplification of Section 6 of the General Clauses Act, in a better form, so that there may not be any difficulty in the actual working of the measure. It is only a re-draft.

Mr. Deputy Speaker: The amendment speaks for itself.

Shri L. Krishnaswami Bharathi: I have submitted a minute of dissent wherein I have stated certain things. I am very glad that the Bill has been restricted to persons specified in the Bill—that was a serious objection we raised on the floor of the House that it applied to a large section of people—and I am very glad to record my sense of appreciation at the honourable Minister agreeing to our view. It is good that it has been restricted. But in the amended form I feel there are certain difficulties which must be cleared up and it is with that object in view that I have brought forward this amendment by way of clarification.

When the Ordinance was in force, cases have occurred where there has been registration of documents either through inadvertence of the registering authority or in collusion with the authority. While I am perfectly agreeable that the Bill should be applied to the restricted classes of persons, I certainly do not want that those who have committed a fraud on the Government by registering the documents and depriving the Government of its just dues, should not have been brought to book. At that time the Act applied to all classes of persons. Sir, there were three cases in Calcutta which have come to the notice of the authorities, where the amount involved is to the tune of Rs. 23 lakhs due from three persons; but they have registered their documents, under what circumstances we do not know. Under clause 8 of the old Ordinance, Government have lodged a protest and the matter is pending. There is no knowing how many such cases have happened, therefore I am anxious that we must provide for such cases where the attention of Government has not been drawn to them. It is only to cover such cases where such irregularities have happened that you must give the necessary power to Government. With that view, I have brought forward this amendment. I tried to ascertain from the Income-Tax Department under what circumstances these three persons have registered the document to the extent of Rs. 23 lakhs. I find, that it is necessary to have this amendment.

The Honourable Dr. John Matthai: Sir, I have consulted my legal advisers on this point and I am advised that the effect of the amendment which has been moved by Mr. Bharathi is the same as that of the existing Clause 9. What Mr. Bharathi's amendment does, as I am advised, is to clarify and amplify the implications of Clause 9 as it stands in the original Bill. Therefore, I accept it.

Shri T. T. Krishnamachari (Madras: General): Sir, I would like to oppose this amendment.

Mr. Deputy Speaker: I shall place it before the House.

Amendment moved:

"That for clause 9 of the Bill the following be substituted:

'9. *Effect of expiry of Ordinance XXI of 1948.*—The expiry of the Payment of Taxes (Transfer of Property) Ordinance, 1948 (XXI of 1948) shall not affect—

(a) the previous operation of, or anything duly done or suffered under, the said Ordinances; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Ordinance; or

(c) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced as if the said Ordinance had not expired.'"

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 House was discussing Mr. Bharathi's amendment to clause 9.

The Honourable Dr. John Matthai: I would like to make a statement on that, if I may. When the discussion on Mr. Bharathi's amendment began just before the House adjourned for Lunch, I was asked by the Deputy Speaker to give my reactions to it and I said that as far as I was advised, this amendment would have the same effect as clause 9 in the original Bill. Since then, I have had further discussions and consultations not merely with my advisers but with others also and I am given to understand there is considerable room for doubt on that point. In view of the fact that I indicated my willingness to accept the amendment on the assumption that the meaning of section 6 of the General Clauses Act admitted of no doubt and since I now find that there is considerable room for doubt, I take the view that the best thing for the House to do is to retain clause 9 as it stands in the Bill as reported by the Select Committee.

Mr. Speaker. Does Mr. Bharathi press the amendment?

Shri L. Krishnaswami Bharathi: No, Sir. In view of what the honourable Minister said, I do not press it but if I am permitted to say something.......

Mr. Speaker: Does he wish to withdraw?

Shri L. Krishnaswami Bharathi: I would like to withdraw, but if I am permitted to speak while withdrawing I would like to say something, because the honourable Minister.........

Mr. Speaker: No explanations.

Shri L. Krishnaswami Bharathi: May I submit that the honourable Minister accepted or expressed his willingness to accept.........

Mr. Speaker: The honourable Minister has explained the whole position and I think in cases of doubt as to interpretations, it is better to go by the considered opinion of the Draftsmen. The honourable Member wishes to

[Mr. Speaker]

have leave of the House to withdraw his amendment. Has he the leave to withdraw?

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

Mr. Speaker: The question is:

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clause 1 was added to the Bill.

Mr. Mohd. Tahir: Sir, I beg to move:

"That in the Preamble to the Bill, before the word 'property' the word 'immovable' be inserted."

The properties are of two kinds, namely, movable and immovable. This Bill is mainly directed towards the transfer of immovable property. I want to submit that the Preamble is that part of the Bill in the light of which the whole Bill is drafted and adopted, so that the sense of the Bill should be in the Preamble itself. In view of this, I think it is right of the Preamble itself to include the word "immovable" so that the true sense of the Bill is maintained in the Preamble. With these words, I hope the amendment will be accepted.

Mr. Speaker: Amendment moved:

"That in the Preamble to the Bill, before the word 'property' the word immovable' be inserted."

The Honourable Dr. John Matthai: I do not accept it, Sir, because all the clauses of the Registration Act referred to here cover documents which pertain entirely to immovable property. So it seems to be quite unnecessary.

Mr. Speaker: Does the honourable Member press the amendment?

Mr. Mohd. Tahir: No, Sir.

Mr. Speaker: The honourable Member wishes to have leave of the House to withdraw his amendment. Has he the leave to withdraw.

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

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 Dr. John Matthai: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Speaker: Motion moved:

"That the Bill, as amended, be passed."

Shri L. Krishnaswami Bharathi: Mr. Speaker, Sir, while I do attach great importance to what I stated. I certainly am not going to press my amendment. but I feel that I owe it to the House.........

Mr. Speaker: Order, order. That will be again taking an opportunity of speaking on an amendment which has been withdrawn. Really speaking, the scope of the Third Reading debate is limited to amendments made by the House. This cannot be taken again as an opportunity for explaining what I did not allow the honourable Member to explain. If he has any other thing, he may speak.

Shri L. Krishnaswami Bharathi: Very well, Sir. There is one point which I would like to bring to your kind attention. I am in a peculiarly difficult position. When the honourable Minister expressed his willingness to accept the amendment.........

Mr. Speaker: Order, order. I am putting the proposition to the vote now.

Shri L. Krishnaswami Bharathi: Sir, I will say something on the general aspect.

Mr. Speaker: No, no.

The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

PUBLIC COMPANIES (LIMITATION OF DIVIDENDS) BILL

The Honourable Dr. John Matthai (Minister of Finance): Sir, I beg to move:

"That the Bill to limit the dividends which may be paid by public companies, as reported by the Select Committee, be taken into consideration."

Sir, this is an absolutely unanimous report by the Select Committee. Only two changes have been made. One is with regard to the duration of the Act. The original Bill limited the duration of the Act to 31st December 1950. The Select Committee has reported that it should be 31st March 1950. The idea is that before the expiry of the year ending 31st March 1950, there should be a review of the working of this Act and if it is found that there has been during this period an improvement in regard to the inflationary conditions in the country, then there would be no question of extending the duration of the Act. I give an assurance to the House that if the position is easier next year so that it is not necessary to have an anti-inflationary measure of this kind, Government would have no intention of extending the duration of the Act.

The other point with regard to which a change has been made by the Select Committee is the position of public companies which come within the scope of section 23A(1) of the Income-tax Act. The provision in section 23(a)(1) of the Income-tax Act which obliges private companies to distribute not less than 60 per cent of the profit, applies also to public companies, in which the public are not substantially interested. It was, therefore found, since private companies were left out of the scope of the Bill, on the same ground it is necessary to leave out public companies to which section 23 A(1) of the Income-tax Act applies.

The Select Committee has made a suggestion in paragraph 4 of the Report, that if there are any profits which may be undistributed while this particular Bill is in operation, they should be put into a separate fund so that the surplus in excess of the limit prescribed by this Bill, is made available for distribution after the expiry of the Act. It was not possible in the opinion of the Select Committee to give statutory form to this suggestion. I accept the principle suggested by the Select Committee and I would like to make an appeal to the managements of companies to whom this Bill would apply, that a provision should be made on these lines.

[Dr. John Matthai]

Mr. T. A. Ramalingam Chettiar has given notice of an amendment; I have had discussions with him and I think I have satisfied him that it is unnecessary to move this particular amendment. The problem that worries him is, if within the period specified in the Bill, namely the 1st April 1946 to the 31st March. 1948, only one dividend has been declared in respect of a period of one year, would that be taken as the average limit for the purposes of this Act and determine the limit of dividend? That, of course, is the inevitable consequence of clause 5 of the Bill, that is to say, the amount distributed as dividend is to be divided by the period to which that distribution applies. If you apply that principle, inevitably it follows that there is only one dividend declared in respect of one year, that is the limit to which the dividend should be subject in respect of that company. So I would ask my honourable friend, Mr. Ramalingam Chettiar not to press his amendment and I shall see that necessary instructions are given. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill to limit the dividends which may be paid by public companies, as reported by the Select Committee, be taken into consideration."

Srijut Kuladhar Chaliha (Assam: General): Sir, I do not understand why this Bill has been brought forward, and it is perhaps for the fact that the Finance Ministry wants to get the satisfaction that they had something to do that will stop inflation in the country and they want to have the pleasant feeling of showing to the world that they are going to do something which will come as a surprise. On the contrary, I find that this measure will not stop inflation, but will create great hardship on the middle-class shareholders. It is really intended to harm the people who by their austerity and their abstinence built up small industries such as the Tea Estates in Jalpaiguri, the Tea Estates in Assam and other places in Bengal. In Jalpaiguri, I find the Tea Estate is run by two or three lawyers with a capital of Rs. 30,000. It is a public company. Barbers, shop-keepers, pan-wallas and bidi-wallas all subscribe and they entirely depend on the dividends and if 6 per cent is allowed on such incomes, probably they will have to starve. What they used to do in Jalpaiguri was in the first instance they started the concern with a capital of Rs. 30,000. After planting about one hundred acres, they go to the banks and borrow another Rs. 50,000 and after repaying that they again borrow another Rs. 50,000. But the real capital is shown as Rs. 30,000 but the actual capital invested is much more, perhaps 5 times more than the original capital. They purchase machinery which cost them another Rs. 50,000, but they show the *ordinary* capital as Rs. 30,000 and they declare a dividend of 400 or 500 per cent. I feel, therefore, that the small lawyers, brief-less lawyers and these poor middle-class men will be hard hit by this measure. What is the sum invested in the public companies? It is about 450 crores out of this Companies with a capital of 100 crores have been started after 1942 and they are possibly not paying any dividend at all and about 350 crores give a dividend of about 24 or 25 crores. If 6 per cent. dividend is allowed to be distributed it will leave only 4 or 5 crores. Government by trying to get this 4 or 5 crores are actually depriving the poorer classes who entirely depend on their income in the shape of dividends which accrue on shares. I believe Calcutta, parts of West Bengal, Assam and other places and South India also will be affected by this measure. I find from a statement made by Mr. Narayanaswami that in Scindia Steam Navigation Company there are about 500 share-holders who have subscribed for less than 50 to 100 shares and even in the Bombay companies, the share-holders are worse off. (*Shri T. T. Krishnamachari*: 'They won't get any dividend.') So it seems that you are depriving the people who want the money most, and whose income ranges between Rs. 1,000 to Rs. 5,000. The prices are going high and these people have limited incomes and so far the prices have not been brought down. The money is going to be left with the agents or banks. If the money is with the managing agents we know what they will do with it. If you want to stop inflation, then that money should not come into the market. On the other hand, this money will flow into the market in investments and inflation will go on. I cannot support on any ground whatever a Bill of this nature. I should think we should oppose it. Why it has been brought in at all in order to hit hard the middle and poorclasses of people I do not know. I oppose the Bill. I hope Dr. Matthai will see that this is withdrawn. If this is not possible, if the Ministry stands on prestige and dignity then I think the amendment of honourable Member Mr. Naziruddin Ahmad to substitute the words and figures '30th day of April, 1949' for the words and figures "31st day of March, 1950" should be carried. That should satisfy the dignity of the Ministry and they should feel flattered that they have been able to get the Act extended to 30th April 1949. If they do not want it so extended, they should withdraw it. If they do not want to withdraw it, I would ask the House to support the face saving device contained in the amendment of Mr. Naziruddin Ahmad. I trust Dr. Matthai will accede to this request and do well to the middle and poor classes of the country. Alternatively he should withdraw this Bill which is unjust and unfair.

Kazi Syed Karimuddin (C.P. and Berar: Muslim): Mr. Speaker, I welcome the introduction of this Bill and its consideration. The object of it, according to me, is laudable. I do not agree at all with the reasoning of the previous speaker that the Bill should be condemned. The principle underlying the Bill is that the rich should not become richer, and the poor, poorer. My complaint against this Bill is that, according to its provisions, the period for which it will be in force is very short. The honourable the Finance Minister, in his opening speech, has given no reasons as to why the period has been limited. In the first part of the report, the Select Committee has stated that the views of the representatives of the Exchanges were heard, but we do not know what their views were. We do not know also why the Select Committee agreed to the curtailment of the period of its operation.

Another thing is that in Part I of the Report, the Select Committee says:

"We have anxiously considered whether the amount which, but for this Bill would have been distributed to share-holders of companies as dividend should not be segregated in a special fund, both as a safeguard against its being frittered away and also for the purpose of preserving it for ultimate disbursement to the share-holders."

And the Select Committee has expressed the hope:

"that those in charge of the direction of the affairs of the companies would realise their responsibility in this matter and give effect to the suggestion we have made above in the fullest possible measure."

Will they listen to their advice? I do not think. There should have been some provision by which a legal direction could have been prescribed that the funds which exceed the payment of dividends to the extent of 6 per cent. should either be kept in the concern for the expansion of the industry or should go to the National Government for starting some industries or to the shareholders. A mere expression of hope and faith in the directors will not do. I remember a couplet:

'Ham ko un se wafa ki hai ummid.
Jo nahin jante wafa kya hai'.

We expect faithfulness and fidelity from those who do not know what fidelity and faithfulness are. We, on the recommendation of the Select Committee, are going to trust those who live for profit and who die for profit. The directors in the charge of the companies cannot be trusted. Therefore this expression of hope in the report is nothing but an eye-wash. It is only to console the shareholders that their money will not be taken away. Therefore

[Kazi Syed Karimuddin]

I appeal to the honourable Minister to introduce a legal provision to keep that money intact either for expansion or to be taken away for the National Government for the creation of a new industry or to be kept in the name of the shareholders to be utilised for some other purpose.

My other objection to this Bill is the provision in clause 11. It says:

"The Central Government may, by order, exempt any company or class of companies from all or any of the provisions of this Act, or make any modification in the application of the said provisions to any company or class of companies."

I have no objection to a National Government possessing this power. But I expect even from this Central Government that they should embody in the Act itself the grounds on which they would exercise this arbitrary power. Under the existing provision they could suspend the application of this Bill in favour of any concern. The House must see to it that the grounds on which this action could be taken by the Central Government are stated in the Bill itself or in the rules. The exercise of this sort of arbitrary power would open the door to favouritism and there may be cases in which justice will not be done to all the shareholders or companies. Therefore my submission is that this Bill has been re-drafted by the Select Committee in a very half-hearted manner. The Bill should be amended in the way I have suggested.

Shri M. Ananthasayanam Ayyangar (Madras: General): I would say only a few words. Between the date when the Bill was introduced and today, there has been a rapid change in the economic condition of the country that one wonders whether after all this Bill is at all necessary in the circumstances now prevailing. I have before me a note prepared by the Economic Adviser to the Government of India. He finds that there are definite deflationary symptoms on account of these:

(1) The growing tightness of the money market;

(2) the growing stagnation in the investment market;

(3) the accumulation of stocks in the textile, sugar pharmaceutical and other industries;

(4) the growing unemployment as indicated in the recent reports from the Labour Commissioner.

The prices no doubt are high and they are, if we read the cartoons of Shankar, only 5 points high. But I am sure high prices will go on. Wages and travelling allowances have been high and continue to be high. It will be impossible to reduce the wages and the artificially increased high wage level will continue, as also the high prices for sometime more. After some time the prices will have to come down. Therefore the question will be whether, in the circumstances now prevailing in the money market and the in-coming deflation and slump, public undertakings will not have to be started and more money pumped into the country for relieving unemployment. In this situation it was very wise on the part of the Select Committee and of the honourable Minister to rightly restrict the scope and effect of this Bill to one year only. In one year many things may happen. No doubt a number of witnesses appeared before the Select Committee and gave very valuable evidence. Then, the capital will include the bonus shares; the minimum rate of interest may be increased from 6 to 7½ per cent.; whatever is saved over and above six per cent. may be invested so as to avoid its being thrown into

3 P.M.

the market and increasing inflation. The main point is that the profits that are earned which may be of the tune of 12½ crores over a capital of 300 crores, that amount would go by way of dividends to the

shareholders. But, a large portion is taken away by the managing agent. There is no provision here insisting that the managing agent should not put that money into the market. Therefore, the object of this Bill is partly met by trying to restrict the dividends: it is not wholly met. After all, the entire quantum of dividends may not be more than four crores even according to the Finance Minister. In these circumstances, not plugging all the wholes, the Bill may not be very satisfactory or useful.

About the middle class people, the tabular statement which was circulated amongst us showing the percentage of shares held by all the classes of people, shows that more than 75 per cent of the shares are held by middle class people who make a living out of the dividends earned. Widows, orphans, minors, trust, charitable endowments and institutions have invested money in these shares. In these circumstances, we considered very deeply whether there was a need for prolonging it by some modification or to curtail the Bill as it is to one year. Ultimately we found that limiting it to one year will be useful, without the power of extending it to another year though it may be for one year in the first instance. Judging from the evidence that we had, with an economic slump staring in the face, we thought that even that power may not be necessary. I am sure that honourable the Finance Minister with his ability, and skill, will watch a thousand times the tendencies that are already in the market and in the country and not continue this Bill unless it is absolutely necessary beyond one year. As it is, the Bill would not seriously affect; the money is not going to be taken away from the companies or from the industries. It is only a saving in the interests of the shareholders themselves. They can put up with a temporary suspension for a period of one year. I welcome the report of the Select Committee and I support the motion for consideration.

Shri T. T. Krishnamachari: Mr. Speaker, Sir, I am afraid I am one of those who always have a grouse against the honourable the Finance Minister for not having taken all the steps possible, all the steps that he is aware of, to counter inflation in this country. But, after having heard my honourable friends today, I am afraid, I must entirely withdraw from that position. Because, I have seen the enormous difficulties the honourable the Finance Minister has to face even in respect of such an innocuous measure like the one that is before the House.

Sir, one of the main objects of my rising to speak on this motion is that unconsidered statements by very responsible legislators are often likely to do a lot of harm. I am afraid that a wholesale sweeping condemnation of this measure, whose value is largely psychological, is not likely to help the Government in meeting the forces that are anti-social and hinder the economic progress of this country. To begin with, I would like to assure my friend from Assam, Mr. Kuladhar Chaliha, that the Bill is not quite so bad as he thinks it is, for the reason that the middle class investor is not likely to lose a very large portion of his dividends if he has been receiving a fairly high dividend during the last two years. The last two years have been the peak years; in fact, the year before last was the peak year and the subsequent year was not quite so good; we have in this Bill struck the average of the two years. The middle class investor is ensured that if the company was making a profit, if the management wants to declare a liberal dividend, then, he will get the average of those two years, one being the peak year and the other which is slightly less so. To complain that this is a Bill which strikes at the meagre resources of the middle class investors in this country will not therefore be true. Of course, it is true: the other day when I was rummaging my papers, I had a whole basket full of papers relating to objections to this

[Shri T. T. Krishnamachari]

Dividend Limitation Bill, which I know, was just a pure and simple exaggeration by the vested interests who felt that the psychological effect that this Bill was creating in the market is great and had to be countered not because of any real factual adverse influence on the market.

There have been some criticism against the limitation of the operation of this Bill to one year. Of course, the honourable the Finance Minister is quite competent to reply to this criticism; but as a non-official, I would like to state this. This question of dividend limitation raises a number of problems. In fact, in regard to private companies, in regard to certain public companies of a semi private character in its holdings, the Income-tax authorities insist on a very large percentage of the profits to be distributed so that the ultimate holders of the shares cannot take shelter under the limited taxation demands made on them by way of Income-tax and Corporation tax and evade payment of Super-tax. If this particular measure is going to be made applicable for a long time to come, the Government will at once be faced with another problem, namely, what is to happen to the undistributed portion of the profits on which the Government will not get its legitimate taxes. My honourable friend Mr. Ayyangar mentioned that there is a possibility of 12½ crores being distributed as dividends, and all of it will probably go into the hands of the shareholders. It would not. Actually the Government claims some portion of it by the imposition of Super-tax. The man who gets a dividend gets exemption, undoubtedly, in so far as Income-tax is concerned; but he is not exempted so far as Super-tax is concerned. If he pays super-tax by reason of the fact that the dividend is pooled with his other income, the Government get a portion of that money that is paid by way of dividends. Therefore, you cannot make this Bill applicable for all time to come without providing for some means by which the Government will take its own share of the undistributed portion of the profits. Any dividend limitation will ultimately result in reducing a portion of the Government revenue and therefore, this matter will have to be investigated at great length even from the Government point of view.

Secondly, as my honourable friend Mr. Ananthasayanam Ayyangar said, deflationary signs are there; but I am afraid the deflationary signs are there in a peculiar manner. They only affect certain types of our economic activity. The incomes of many people are still rising; the prices are rising; whereas the money market shows signs of deflation. I have no doubt that the honourable the Finance Minister will take a due note of the position. I do not think that deflationary signs could be induced, or have been induced or will be induced by a dividend limitation measure of this nature, which is really innocuous and which does not really affect a large portion of the money paid as dividends. As I said before I have taken the statistics of several companies from the Investors Year Book and pooled the two years income to see what the average will be. I found that in most cases, there may not be any appreciable diminution of the dividend if the average determines the amount of the dividend paid. The other factor is, limitation of dividends in regard to new companies is the most healthy thing that is possible in such cases. I wish there is a statute similar to what we have provided in the Banking Companies Act, namely that new companies must build up reserves, and until the time they build up certain reserves, they cannot declare more than six per cent dividend. This is a factor which goes to ensure that the dividend earner will get a steady dividend because reserves are built up and the solvency of his holding will depend largely on the stability of the company and its large reserves. I think in so far as this particular measure operates against the new companies declaring any dividend over six per cent, it is a very salutary measure. I feel I can assure

my honourable friend from Assam that the effect of it is largely psychological and is not real, and that the number of people that are likely to be put to harassment are very few and to a very small extent. It would not reduce perceptibly the income of those people who have shares in the tea estates if they have been receiving an appreciably-good dividend the last year and the year before last. This cry of this measure affecting the middle class people, which is quite a powerful cry, which appears to be used by the vested interests, ought to be countered and nipped in the bud by responsible people in this House rather than this should be allowed to go on without being contradicted. That is the main reason for my interference in this debate. I would like, as a person who is not always on the Government side, but one who is quite willing to criticise the Government if need be to assure my friends here in this House and the people outside, that this Bill is not affecting the middle classes to any appreciable extent,—it would have only a very infinitesimal effect.—and, secondly, that in so far as limitation of dividends of new companies is concerned, that is going to build up healthy reserves. Lastly, this question of having a measure of this nature as a permanent measure for a long time has got to be considered. In fact in the United Kingdom there is a dividend limitation operating, not by means of statutory pressure but by means of the moral pressure of Government. Of course it has now come to a stage whether it is worth while exerting that pressure. People are thinking on these lines, but actually in the United Kingdom dividend limitation is in operation. There is an understanding between the Treasury and the bigger companies and these firms have voluntarily limited their own dividends. But again as I said this will raise the question of what is going to happen to the Government share of taxation that is due on the undistributed portion of the profits of companies, on which there is an enormous amount of literature in the market. These considerations make me feel bold to be able to assure this House and the people outside that this measure need not be considered as anything disastrous, that I am sure Government and the Finance Minister will examine the whole position within the time that is at their disposal, and by the time this Bill lapses a year hence they will either produce a more reasonable measure safeguarding the revenues of Government, safeguarding the interests of middle class investors and affording encouragement to new investors; if it is necessary for them to produce a measure at all. I am sure opposition to this is uninformed and one which a responsible House like this should cast aside without much hesitation. Sir, I support the motion before the House.

Mr. Naziruddin Ahmad (West Bengal: General): Sir, from a perusal of the debates at various times and the changes of opinion that have taken place in a short time in the House I find we are fighting with a shadow. In fact the slogan has been that we must fight inflation. Now what is inflation I do not understand. Inflation is a kind of ghost which the House thinks, must be killed. It reminds me of the story of a woman whose house was haunted by a ghost and who was told that the ghost would come at midnight she could kill it by beating it with an old broom. Now it so happened that her husband who was abroad, returned at midnight. He wanted to give her a pleasant surprise and returned at midnight and was entering the house with stealthy footsteps, but was beaten with the broom by his wife who mistook him for the ghost. In this case we want to kill the capitalists like the ghost. But somehow you cannot touch them and they slip through your fingers. You cannot get hold of the big tax-dodgers. There are persons whose cases are subject to inquiry by the income-tax investigation Commission. Somehow there was and is a feeling here that they will escape or you will effect a compromise with them. I do not wish to go far in this direction but why are we sacrificing principles? Somehow or other we are not sticking to high moral principles. I submit that in trying to kill

[Mr. Naziruddin Ahmad]

inflation and the capitalists we are killing the middle classes. I do not object to your killing the middle classes, killing the market and making the money market absolutely dry, except that is all one-sided punishment. According to the honourable Minister, the middle classes form 90 per cent. of the shareholders. If it is necessary in the interests of the country to take away a large part of their income these should not be the only persons who should suffer because every man must contribute towards killing inflation. I submit that on the same principle the salaries of Government servants and of Ministers, the allowances of Members, and the pay and allowances of all wage-earners in logic, must also be subject to a corresponding deduction. This one-sided deduction of income of middle class shareholders is extremely discriminatory. In fact it will kill the class of people who have paid money in expectation of some reasonable return and they are the only persons who are being victimised for their folly. A distinguished economist member of the House like Mr. Krishnamachari has, perhaps, in an unguarded moment stressed the fact that the shareholders have received very high dividends in the last two years. That is only an apparent state of affairs. There are many companies who have given during these peak periods 30, 40 or 50 per cent. and in one or two cases even 100 per cent. dividends. But he does not apparently realise the fact that it is not 30 or 50 per cent. on the investment of the present shareholders. These successful companies were started long ago. You are calculating dividend at 30, 40 or 100 per cent. at the issue prices. But does the House realise that these shares are freely bought and sold? They are bought on the basis of 5 per cent. or 4 per cent. income, and so people who have bought them get only 5 per cent. or 4 per cent. and in some cases only 3 per cent. on their investment. So in order to limit the dividend to a fixed standard, you are trying to prejudicially affect these very people and you are going to reduce their income much below 5 or 3 per cent. I submit that the whole scheme was based upon a misconception that you are punishing the capitalists. The misconception is no doubt gradually fading away but it is not completely gone; like the shadow of the ghost it still haunts the House. My honourable friend Mr. Chaliha can, I believe, read thoughts. I had given notice of an amendment to limit the operation of the Bill to April 1949 and he has rightly estimated my mind, namely. I think that there is the question of prestige of the Government; Government are out to kill the ghost; something must be done, though not very effectively. I believe I gave Government a convenient escape by which they could maintain their prestige and at the same time relieve the shareholders by 30th April 1949. I submit the whole question should be considered from a true angle as it is now beginning to be. The Honourable the Deputy-Speaker the other day and today made it clear that our policy is not doing any good. In fact it is not merely drying the capital market. The capital market is gone; there is an unfounded but widespread belief that the capitalists are somehow or other creating a scare, that there is enough money to go round and the people are not coming forward out of a mischievous motive. I submit that is not a fact. The capital is supplied by a large section of the middle classes from their small savings; the capitalists supply only a small part of the capital though they realise large profits from the public. They make large profits but you cannot touch their profits or the incomes of the managing agents. They take money in various ways but you cannot touch them. Then why strike the middle classes alone? Nothing will be gained by making them lose their income. Their confidence in the market is gone. If your industrial policy is to succeed money must flow from these people to industries, and for that you must allow them their income. I find that Government is now driven to go to the foreign market. That is the inevitable punishment. In fact your home market has gone dry and that is why you are driven to the foreign markets. I submit that instead of proceeding on false assumptions it is better to drop the Bill, and I show the honourable Minister a way out. He has no doubt considerably changed his opinion; the House has also changed its opinion. I admit the Bill is a great improvement on the past and a little more is needed to make it inapplicable after 1949. We have not yet made an expert study of the exact position of the market as to how it is reaching to our policy. We are proceeding on false assumptions of course much has been done and the little that remains will be done by accepting my amendment.

The Honourable Shri Satyanarayan Sinha (Minister of State): Sir, I move:

"That the question be now put."

Mr. Speaker: The question is:

"That the question be now put."

The motion was adopted.

The Honourable Dr. John Matthai: All the considerations that have been put forward in the course of this discussion were before the Select Committee, which represented every section of economic opinion in the House, and as I observed in my opening remarks, this is an unanimous report. This was the basis on which we were able to reconcile the differences of opinion among the different sections represented in the Select Committee and I think, Sir, that there is no better basis on which we can put forward the Bill for final acceptance of the House.

Shri Upendranath Barman (West Bengal: General): What will be the fate of the undistributed dividends after this Act expires a year hence? Will it attach to the respective shares so that the purchaser of shares will be entitled to the undistributed part of the dividend?

The Honourable Dr. John Matthai: It is very difficult for me to give a definite reply to that query, but the best that we can do in that matter is this. The Select Committee has made a suggestion, and I have endorsed the suggestion, that the management of companies to whom this Act applies, must make every effort to put the undistributed portion of the profits into a separate fund which will be available for distribution to the holders of shares on the expiry of the Act. We cannot go beyond that.

Mr. Speaker: The question is:

"That the Bill to limit the dividends which may be paid by public companies, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Speaker: Does the honourable Mr. Ramalingam Chettiar wish to move any of his amendments: if so I could put them all together?

Shri T. A. Ramalingam Chettiar (Madras: General): I do not intend to move them in view of the reference made by the Finance Minister but I would like to say a few words when we come to the clauses.

Mr. Speaker: Instead of putting the clauses separately to which he has tabled amendments, if he does not choose to put any of those amendments, I may as well put all the clauses.

Shri T. A. Ramalingam Chettiar: In that case I will make a statement and if the honourable Minister says he will issue proper instructions, I will not move any one of them.

Mr. Speaker: So I shall put clause 2 first.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Shri T. A. Ramalingam Chettiar: So far as the Bill is concerned, I think it is a very safe and equitable arrangement that has been made, namely, payment of 6 per cent. to new companies and the average of two years' dividend to the older companies. But in drafting the clauses they have not been very careful in bringing out exactly what they meant.

[*At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar.)*]

They have provided the average of two years. They have given the period as 1st April 1946 to 31st March 1948. What has happened is that several companies gave their dividends in March 1946 and the next dividend was given in May 1947 and the third dividend in May 1948. I have got a list of 20 to 25 companies in the Madras province who have done so, because they feared that after the Budget of 1947 there may be very drastic changes in the taxation proposals and they did not want to take the risk of giving dividends before actually knowing what tax they would have to pay on those dividends. That was the reason why there was this difference in the dates of payments of dividends.

According to the statement made by the honourable Minister this morning, he is not anxious to take the average of two years. All that he wants is that within the period mentioned, if a dividend was declared, the period for which it was declared would be taken into consideration and that would be the average. I am quite satisfied with the arrangement that he proposes. I would have preferred that my first amendment to clause 3 was accepted. It says: "if dividend for only one year has been paid from the 1st day of April 1946 to the 31st day of March 1948, the dividend so declared and paid" shall be taken as the average. But the honourable Minister thinks that it need not be entered in the clause itself, and he has made a statement that his object is to work it in that way, and so he will send instructions to the officers concerned to work it in that way. I am quite satisfied with the statement but I was only anxious that in case next year he is going to extend this Act for a third year, probably then this sort of understanding may not be enough. That was my anxiety. In any case, if the matter comes up before the House again, he will make this quite clear.

As regards the statement made by some honourable members that the managing agents are left out in this Bill, I will only tell them that the Managing Agents are paying -/15/6 on the top slab and they will be paying -/14/- annas hereafter. So they are paying in the shape of income-tax and super-tax but not in the shape of Corporation tax under this Bill. So I will request the honourable the Finance Minister to send out instructions and also issue a communique that the intention is that whenever there was only one payment made within the period mentioned in the Bill, that dividend shall be taken as the average. I know some of the Auditors have taken a different view and some of the Income-tax officers have also taken that view. I pointed out to them 5(b) which I thought covered the case, but they were not satisfied. So I will ask the honourable the Finance Minister to issue a communique to the effect that what he intended was this and nothing more.

With these words, I submit, that I will not move the amendments that stand in my name. The other amendments only put the dates either before or after, to meet the case if he wanted the average of two years should be taken. When the single dividend paid is taken as the average, there is no necessity for the other amendments.

The Honourable Dr. John Matthai: There is no difference of opinion between Mr. Chettiar and myself. I will see that the position is made absolutely clear.

Mr. Deputy Speaker: I shall put all the clauses together.

The question is:

"That clauses 3 to 13 stand part of the Bill."

The motion was adopted.

Clauses 3 to 13 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. John Matthai: 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): Sir, I rise to support this Bill. A great deal has been said by my friend Mr. Chaliha about barbers, briefless lawyers and panwalas. I might say at once that if there is any briefless barrister who is affected by the provisions of this Bill you may rest assure that he is either a capitalist himself or his son is a capitalist. If there is any barber who is effected by the provisions of this Bill I would warn honourable Members to take good care before they placed themselves under his razor. He is a man who has taken to the profession for ulterior motives and the moment you give your neck to him he may use his razor the wrong way. If there is any panwala who is affected you may rest assure that he is not a panwala but a prince in disguise. He has started the shop for selling pan not for any gain but to attract a certain class of customers and distribute his pan freely to them. That may be his only objective. On the other hand I see a very good advantage in this Bill. It enables the public limited companies which are always prone to be miserly in the matter of wages to labourers might be persuaded, since they cannot get larger dividends, to pay their labourers their due. Once they pay their labourers in a particular way those wages will remain for sometime. This is an advantage to the labourers.

Now and then when you go to collect subscriptions it is very difficult to collect them from the big industrialists, unless you take a few income-tax officers with you to help you in the matter. Or if you go to a village to collect some subscriptions you may not succeed unless you take a daroga with you or some Minister. Otherwise it would be very difficult to collect subscriptions. When the industrialists know that they will not get so much dividends they will try to earn something for their future life or the next world by paying more liberal subscriptions and thus save their souls. All those objections, after all will be meaningless in view of the provisions laid down under section 11. In extreme cases as mentioned by my honourable friends, who are looking askance at the Bill, Government can always be trusted to make suitable exemptions.

With these words, Sir, I support the Bill.

Mr. Deputy Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

MERCHANT SHIPPING LAWS (EXTENSION TO ACCEDING STATES AND AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister of Commerce): Sir, I move:

"That the Bill to amend the Merchant Shipping Act, 1894, and to provide for the extension of the laws in force in the Provinces of India relating to merchant shipping to Acceding States and for certain other matters, be taken into consideration."

As indicated in the motion itself, the principal object of this measure is to extend the operation of the Indian Merchant Shipping Laws to the Acceding States. These laws had no application in the Acceding States prior to the promulgation of an ordinance sometime ago, under which some features of the merchant shipping laws were sought to be enforced in these States. That ordinance is about to expire and the principal object of this measure is to substitute this Bill in place of the expiring Ordinance. There are two other small points which have incidentally been covered by this Bill, to which I will refer later.

If honourable Members would turn to the text of the Bill they would find clauses 2 and 3, which go together in a sense, seek to extend the merchant shipping Acts of the British statute to the acceding States. Clause 4 again seeks to extend the statutes of the Indian legislature to these States. Now as matters stand we have no comprehensive law of our own on this subject and we have to depend upon the British statute for some very important provisions and whatever Indian laws have been passed are merely complementary in character. I admit that this is a very unsatisfactory state of things and I can tell the House that we have already appointed a special officer in the Ministry of Commerce to undertake a comprehensive revision of the whole law, so as to enable a self-contained legislation to be passed by the Indian legislature itself, which would do away with the necessity of our having to depend upon the British statute for certain purposes. I would therefore beg the House to remember that this is in the nature of a transitional measure and I hope they will not be too critical of certain features which find mention in this Bill and to which certain amendments have been proposed.

Coming to the two other points which I mentioned earlier, the first one relates to the performance of consular duties under the merchant shipping Acts and the British statute. So long as we had no consular officers of our own or even trade commissioners functioning at different ports of the world, the duties assigned to the consular officers under the British statute had to be performed with reference to Indian shipping by those officers. As we are gradually having our officers posted to the important ports of the world we propose, gradually again, to take over these duties ourselves.

The next point relates to the principle of national colours for the merchant navy. At the moment under the British shipping law what is called the Red Ensign, which is enforced in the case of the British merchant navy, has to be flown by the Indian ships as well. But we have seen to it that they do fly the Indian national flag along with it...

Shri R. K. Sidhva (C. P. and Berar: General): Not in all cases.

The Honourable Shri K. C. Neogy: In most cases. It is merchant shipping that I am talking to you about. We have not yet devised the national colours that we will be prescribing for our navy. As a matter of fact this has been the subject of discussion between the different authorities concerned. We have not merely to prescribe a distinctive flag for the merchant navy but also in course of time for the Indian Navy itself. I might remind the House that in the case

of the United Kingdom and the other Commonwealth countries the merchant navy is to fly a distinctive national flag. It is not exactly the national flag but an adaptation of it. In the case of the United Kingdom the Union Jack which is the national flag of the United Kingdom, appears at the left top quarter on a red flag. The flag is threequarters red and on the top left-hand corner or quarter, as it is called, appears the Union Jack. That is the Red Ensign. This has been prescribed for the merchant navy of the United Kingdom. Likewise the other Dominions have prescribed specific national colours for their merchant navy. In our case it is under consideration whether we should not, following the example of the United Kingdom, prescribe a special national colour in which perhaps the National Flag will find a place at the corner of the flag as in the case of the British Red Ensign. But then this will have to take a little time because different authorities have to be consulted and we have not yet decided upon the exact form of the national colours that will have to be prescribed.

Sir, these are the provisions of this Bill and I hope that the amendments of which notices have been given by some of my honourable friends will not be moved because some of them I am afraid have been given notice of under some amount of misapprehension. Sir, I move.

Mr. Deputy Speaker: Motion moved:

"That the Bill to amend the Merchant Shipping Act, 1894, and to provide for the extension of the laws in force in the Provinces of India relating to merchant shipping to Acceding States and for certain other matters, be taken into consideration."

Shri R. K. Sidhva: Sir, I rise of course to support the provisions of this Bill. But I am not satisfied with the statement made by the honourable Minister while moving the Bill that in relation to our Act as well as in relation to our flag it will take some time, according to him. He said that an officer has been appointed to review the whole Shipping Act so as to bring it in conformity with the present conditions. It is now eighteen months that we have attained freedom. We are proud of our own navy—the Indian Navy as also the merchant navy—and we are very proud to see our own flag flying on these ships. In fact eighteen months has been too long a period for the Government for consideration and coming to a decision in this matter. Last year when this question was raised by means of an interpellation it was stated that "within a very short time" the decision will be taken. Today also no definite answer has been given to us. On the contrary the honourable Minister states it will still take long time. I do not understand why for the purpose of finding out a suitable flag for our Navy and also for our merchant navy there should be so much time lost. The honourable Minister gave us a description of the British Navy flag. It is a simple flag. Similarly within a very short time we could have decided on our flag and I see no reason whatever why there should be so much delay in this matter. Our flag should have been prescribed long long ago. We do not want to see the foreign flags flying when those ships come into our harbours. Without any kind of provision in the Act or any kind of regulation, under the ordinary Act when foreign ships come into our harbours they should hoist our own National Flag. That is the rule, but that is not strictly followed by all the foreign shipping companies. I have seen this in Bombay. Some foreign ships do hoist our flag no sooner than they came into our harbours, but others still fly the Union Jack. I hope the honourable Minister will pay attention to this matter which is rather serious and urgent and see that our flag is considered and prescribed very soon and the necessary enactment is made so that we may be proud of seeing our flag flying on all our ships.

Secondly as far as the Act is concerned of course he says that the whole Act is under revision and I do not therefore want to say anything further. As

[Shri R. K. Sidhva]

far as the other provisions are concerned it is merely under the existing conditions that certain amendments are sought to be made. But I do hope that that Act will also be expedited and that in the next session our own Act will be presented to this House. Only with regard to the flag I take really strong exception. As regards the Act I can understand that some time may be required although it is overdue, and if attention had been paid to it the Act also could have been presented to the House long ago. But as I have already said I do not mind that very much as I do in regard to the flag. I hope this matter will be borne in mind and the honourable Minister will see that our own flag is devised soon so that it may be hoisted on all the ships. I also feel that he should issue instructions to see that until our flag comes into existence our National Flag must be hoisted on all the ships—particularly foreign ships—when they come into our harbours. It is one of the conditions under the Shipping Act that whenever a ship comes into a harbour it must hoist the flag which belongs to that country. All along when any steamers belonging to any foreign country came they used to hoist the Union Jack flag. But now some of the shipping agents still continue to fly the Union Jack and ignore our flag though I do admit that some of the companies do fly our flag. Without any kind of standing or regular instructions or rule it seems to me they do not strictly follow the requirement under the Shipping Act which they should. Therefore there must be a rule or an Act that the violation of this provision is an offence and there should be penalty for it.

Sir, with these remarks I support the provisions of the Bill.

श्री लक्ष्मीनारायण साहू: उप वाचस्पतिजी में वाणिज्य मंत्री के इस बिल का समर्थन करता हूं। परन्तु समर्थन करते हुए भी में दो चार बातें उन की दृष्टि में लाने के लिये उनसे अनुरोध करता हूं। वाणिज्य मंत्री ने पहिले ही अपने भाषण में समझा दिया कि हम लोगों को कुछ समय लगेगा कि हम अपने जल पोतों में किसी तरह की पताका रख सकें। यह ठीक है। लेकिन मैं इतना ही कहना चाहता हूं कि जैसा आनरेबिल मिस्टर सिधवा ने कहा कि जब हम लोग सावरेन बाडी बन गये हैं और १८ महीने बीत गये हैं तब हमको क्या डर लगता है कि यह काम जल्दी नहीं करते। हम अभी भी, आज, इसी वक़्त से, क्यों जो हम लोगों का झंडा है उस झन्डें को पोत पर न उड़ावें? ऐसा हो सकता है कि किस तरह का झंडा वहां उड़ाने की ज़रूरत है उस को हम सोच विचार कर करें। लेकिन जब एक राष्ट्रीय झंडा हम लोगों का है तो उसी को हम अभी क्यों नहीं लगाते। उसी को लगा देने से जब सब जहाज़ समुद्र पर उस झंडे को लेकर चलेंगे तो सब को मालूम हो जायेगा कि यह देश स्वतन्त्रता पा चुका है और सब को, जो हिन्दुस्तान के रहने वाले हैं, इस से आनन्द भी होगा। इसी लिये मैं उन के ध्यान में यह लाना चाहता हूं कि जितनी जल्दी हो सके वह पताका हम लोगों की उड़ाने का प्रबन्ध कर दें।

एक बात, मैं यह इस बिल मे नहीं समझता कि यहां क्लाज़ ३ में सबक्लाज़ (iii) क्यों रखा जाय कि

'(iii) at the end of section 1, the following explanation shall be added namely :—

Explanation—The expression "British subjects" shall be deemed to include the Ruler and subjects of any of the Acceding states and the expression "Her Majesty's dominions" add "dominions" shall be deemed to include all Acceding states.'

मेरी समझ में नहीं आता है कि इस को हटा देने से क्या ख़राबी हो जाती है। इस एक्सप्लेनेशन की क्या ज़रूरत है? इस को रखने से ऐसा मालूम होता है कि हम लोग अभी तक आज़ादी नहीं पाये हैं और हम लोग जो कहते हैं कि स्वतन्त्रता पाये हैं वह झूठी स्वतन्त्रता है, सच्ची नहीं है। इसका क्या सबब है कि हम इस को रखें? समझ लीजिये कि हम इसको हटा दें, तो हटा देने से उस का क्या रिपरकशन होगा यह वाणिज्य मंत्री से मैं जानना चाहता हूं।

एक छोटी चीज़ और है। वह क्लाज़ ५ में है: "Performance of consular duties under the Merchant Shipping Acts, 1894 to 1938."

उसमें पांचवी लाइन पर जो 'मे' है उस शब्द को मैं 'शैल' करना चाहता हूं, तो 'शैल' करने से ऐसा होगा :

"Where under the Merchant Shipping Acts, 1894 to 1938, as they extend to and operate as part of the law of India, anything is required or authorised to be done by, to or before British consular officer at any place outside India such thing shall (*not may*) be done in that place by, to or before such other officer as the Central Government may, by notification in the official Gazette, specify in this behalf."

इस में वाणिज्य मंत्री जी को क्या आपत्ति है यह मैं जानना चाहता हूं। इस के सिवा मैं और कुछ नहीं कहना चाहता हूं। यह अच्छी चीज़ है और इस को ग्रहण करना चाहिये।

(English translation of the above speech).

Shri Lakshminarayan Sahu (Orissa: General): Sir, I support the Bill moved by the honourable the Minister for Commerce. But while supporting this Bill I insist upon bringing to his kind notice a few facts. The honourable the Minister for Commerce has already mentioned in his speech that it would take us some time to have some sort of flag on our ships. This is right. But I wish to submit only so much that, as honourable Member Shri Sidhva has said, when we have become a soverign body and some 18 months have elapsed why do we feel afraid that we do not accomplish this work at the earliest. Why should not we fly our own flag on our ships from now, from today from this very moment? It is possible that we may consider over the problem as to what kind of flag needs be flown there. But when we have our National Flag now why we do not fly that flag? When our ships will sail over all the

[Shri K. C. Neogy]

The other point which he has referred to is as regards the Consular officers. If my honourable friend's suggestion were to be accepted, I am afraid the Government of India would have to appoint a Consular officer at every port. We are not in a position to do so. Therefore, the matter has to be left in an elastic fashion that as and when it becomes possible for us to appoint Consular officers, or say even Trade Commissioners who might be authorised to act as Consular officers under our own Act or under even the British Act, as and when it becomes possible for us to appoint these officers we will be entrusting them with the Consular duties. Till then we have to depend upon the British Consular officers. That is the possition. I don't think I need say anything more.

Shri Lakshminarayan Sahu: Still I want to know what objection is there if we remove the Explanation.

The Honourable Shri K. C. Neogy: If we remove the Explanation, you are merely adopting a law in respect of the States of India which will be different from the law which operates in the Provinces of India. That is the first point. The second point is, I am assured that if you remove the Explanation, then the law will be defective.

4 P. M.

Mr. Deputy Speaker: It may not apply to the Acceding States at all. The object may be frustrated.

The Honourable Shri K. C. Neogy: It is intended that the law should govern the rulers and the subjects and the companies incorporated in the States and that can be done only if we have the Explanation.

Prof. Shibban Lal Saksena (U. P.: General): Can we not see to it that our own Bill is ready within six months?

The Honourable Shri K. C. Neogy: I can give my honourable friend the assurance that I will do my best to expedite it, but I am in the hands of experts.

Mr. Deputy Speaker: The question is:

"That the Bill to amend the Merchant Shipping Act, 1894, and to provide for the extension of the laws in force in the Provinces of India relating to merchant shipping to Acceding States and for certain other matters, be taken into cconsideration."

The motion was adopted.

Mr. Deputy Speaker: We shall now take the Bill clause by clause.

Clauses 2, 3 and 4 were added to the Bill.

Shri S. V. Krishnamoorthy Rao (Mysore State): Sir, I beg to move:

"That in clause 5 of the Bill, before the words 'such other officer', occurring in line 5 the words 'an Indian Consular Officer or' be inserted."

Para 3 of the Statement of Objects and Reasons says:

"With the attainment of India's new political status, it is desirable that Indian shipping should fly distinctive national colours, and that consular functions under the Merchant Shipping Acts formerly performed by British consular officers should, as far as possible, be performed by Indian consular officers."

So the very words 'Indian consular officers' have been omitted in the clause. I hope this will be accepted.

The Honourable Shri K. C. Neogy: It may be, as I said, that we will appoint an Indian consular officer, or we may be appointing some other officer, for instance, a Trade Commissioner. I do not suppose it has improved the wording in any way. It is not necessary, but if my honourable friend insists upon it, it is a different matter. It is not at all necessary.

Shri S. V. Krishnamoorthy Rao: The very object of the Bill is to see that Indian consular officers perform these duties, or where Indian consular officers are not available, they may be performed by other officers authorised for the purpose. That is the purpose of my amendment. I only want to add "Indian consular officer". It should be acceptable to the honourable Minister.

Mr. Deputy Speaker: I hope the honourable Minister has no objection.

The Honourable Shri K. C. Neogy: I have no objection, but I do not consider it as an improvement.

Mr. Deputy Speaker: If he accepts, that will be some satisfaction.

The question is:

"That in clause 5 of the Bill, before the words 'such other officer', occurring in line 5, the words 'an Indian Consular Officer or' be inserted."

The motion was adopted.

Mr. Deputy 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.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, I beg to move:

"That in sub-clause (1) of clause 6 of the Bill, the words 'what shall be' occurring in line two, be omitted."

This is a verbal amendment. I consider these words to be absolutely unnecessary. Nothing will be lost by their omission and the whole object of the sub-clause will remain as it is and the Central Government shall by notification be able to do what this sub-clause seeks to do in that case too.

The Honourable Shri K. C. Neogy: I am advised by my technical advisers that the form in which it stands is the proper form.

Pandit Thakur Das Bhargava: I do not press it.

Mr. Deputy Speaker: I shall put 6 and 7 together.

The question is.

"That clauses 6 and 7 stand part of the Bill."

The motion was adopted.

Clauses 6 and 7 were added to the Bill.

Schedule 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.

The Honourable Shri Mohan Lal Saksena (Minister of State for Relief and Rehabilitation): Sir, I beg to move:

"That the Bill to control the admission into, and regulate the movements in, India of persons from Pakistan, be taken into consideration."

In making this motion, I take it that I need not take much time of the House. Honourable Members are aware that the permit system had been introduced some time in July because of the one-way traffic from W. Pakistan. More than a lakh of evacuees who had gone from India have come back to India and in view of our policy that those persons who had not left India and remain here—*e.g.* they have gone from East Pakistan to U. P.—are entitled to get back their property and to be reinstated, and in view of the fact that it was not possible to give effect to that policy, we had to introduce this permit system. We represented to the Pakistan Government that this one way traffic should be stopped and we must arrive at some arrangement by which as many persons as come here, the same number, may be allowed to go there, but it was not possible and therefore the permit system had to be introduced. Since the introduction of the permit system, although we have been able to check this influx inasmuch as the permanent permits have been reduced, yet we know that during the last eight or nine months at least about 40,000 persons have come to India and out of this number, about 8,000 have come on permanent basis and the rest have come on temporary basis.

Therefore, it is necessary in the interests of the rehabilitation of displaced persons that this permit-system should continue, and I hope the House will endorse the Bill that I am putting before it. Notice has been given of a number of amendments of which one or two I am prepared to agree to as they are more or less verbal amendments. As regards the others. I have already had a talk with the honourable movers of those amendments and I hope they will not move them. With these words, Sir, I move.

Mr. Deputy Speaker: Motion moved:

"That the Bill to control the admission into, and regulate the movements in, India of persons from Pakistan, be taken into consideration."

Shri R. K. Sidhva (C. P. and Berar: General): Sir, I can quite recognize the difficulty of the Government to see that the influx of undesirable persons do not infiltrate into our country from the foreign country and from that point of view, this Bill is certainly desirable. But the permit-system has brought about a great deal of hardship to *bona fide* persons who have to go from this country to the other and *vice versa* for *bona fide* business. As far as Western Pakistan is concerned it is more or less a communal State. In the whole of Pakistan hardly 2 lakhs of Sindhis live in Western Pakistan. For those two lakhs of Sindhis, apart from business, for marriage purposes and for other ceremonies and funerals, I know of instances when permits could not be had within a short period, 'immediately' I should say rather. On such occasions the permit system should be available within a moment's notice, but the system is so defective both at this end and on the other end that permits for ordinary purposes cannot be obtained at least for one fortnight. I know of instances where people had to stand in queue at the offices of the Permit Officer; they have to wait for a number of days to get the

permits and I know of cases where it has taken two months. I therefore desire that this permit system should be overhauled and Government should devise means by which *bona fide* persons may go without unusual delay.

As far as Eastern Pakistan is concerned, we know very well that the Bengalees both of the Western and Eastern Pakistan have common interests, and they have to go from one territory to the other. I am glad there is no permit system, but this Act is applicable to the whole of India and it may be applied at any time; I am glad it is not now and Government will see that unless a greater necessity arises, this permit-system should not be introduced. As I stated, I quite appreciate what the honourable Minister has stated that 40,000 people have come away. We do want to check that undesirable persons should not come in with a particular sinister motive and bad object. However, Sir, I feel that our Government have been proclaiming that they want to keep good relations with Pakistan. I want to know with this permit-system and the customs cordon, how are you going to have cordial relations? That surpasses my comprehension. You are having so many conferences, and of course, I do not want to go into the details of the question, but what about the properties of evacuees, crores of rupees that have been left by them? Unless those things are settled amicably by both the Dominions, the cordial relations of which we have been talking so long and of which they have been talking so long, is not going to fructify. I, therefore, desire, Sir and I myself wish that the relationship should be cordial, but if the relations are to be cordial on paper only, then it is a different matter and with all these restrictions that exist today, I think the time is too far off for cordiality. In reality, if you are merely saying that for purposes of propaganda, you may say so and that is a different matter.

With the suggestion about the improvement of this permit-system, I support the Bill and I hope that the honourable Minister will kindly bear in mind all these matters. I have also brought to his notice some of the instances where considerable delays have taken place, which Government themselves admit. In Bombay the Police Commissioner had to be approached for certain purposes and in a *bona fide* case in spite of the fact that he is an Indian subject, when he had to go for the disposal of his property to Pakistan, the permit was not very easily available. These are my grievances and I hope the Government will bear then in mind.

Shri Arun Chandra Guha (West Bengal: General): Sir, while giving my support to this Bill, I would like to point out something, particularly from the point of view of West Bengal and East Bengal. I agree that the Government of India should have some power to control the entry of people particularly from West Pakistan into India; but this permit-system has not been introduced so far as East Bengal and West Bengal are concerned; and as yet both these provinces though belonging to two different states are practically one economic unit. I can say that culturally also they form one unit. In the last Budget debate both the Finance Minister and the Minister for Commerce have admitted the necessity of having closer relations between the two states or the two Dominions; and the honourable Commerce Minister has even gone so far as to suggest having a Customs Union. I feel that both the Governments should move in such a way that there should be closer union, a customs union, a defence union and such sorts of things. For the time being, whatever powers may be necessary for the Government of India, I hope this system will not be introduced as far as the entry from East Bengal is concerned and it has not been enforced so far in West Bengal. I know there have been certain cases of *bona fide* people coming to India for

[Shri Arun Chandra Guha]

bona fide purpose and still they had to face certain handicaps and difficulties in getting the permits even though some have business matters to settle. I hope the Government of India will give proper directions that this permit-system may be used in such a way as to help these men if they really intend to bring about a closer union between the two States. With these few words, Sir, I commend this Bill for acceptance.

Mr. K. T. M. Ahmed Ibrahim (Madras: Muslim): Mr. Deputy Speaker, Sir, though the object of the Bill is stated to be to control the admission into and regulate the movements in India of persons from Pakistan, clause 3 of the Bill definitely points out that the provisions of the Bill will affect even citizens of this country even persons domiciled in India in this connection, I would like to say a few words. There have been some persons who went to Pakistan not with the intention of settling down there, but for some temporary stay there in connection with their business or to see friends or relatives or for other similar purposes, and when after their object is fulfilled, they desire to return to their homes they are faced with many difficulties. First of all, Sir, they find it difficult to get any sort of permit, as has been pointed out by my honourable friend, Mr. Sidhva, with the result that some of them would be satisfied if even a temporary permit is granted, not knowing the implications thereof; when they are told that they can get temporary permits easily, they at once apply for the temporary permits and come here. But when they reach their homes, they are told that unless they return within the period stated in the permits, they would be arrested and there are instances where people have been arrested in pursuance of the conditions of the temporary permit virtually for their having returned to their hearth and home. There are ever so many such cases and such persons are still kept in jails. In this connection Sir, even the Provincial Government has not the power to alter the terms of the permit even though they are satisfied that the person concerned belongs to India and has his permanent abode in India and has no intention of going to Pakistan, nor had he any intention to permanently settle there when he went there originally. Only recently, the Central Government has empowered the Provincial Governments to extend the period of stay for twenty days. Before that even this power, the Provincial Government had not.

Therefore I would request the Government that, in framing the rules under clause 4, they should see that persons who go to Pakistan or who have gone to Pakistan, not with the intention of settling down there but for *bona fide* business or other purposes, are not prevented from returning home. In this connection I would also like to urge on the Government that the cases of persons who have returned home on temporary permits should be favourably considered and on proper applications from them such temoprary permits should be converted into permanent permits to enable them to continue to remain in their respective villages. As things stand at present, these temporary permit holders have to go to Pakistan before the expiry of the period mentioned in their permits and they find it impossible to apply for permits again without undergoing all the expenses and the trouble of returning to Pakistan. There are many such cases in my own province. In this matter when we approached the Provincial Government, they said that they have no discretion in the matter and that their hands are tied. Therefore I would urge upon the Government that in framing rules they should take into consideration all these difficulties and provide for such cases.

Another thing is that there are Indian citizens owning business in Pakistan and they have to go there in connection with their business. They did not know that the relationship between the two Dominions would be strained so soon. Some of them established business in Pakistan long before Partition took place; they have now to go there to supervise their business.

To tell them when they ask for temporary permits that they shall not return to India is very unjust and unfair. I know that very prominent persons have been told that if they went to Pakistan they would not be allowed to return. There are also persons whose sons or daughters or other relations are in Pakistan and they naturally desire to go there to see their ailing relations. They are told that they are free to go, but will not be allowed to return home. It is but meet and proper that such treatment should not be accorded to them. The rules should be framed in such a way that citizens on *bona fide* business or for other necessary purposes should be allowed to go there and return home without difficulty. This is a matter which I would urge upon the Government for its consideration. I hope that in view of the hardships that have been caused to the people, they would consider this matter seriously and favourably.

Another matter is that some persons are still kept in jail for the contravention of the rules regarding temporary permits; i.e., they did not go back to Pakistan within the period stipulated. Their cases also should be favourably considered. They are citizens of this country. They went there for temporary stay and when they desired to return here they were told that they could get only temporary permits. Now they are told that they must go back to Pakistan but they are not willing to go there. Their cases also deserve serious and favourable consideration.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, I listened to this debate with mixed feelings. When my friend Mr. Sidhva and my friends on the right made complains on behalf of persons who have obtained permits, I listened with sympathy. But then can I forget why this Ordinance was issued by the Government and why we are replacing that Ordinance with this Bill? Lakhs of people from Western Pakistan tried to come to India, though the agreement between the Governments was that Muslims from Western Pakistan would not come back to the Punjab, etc. Now it is said that about a lakh of persons have come from Pakistan and that they have occupied lands in the Punjab. The agreement was that so far as the Punjab was concerned, the Muslims of the Punjab were to go away to Pakistan and Hindus and Sikhs were to come to India. In defiance and violation of that agreement about a lakh of people came and occupied lands in Gurgaon district. People are apt to forget these facts before they criticise the policy of the Government. It was all a one-way traffic. Our Government has been always trying to have the best relations with Pakistan. But what has Pakistan done? Those who criticise this Government should at least look at Pakistan. It is all right for them to ask for this or that facility for people of Pakistan. But let them see the position of people who have to go to Pakistan to sell their lands. They cannot enter Pakistan. I do not know much of the conditions in Eastern Pakistan. You must consult the feelings (in regard to this Bill and the Ordinance) of a Punjabee who is practically ruined and who wants to go to Pakistan and have a look at his own property and sell it according to the agreement. But none is allowed to enter there. If any person gathers up enough courage to go there and does not return within 15 days he will find himself in jail. These are the conditions there. I have the same feelings as Mr. Sidhva that both Pakistan and India should have very good relations. But it is all one-way traffic again. We want good relations with them; but do they want it? That is the simple question. When the relations between our two countries become better, there will be no need for the permit system and for customs barriers. But so long as our nationals are not allowed to go there, I submit that we should welcome this Bill and make it more strict. It is possible that spies may be coming from Pakistan and, noting certain things here, go back and report to his country. That is productive of mischief. We must face the realities. What do we find in the Bill?

Shri R. K. Sidhva: Nobody opposed the Bill.

Pandit Thakur Das Bhargava: I appreciate it. But I humbly request my friends to go to Pakistan and preach to Pakistan this noble feelings. We will certainly reciprocate all the good things they do to us. But, to ask us to do this thing and that and not ask them to do likewise, is again one-way traffic. We wish all prosperity to Pakistan. I do not grudge them that. I submit that this Bill is very apposite and we welcome it. But, the Bill is not sufficiently strict and sufficiently circumspect. After all, according to the provisions of the Criminal Procedure Code, section 54, every police officer has got a right to arrest a person when a cognisable offence is committed. But, under this Bill, when a cognisable offence is committed, a person below the rank of a Sub-Inspector will not be able to arrest the person. I do not see why we should make this difference so far as the ordinary law of the land is concerned. I can understand your making a law much more strict than the ordinary law of the land; but, where is the occasion for giving this concession. When you find that a stranger has come to the village, and it appears that the circumstances are suspicious, it is the ordinary duty of every village head man to get hold of that person and report to the police, whereas under this Act, there is no such provision.

Mr. K. T. M. Ahmed Ibrahim: Cannot a stranger be from any other province of India?

Pandit Thakur Das Bhargava: So far as India is concerned, we know that under the Constitution we have passed a law that all Indians are at liberty to go to any part of India and there can be no question of that. We are now concerned with persons who come from Pakistan, who are foreigners to us now. Either recognise them as foreigners or do not recognise them. If they are not foreigners to you, you may admit them into your homes. But as long as they are foreigners, I want to treat them as foreigners and not in any other manner. My submission is that there should be some provision whereby those persons when they come to India and surrepticiously reach their village, the village head man may be enjoined to inform the police so that the police may arrest those people. Otherwise, supposing a person comes, where will he go? Usually, so far as the Punjab is concerned, he will go either to Ambala District or Gurgaon District, occupy his old lands, etc., and then say, I am here since one year. This has been the position. They say, we never went there, we are here. After all, when all is said and done, the lands which the Muslims left here have to be distributed among the refugees; if you allow all this land again to be taken by these people, then, I submit, that this will not be just. People come to Delhi. What for do they come? Those that have gone have not got much of affection for India. They want to come, get hold of their lands, houses, etc., dispose of their lands and houses so far as the law allows them. I have no complaint against that if the Government allows that according to agreement. At the same time, they should not take advantage surrepticiously. Therefore, with a view to effect the necessary improvements, I have given notice of some amendments to see that the law which is now sought to be enacted is brought into line with the ordinary law of the land and I hope the honourable Minister will kindly look into the amendments and accept such of them as he thinks are good.

Mr. Deputy Speaker: Mr. Barman.

Srijut Rohini Kumar Chaudhuri (Assam: General): Sir, there are barriers which prevent me from catching your eye.

Mr. Deputy Speaker: The honourable Members is visible even through the fan. I have called Mr. Barman.

Shri Upendranath Barman (West Bengal: General): Sir, so far as Western Pakistan is concerned, my honourable friend Pandit Bhargava has stressed the need for such a legislation there. So far as Eastern Pakistan and West Bengal are concerned, I have this objection. Is this law to be passed and operated throughout India or is it going to be operated part by part?

An Honourable Member: It does not apply to you at all.

Shri Upendranath Barman: My point is, so far as the Eastern Pakistan is concerned, we want some time so that we can adjust our relations. The condition of things is such; the boundry is most unscientific; it is extremely difficult to guard the frontiers. At the same time the people of East and West Bengal have to pass to each other's territory I think for evey necessity of life. As it is said that it is going to be operated part by part, I have no serious objection for a legislation like this, provided that it is not applied now to Eastern Pakistan until and unless Eastern Pakistan applies such laws against us.

The Honourable Shri Mohan Lal Saksena: Sir at the very outset, I may say that so far as India is concerned, we have introduced the permit system with great reluctance. We tried to persuade the Pakistan Government to create conditions in Western Pakistan so that the traffic may be a two way one; failing that, we have introduced this. I should like to inform the House that although Mr. Ibrahim has spoken, I would ask him to cite a single instance in which a person who has gone out on a temporary permit has not been allowed to come back and his property declared as evacuee property. On the other hand, we have such cases in Pakistan. One Dr. Mirchandani who was running a nursing home, came here on account of the death of a near relation. He came on a temporary permit basis; he had applied for extension to the Pakistan High Commissioner. All the same, his nursing home was declared as evacuee property and allotted to Dr. Querishi, who was condemned by the Punjab High Court and sentenced to death. It has been suggested that this Bill is intended to prevent spies from coming. So far as we are concerned I am sure, the Defence Ministry and the Home Ministry are quite strong enough to make arrangements with regard to that. The purpose of my Bill is simple. The entry of these persons interfers with our rehabilitation plans. Our Government has declared that in the case of those muslims who had not left India, who had gone to other parts of India, we are going to give back their properties. That makes all the difference. That is not so in Pakistan. When we felt that the trickle was small and it did not disturb our plans for rehabilitation, we did not object to that. Later when we found that the influx was growing, we have had to introduce this system.

Mr. Sidhva has pointed out that there have been difficulties. Yes; there are bound to be difficulties. I think so far as he is concerned, he has to obtain permits not from the Government of India, but from the Pakistan High Commissioner here. He might have experienced difficulties. When he brought any case to our notice, we wrote to the Pakistan High Commissioner or the Pakistan Government. So far as we are concerned, we have tried to facilitate the return of those persons who had gone before the introduction of the permit system on business, after ascertaining and satisfying ourselves that they had not actually left India, but had gone on business. The honourable Members may see that so far at least 8,000 persons have been allowed to come back on a permanent permit. These are cases of those persons who

[Shri Mohan Lal Saksena]

had not gone with a view to settle there, but on a temporary visit and therefore, they were allowed to come back and get back their property. Similarly, in the case of marriage, illness of near relations in Pakistan, we freely give them permits and there is no danger of their not being allowed to come back, because, we are insisting on their taking a certificate from the District Magistrate and on the basis of that, we allow them to return. The object of the Bill is not to prevent Muslims from coming if they come here and do not disturb with our rehabilitation plans. But, that is not possible. You know we have been trying our best to persuade the Pakistan Government to agree to exchange of agricultural property on a Governmental basis. We have been trying to persuade them to exchange urban property on a Governmental basis, up to a certain value. So far, our efforts have been in vain. I am fully conscious of the fact referred to by Mr. Sidhva that in spite of our efforts in other directions to improve the relations between India and Pakistan, there is bound to be a great deal of bitterness and ill-feeling between the nationals of the two countries so long as the property question is not settled to the satisfaction of both sides.

I may assure the House once again that the object of the Bill is not to create difficulties so far as the nationals of India are concerned, Muslims or non-Muslims. If the Muslims want to go to Pakistan for some temporary work, they are freely given permits; there is no difficulty in their returning. But in regard to those who had gone to Pakistan with a view to settle there, and whose property has been declared evacuee property, we certainly object to their coming back and claiming the property because that is going to disturb our rehabilitation plans. With these words, I commend the motion to the House.

Mr. Deputy Speaker: The question is:

"That the Bill to control the admission into, and regulate the movements in, India of persons from Pakistan, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Pandit Thakur Das Bhargava: Sir, on clause 4 I gave notice of an amendment of which I will move only the latter part namely:

"That after part (c) of clauses of the following new part (d) be inserted:

'(d) making it obligatory upon the village headman, village accountant, village watchman, village police officer, or any other public servant or person belonging to any special class to forthwith communicate to the nearest Magistrate or the Officer in charge of the nearest police station, whichever is the nearer, of the entry, movement or presence of any person who contravenes section 3 or any provisions of any rule made under this section'."

The Honourable Shri Mohan Lal Saksena: This is not necessary; it can be done under rules made under this clause.

Pandit Thakur Das Bhargava: Then I will not move it.

Mr. Deputy Speaker: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Pandit Thakur Das Bhargava: Sir, I move:

"That in sub-clause (2) of clause 5 of the Bill, the following be omitted; 'touching any point material to the object for which the statement is made or used'."

These words are used in clause 5. If a person makes a false statement which to his knowledge is false or which he does not believe to be true, then this question arises. In ordinary cases when such a case is brought to court, if there is a deliberate mis-statement in respect of a matter which according to the person who makes the statement is not material, but which according to the finding of the court may be material, then if these words are there it would mean that a person can make a deliberate mis-statement and yet escape the clutches of the law. So far as the ordinary provisions of the law are concerned, in sections 191 and 193 of the Indian Penal Code there is no such qualification that the untruth must be material. If we take the ordinary definition of perjury in section 193 any mis-statement to the knowledge of the person making it comes within the mischief of the law. But if there is an exception in regard to this class of persons, one can make a mis-statement and yet escape the law by saying that it was not material at all. It is of course for the court to see at the time of awarding punishment what punishment should be awarded. Perjury is proved to the hilt when mis-statement to the knowledge of the deponent is made. I therefore submit that these words should be taken out.

Mr. Deputy Speaker: Is it not for the court to decide whether it is material or not?

Pandit Thakur Das Bhargava: No, in section 193 it is not in the definition. But when they award some harsh punishment then to determine the grant— of punishment it is to be seen whether it is a material mis-statement or not.

The Honourable Shri Mohan Lal Saksena: Sir, to cut short the discussion I will accept the amendment because while giving punishment the court will consider whether it is material or not.

Mr. Deputy Speaker: The question is:

"That in sub-clause (2) of clause 5 of the Bill, the following be omitted:

'touching any point material to the object for which the statement is made or used'."

The motion was adopted.

Mr. Deputy 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.

Pandit Thakur Das Bhargava: Sir, I move:

"That in sub-clause (1) of clause 6 of the Bill, the words 'not below the rank of sub-inspector' be omitted."

This amendment is very important from the legal point of view. Under section 54 of the Criminal Procedure Code every police officer has the right to arrest any person who is guilty of a cognisable offence. I do not see why in a case of this nature you wish to make an exception that any police officer below the rank of sub-inspector will not have the right to arrest a person guilty of a breach of this law, when a breach of the law is punishable with imprisonment for a year. I would like to see the law made still more stringent in this case and give every person the right to arrest a defaulter of this law and bring him to a police officer. But that would be a discrimination between an ordinary delinquent and this kind of delinquent, and the honourable Minister may be right in repeating it. If a person is a spy every person should have the right to arrest him; but if the honourable Minister is not prepared

[Pandit Thakur Das Bhargava]

to accept that principle in the present case, there is no point in making an exception here for those who violate the law. You must make these people liable to be arrested by any police officer. Sir, I move.

Mr. Deputy Speaker: Amendment moved:

"That in sub-clause (1) of clause 6 of the Bill, the words 'not below the rank of sub-inspector' be omitted."

The Honourable Shri Mohan Lal Saksena: Sir I do not accept it.

Mr. Deputy Speaker: The question is:

"That in sub-clause (1) of clause 6 of the Bill, the words 'not below the rank of sub-inspector be omitted."

The motion was negatived.

श्री लक्ष्मी नारायण साहू: उपवाचस्पतिजी, इस क्लाज में मैं देखता हूं कि जो अरेस्ट आप करेंगे आप लिखते हैं एनी पर्सन without वारन्ट ठीक नहीं मालूम होता है। आप अरेस्ट करेंगे तो उसे वारन्ट दिखाइये और तब अरेस्ट कीजिये। मैं ऐसा इसलिये यह कहता हूं कि यह गवर्नमेन्ट इतनी पावर ले लेती है सब जगह कि without वारन्ट अरेस्ट करने से ऐसा मालूम होगा यह सरकार अराजक हो गई है और सरकार की इतनी पावर नहीं है कि वह अपना काम ठीक तरह से चला सके। इसी लिये यह ज्यादा पावर ले लेती है।

पंडित ठाकुर दास भार्गव: क्या मेरे दोस्त को मालूम है कि आज हरएक पुलिस अफसर हर एक आदमी को जो ऐसा जुर्म करता है कि उसे छः महीने की सजा हो सके बिना वारन्ट गिरफ्तार कर सकता है।

श्री लक्ष्मी नारायण साहू: गवर्नमेन्ट ने इतनी पावर ले ली है कि उसे बिना वारन्ट अरेस्ट नहीं करना चाहिये। गवर्नमन्ट को बहुत ताकत नहीं लेना चाहिये। हम लोगों ने एक बिल पास किया है जिस में without वारन्ट पकड़ा जा सकता है।

श्री जसपत राय कपूर: अगर एक आदमी चोरी करता है और दूसरा आदमी जैसे सिपाही उसे देख रहा है फिर भी उसे बिना वारन्ट गिरफ्तार न किया जाय?

(*English translation of the above speech*)

Shri Lakshminarayan Sahu (Orissa: General): Sir, I see that for the arrests that you would make under this clause it has been laid down that, 'any person can be arrested without warrant'; this does not seem proper. If you want to arrest any person then show him a warrant and then arrest him. I wish to submit this for the reason that if the Government assumes such powers as to arrest anybody without warrant then by this action it would appear as if the Government have become anarchial and do not hold enough power so as to perform her duties properly. For this reason only the Government assumes maximum power..................

Pandit Thakur Das Bhargava: Is my honourable friend aware of the fact that these days every police officer can without warrant arrest any person who commits such crimes for which he can be sentenced for 6 months?

Shri Lakshminarayan Sahu: The Government have assumed so much power that it should not make any arrests without warrant. The Government should not assume so much power. We have passed a Bill under which an arrest can be made without warrant.

Shri Jaspat Rai Kapoor (U. P.: General): If a person commits theft, and some other person such as a police constable sees him doing so, still may he not be arrested without warrant?

Mr. Deputy Speaker: I shall now put the clause to the vote.

The question is:

"That Clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Pandit Thakur Das Bhargava: I do not know the reactions of the honourable Minister. If he does not accept my amendment, I will not move it.

The Honourable Shri Mohan Lal Saksena: I do not accept it for the simple reason that if you give powers to the Provincial Government, the rules framed may not be uniform. Therefore, the Central Government should frame the rules and give powers.

Mr. Deputy Speaker: We shall then take up the rest of the clauses together.

Srijut Rohini Kumar Chaudhuri: I want to speak on clause 7. I am thankful to you for giving me this opportunity to speak. I wanted to speak several times but as I said this terrible barrier is before me—this mike and that fan stopped me from speaking several times.

No one questions the utility of this Bill. But what I question is whether any action will be taken on the provisions of this Bill. There was an Ordinance in force for months, which was identical with this Bill. Has any action been taken in the case of people coming from Eastern Pakistan into Assam? I am not speaking of people forced to come into Assam. But there are lots of other people coming into Assam in defiance of the law. There is no officer there to find out whether these people are coming out of fear or for the sake of aggrandisement. Everyone knows that in India everyone is safe. But if you have any object in passing legislation, will you really take action accordingly? Has any machinery been set up to see whether permits have been taken by the large number of persons coming over here?

As regards exemption, I would say if you remove, under a false plea, persons who out of fear have come to Assam, then you forcibly remove them from Assam and send them back to Pakistan. That would be a most cruel act to commit. You have said in an early part that you could exempt in certain cases. Why should there be any particular exemption? Why not declare that those persons who out of fear, or due to operations, have come from Pakistan to India, they should have the right and the privilege of going back to Pakistan? If you want to have a legislation then see that it is effective and do not have it for the sake of pleasure. You had an Ordinance and you never acted on it. Then shall I be liable to removal when I am going from India to Assam and I have to go through Pakistan? Will there be any repercussions for this Bill or any reprisals because it so happens that the people of Assam are the only ones who have to pass through Pakistan to go to their homes.

The Honourable Shri Mohan Lal Saksena: I think the honourable Member has misapprehended the situation. I have already informed the House that the permit system does not apply to East Pakistan and there is no question of reprisal. If the honourable Member goes to East Pakistan he will not be required to take any permit because no permit system exists on the other side. We have the power and whenever necessary we might apply the Act. So far, we have been advised both by the Provincial Government concerned and our officers that it is not necessary and therefore the honourable Member need have no apprehension that if he goes through Pakistan he will be required to have a permit or that there will be any reprisal against him.

As regards the working of this ordinance, the honourable Member must be aware that since the introduction of this enactment of the Ordinance, we have been able to regulate entry into India from West Pakistan. In the three months preceding July, at which date this permit system came into force, nearly one lakh of Muslims had come over from West Pakistan. Since then our information is that about 40,000 have come, of whom 8,000 have come on a permanent permit and the others have come on temporary permits, which means that they will be going away and, if they stay beyond the period for which the permits are granted they are liable to be arrested and externed from India. If they are not prepared to go out of India, then it is just possible they may be kept in jail here. But our policy is to arrest them and send them back to Pakistan.

Mr. Deputy Speaker: The question is:

"That Clauses 7, 8 and 9 stand part of the Bill."

The motion was adopted.

Clauses 7, 8 and 9 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: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

DELHI HOTELS (CONTROL OF ACCOMMODATION) BILL

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

"That the Bill to provide for the control of accommodation in certain hotels in the Province of Delhi, be taken into consideration."

This is a very small Bill. Every Member of the House is aware that the accommodation position in Delhi is very acute. During the war there was an Ordinance, the rules which enabled officers to commandeer accommodation in the various hotels in Delhi. In 1947 it was thought it was not necessary to have this power and the Ordinance was allowed to lapse. But after the 15th August 1947 the situation developed in such a manner that it has now become absolutely necessary to commandeer accommodation in the various hotels in New Delhi and the Delhi Civil Station. What is sought in this Bill is that up to 25 per cent. of the accommodation in any hotel—the names of these hotels are given in the Schedule—will be commandeered by the Estate Officer and it will be called controlled accommodation in hotels. Having

done that it will be open to the Estate Officer to see that no suite or room is vacant and that the utmost use is made of this accommodation. He is permitted under clause 4 to allow the management to give it to temporary residents. "Temporary residence" has been defined in clause 2 of the

5 P.M.

Bill. Anybody who lives for a period of less than seven days is a temporary resident and the Estate Officer is also empowered to give this available accommodation to government officials and government allottees for any period of time and on such conditions as may be laid down in the order directing the management concerned.

Mr. Deputy Speaker, you well know how very difficult it is for the Government to secure accommodation at a short notice of three or four days. In the course of the last 18 months nearly 35 countries have established their embassies here. Innumerable trade missions, members of international conferences and goodwill missions, observers and all sorts of people are coming to visit this free country and it is up to us to make them as comfortable as possible, so long they come on missions which are intimately connected with the problems of this country. Whatever accommodation Government has in their own hostels is overfull and it is absolutely necessary that the power, in this Bill should be made available to Government. I therefore move that this motion be taken into consideration.

Mr. Deputy Speaker: Motion moved:

"That the Bill to provide for the control of accommodation in certain hotels in the Province of Delhi, be taken into consideration."

The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday, the 8th April, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Friday, 8th April, 1949.

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

No Questions: Part I not published.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF LABOUR

The Honourable Shri Satyanarayan Sinha (Minister of State): 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 Standing Committee on subjects with which the Ministry of Labour is concerned, until the end of the current financial year *vice* Shri Homi Mody 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 Standing Committee on subjects with which the Ministry of Labour is concerned, until the end of the current financial year *vice* Shri Homi Mody resigned."

The motion was adopted.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF INDUSTRY AND SUPPLY

The Honourable Shri Satyanarayan Sinha (Minister of State): 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 Standing Committee on subjects with which the Ministry of Industry and Supply is concerned, until the end of the current financial year *vice* Shri Homi Mody 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 Standing Committee on subjects with which the Ministry of Industry and Supply is concerned, until the end of the current financial year *vice* Shri Homi Mody resigned."

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
1. Standing Committee for the Ministry of Industry and Supply.	8-4-1949	9-4-1949.
2. Standing Committee for the Ministry of Labour.	8-4-1949	9-4-1949.

[Mr. Speaker]

The nominations for these Committees will be received in the Notice Office upto 3 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. tomorrow.

INDUSTRIES (DEVELOPMENT AND CONTROL) BILL

APPOINTMENT OF A MEMBER TO SELECT COMMITTEE

The Honourable Shri Satyanarayan Sinha (Minister of State): Sir, I move.

"That Babu Ramnarayan Singh be appointed to the Select Committee on the Bill to provide for the development, regulation and control of certain industries, *vice* Shri Homi Mody, resigned."

Mr. Speaker: The question is:

"That Babu Ramnarayan Singh be appointed to the Select Committee on the Bill to provide for the development, regulation and control of certain industries, *vice* Shri Homi Mody, resigned."

The motion was adopted.

MOTIONS FOR ADJOURNMENT

PROCEDURE *re* MOTIONS WHICH ARE OBVIOUSLY INADMISSIBLE AND ON WHICH NO QUESTION OF CONSENT OF THE SPEAKER CAN ARISE—MOTIONS NOT TO BE MENTIONED IN THE HOUSE.

Mr. Speaker: The House will now proceed with Legislative Business.

Maulana Hasrat Mohani (U.P.: Muslim): Sir, what about the adjournment motion of which I gave notice?

Mr. Speaker: I am thankful to the honourable Member for giving me this opportunity of expressing my views on this subject. The adjournment motion tabled by him and another honourable Member is of such a nature, and couched in such language, and groups together so many subjects, that it contravenes all possible rules. Henceforth, I must make it a point that all such motions which are against the rules should not be amended by me and should not even be mentioned in the House. In an obviously inadmissible motion of that type, no question of consent of the Speaker can arise and I am not going to mention the motion here. In similar motions which are submitted to me hereafter, I propose to follow the same procedure. Up to now the procedure in this House has been to mention every adjournment motion, before the House and then say whether the Speaker consents or not. But in motions of this kind I do not think I should take the time of the House and give undue publicity to notices of this type.

DELHI HOTELS (CONTROL OF ACCOMMODATION) BILL

Mr. Speaker: The House will now proceed to consider the Bill to provide for the control of accommodation in certain hotels in the province of Delhi.

Shri R. K. Sidhva (C.P. and Berar: General): Sir, this is a harmless Bill and I welcome it. But there are certain points which I should like the honourable Minister to clear up. The Bill relates to the accommodation of visitors to Delhi, and the Statement of Objects and Reasons refers to the gentleman's agreement between the Estate Officer and the management of the more important hotels in Delhi and New Delhi. This is the second gentleman's agreement; the first was with regard to cloth control and the Industrialists broke it; in this case the agreement does not provide the

Estate Officer with adequate powers and the hotel-owners have flouted him. When Government leave it to the good sense of these people it is found that they are out to grab more and more money and then they break the agreement that has been arrived at.

Then apart from accommodation there is the question of charges. The Bill is silent about that. I understand there is some Ordinance or rules about it. I do not mind the charges that they make but it has its reaction on the other smaller hotels. The Taj Mahal Hotel in Bombay which is really a first-class hotel charges only Rs. 35 a day whereas the Imperial Hotel which is only a second-class hotel compared to it charges Rs. 50 a day. And this reacts on the smaller hotels. You cannot get accommodation anywhere these days for less than Rs. 10 a day. And what is the food they give? Under rules framed by Government they give only three courses,—soup, one side dish and dessert or ice cream. And still they make these high charges. I hope the honourable Minister will consider all these points and make the Bill a perfect one.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I am afraid I am not able to whole-heartedly support this Bill. There are certain aspects of it which deserve careful consideration, and I hope the honourable Minister will look into them and do the needful.

The centre of gravity of this Bill is the Estate Officer, a very big officer already armed with tremendous powers, powers which even Hitler did not possess. By this Bill it is proposed to further augment his super-abundant powers. There is no doubt dearth of accommodation in Delhi and the Government wants more accommodation for its guests and for its officers. There is no doubt dearth of accommodation. But I submit this is due to the somewhat slow, halting and hesitating building programme on the part of the Government. Much was expected in the way of building houses in Delhi after the attainment of Independence, but practically nothing has been done. In fact if the Government allowed private parties to build their own houses by alloting to them lands, we would have seen an end of the housing shortage to a large extent. Many of the Embassies find it difficult to accommodate themselves. They asked the Government to allot spaces to them, but in this respect the Government is proceeding in the old, dilatory British fashion. I submit the Government should take in hand urgently and energetically the programme for building houses. That way alone the shortage will cease. The present is just a kind of discrimination between different kinds of occupiers of space. If Government requisitions 25 per cent of the seats in hotels, it encroaches, to that extent, upon the convenience of the public. It is thus favouring certain Government guests and Government officials at the cost of the public at large. To that extent I think there is net loss, no net gain in the available living space, but considerable inconvenience will result to those who come to Delhi and find themselves absolutely stranded.

With regard to the various characters of the menu and the costs mentioned by my honourable friend Mr. Sidhva, I submit with respect that these are not quite relevant to the consideration of the present Bill. If their menus are not good the Government may interfere; if the charges are high there is a case for controlling the rates.

Pandit Lakshmi Kanta Maitra (West Bengal: General): If the cooking is bad?

Mr. Naziruddin Ahmad: If the cooking is bad, as Pandit Lakshmi Kanta Maitra asks, then of course the honourable Minister should try to improve the cooking. But bad cooking, bad menu and high charges should be no ground whatsoever for encroaching upon the available space in the hotels. These only obscure the simple issues under the Bill. This argument, I submit, is not quite relevant.

[Mr. Naziruddin Ahmad]

With regard to the various houses set apart for Members and Government officers, these houses—especially M.L.A. quarters—are occupied by many unauthorised persons—persons other than Members. Questions have been asked as to why they are allowed to go on occupying these quarters. Government do not however reply to the fullest extent to questions and supplementary questions are not answered whole-heartedly and somehow or other, a veil is drawn over the scene. In fact in this matter, some M.L.As. also are partially responsible along with the Government. I submit therefore that with regard to these houses a very strong and bold policy should be followed and the unauthorised persons should be removed. In that way alone we can make available a large amount of space for guests and officers of the Government. There is a class of guests of His Majesty for whom sufficient care is taken in the jails. But so far as other guests are concerned they could be accommodated in houses which could be vacated by the unauthorised persons. I think this halting building policy and this halting policy of refusing or neglecting to clear the Government quarters of unauthorised persons have created this situation.

With regard to the other activities of the Department the less said the better. Recently the floor of the Western Court was dug out and renovated at a large cost. I submit this was not very urgent and the money and energy could have been spared for other things. We have been given new furniture in place of the old and it was supposed that they were superior to the old. But the entire body of lodgers feel that the old furniture were better; the substitutes are definitely worse.

We are going to get rid of landlordism in India. "Landlords must go", is the slogan not only of the Government but of the public at large. In the Provinces landlords have been given notices to quit. That is our national principle. But so far as the Estate Office is concerned it is a big and powerful landlord's office. So the Government wants to remove landlordism from the country only to accumulate all the vices, all the powers, all the other accompaniments of absolute power in the hands of the powerful Estate Officer. I submit that the inconvenience to the people is not in the least removed. Only some discriminatory arrangement is made for certain classes of people whom the Government wishes to favour. Of course the Bill would be passed, but the best way to remove the shortage would be to build more houses and the quicker we take up the programme the better. The honourable Minister who, I submit most respectfully, is one of the most hard-worked, most sincere and the most deserving of all Ministers, has a warm heart but he has not readily accessible ears and eyes. I submit that he should look into these matters a little more personally and if he looks into them personally. I am sure much of the grievances will be revealed and removed. I hear that some of the officers of our Legislative Department even have no houses to live in and have to move about here and there. I think that has also got to be looked into—not the cases of the big officials alone who can somehow or other shift for themselves.

With these few words I offer a qualified support to the Bill.

Srijut Rohini Kumar Chaudhuri (Assam: General): Sir, I wish to say few conciliatory words to my honourable friend Mr. Sidhva. He was complaining of the high rates and also of the bad food. But does he remember that about two years ago such a hotel as is mentioned in the Schedule to this Bill was mainly reserved for Europeans, Princes and Nawabs and that men like me would have had no right to go there with sandals, dhoti and all this kind of thing? So the authorities are seeing that as a result of independence if we have achieved nothing else we have achieved this, that we have now

a free entry to this kind of hotels. Now, if men like me are going to swell in numbers in this kind of hotels something ought to be done, and the only thing which is possible to be done is to increase the rate of charges and at the same time worsen the quality of food. They do not fear that they will suffer for want of custom. So long as they are having a bar in their hotels there is no fear of losing the custom at all, and therefore they can safely raise the rates and at the same time worsen the quality of the food. But if my honourable friend would be more devoted to his fish and rice I suppose he will get much better value for the price elsewhere.

I also, like my honourable friend Mr Naziruddin Ahmad, give only a qualified support to this Bill. I can quite understand that in an emergency a provision of this kind is necessary, but in normal times we should not encourage the Government in taking such measures. I have seen in my own Province that a circuit house which was meant for *bona fide* travellers was occupied by a Judge of the High Court for one year and Government would not build a quarter for him. Another Judge in Assam has been living like that for the last five months and Government has not built any quarter for him. All the dak bungalows which are intended for travellers are now full of Sub-Deputy Collectors, D.A.Cs. and you can see their children roaming about in the compounds of the dak bungalows. Government will not do anything to build houses but at the same time they are trying to take away the shelter which is now available. That is a sort of a thing which should not be encouraged. Now, in this City of Delhi there is, as far as I understand, no rest house; *bona fide* travellers do not find a place to live in. You are reserving certain seats only for Government servants or for other persons connected with Government; the ordinary travelling public will suffer. So, I say that instead of depending on such measures and taking away the private hotels and things of that kind, Government should, as soon as possible, try to arrange more accommodation.

Shri Deshbandhu Gupta (Delhi): Sir, I rise to support the motion for consideration, but I am afraid I cannot wholeheartedly support it. It is stated, and rightly stated, that an emergency ceases to be an emergency if it becomes permanent. Although my friend the honourable Mr. Gadgil has been taking personal interest in finding accommodation for Government servants and for the guests of the Government and also for other public purposes, I am sorry I cannot congratulate him on the progress made so far as the building of houses is concerned. As a matter of fact, the building of houses has been retarded during the last two years. When my friend first came before the House with a proposal to give him powers to requisition private houses for governmental purposes, the House was reluctant to do so. I had at that time pointed out that if wide powers are given to the local authorities for requisitioning houses the one result and the only one result of that would be that the building of houses will stop. I can assure him today, quoting example after example, that during the last one year the provisions of the Rent Control Act under which the local authorities have been requisitioning private houses have practically put a stop to all private building operations.

If you go into the history of that, you know that first of all we had made provision simply for the convenience of the Ambassadors. That was the thin end of the wedge. Then we were prepared to leave the requisitioning, so far as the Government of India was concerned, in the hands of the honourable Minister. It had to be extended to the local authorities and ever since that has been done I can tell him that today it is next to impossible for any private owner to put up new houses. If he were to go into the figures of the houses that have been requisitioned or on which orders of requisitioning have been

[Shri Deshbandhu Gupta]

served, he will be stunned. I can tell him from my own experience. I receive every day complaints from so many people. If a house is required for a Government servant drawing Rs. 300 a month, order is served indiscriminately on six or ten houses which may be of the rental of Rs. 300 a month. When these orders are indiscriminately served, those people approach the authorities—the underlings, of course—and then manage with them, so that out of the ten houses notice on which was served, nine are released, one or two are kept and then the process goes on, appeals go on, and all that, ultimately the authorities do not succeed in getting many houses, but the harassment to the landlord is out of all proportion. The rentals are also fixed arbitrarily with the result that the housing programme of people who were building houses inspite of the difficulties, who were getting building material at a much higher cost possibly in the blackmarket, their housing programme is stopped. The Government has not made it easier for the house-builders to get building material at controlled prices. The Improvement Trust has been demanding building material for the people who have brought a large number of plots from the Improvement Trust at fancy prices. The municipal programme is held up because they do not get their requirements in time and they cannot even put up the sweepers' houses. This, in short, is the present position so far as building operations are concerned. I am sorry to say that unless the Government takes a serious view of this aspect of the question and makes it possible for people to build more houses, the problem will not be solved. I had occasion to quote here examples from London where subsidies were given by Government for each house built. Here not only are subsidies not given, even building material is not available at controlled price. What is wrose, today we do not give them building material and if one tries to build inspite of the difficulties, he has now to offer so many explanations even to the Income-Tax Department, although I hold no brief for those who have been building or spending out of blackmarket money. The fact is that the limited purpose of this Bill is to control accommodation. I would say that this is not the remedy. The remedy lies in providing more accommodation, building more accommodation.

The people of Delhi have been the worst sufferers after the partition, as our Deputy Prime Minister admitted the other day in the House. Today, I wonder if my honourable friend is aware of the fact that there are several thousand plots of land, occupied unauthorised, sold by the Improvement Trust to the people of Delhi. The Improvement Trust has been realising big rentals from these people for the last two or three years. There is one condition under the lease that they cannot build any temporary structures on those plots of land. All these unauthorised structures have been put on those plots of land. Those who have occupied those plots forcibly are carrying on their trade there or even living there, but the owners cannot build temporary structures and they are made to pay big rentals every month to the Improvement Trust. The remedy that I would suggest is that the Government should make it possible for those people who own some land to put at least temporary structures on them. The condition of the leases on which these plots have been given to these people should be relaxed and it should be made possible for the owners to put up temporary structures. We have the experience of similar temporary structures. When all the plots in Connaught Place were built up during the war. I understand that orders were issued by the Government that their life should in no case be more than five years. We find today those houses after nearly ten years— our Constitution House and the Constitution Club are examples of the same. So, if temporary structures are allowed to be put on these plots of land, additional accommodation can be made available.

I am at one with Mr. Sidhva, although I have not heard his speech, so far as the general complaint against the hotels in Delhi is concerned. I can say there is much substance in that, but I am sorry to say that the Bill does not provide any relief in respect of those complaints. The standard of the hotels has gone down, the standard of the food and other conveniences has very much deteriorated, and I would have welcomed any provision in the Bill which would have helped to regulate or improve the standard. Of course that is not the object of the Bill and I can see that would not come in this Bill. But, Sir, the difficulty that I have pointed out is a real one. My honourable friend has extended the Rent Control Act by another notification for another two years and I am sure at this rate he will have to extend it further or come before the legislature again with another Bill of a similar nature. I would urge him and appeal to him that he should direct his energy towards the constructive side, make it possible for people to build more houses, rather than come with such legislations.

I find that this Bill is confined to the Notified Area Committee and New Delhi. There may be one or two big Hotels in Old Delhi also. Although I realize that accommodation for Governmental purposes is generally required in bigger hotels like the one mentioned in the Schedule, still Government may have power to extend it to Old Delhi also if it becomes necessary, so that for this purpose they may not have to come with an amendment of the Bill later on. There are one or two big Hotels in Old Delhi too and if necessary an additional clause might be added, so that that accommodation may also be used.

But I would ruge upon the Government that we must place a limitation on the period. We should not give it for more than one year, so that Government may know that they cannot go on playing with the accommodation which is really reserved for outside people and their liability to provide accommodation for government servants should not work to the detriment of the general public I would very much like that the operation of this Bill should be limited for one year.

With these words, I support the motion.

The Honourable Shri N. V. Gadgil (Minister of Works, Mines and Power): Sir, I am grateful to the honourable Members of this House who have offered criticism on this Bill. There are two points made out. One is that there is no provision in this Bill about the control of rent, and the other is that although this Bill is necessary, yet it is not the best remedy to meet the evil which it is proposed to meet under this Bill.

As regards the first point, I want to inform the honourable Members that Part IV of the Bombay Hotel Rent and Lodging Houses Rent Control Act, 1944, has been made applicable to the Municipalities of New Delhi and Delhi and to the Notified Area and the Delhi Civil Station. It is still in force. Section 30 of that Act empowers the Controller, who is the Deputy Commissioner in this instance to fix the fair rate to be charged for boarding, lodging and any other service provided in a hotel or lodging house. This power is adequate and hence no provision has been made in this Bill. Apart from this, I have already asked the Controller concerned to review the whole position, because I have received innumerable complaints and to give only one instance, I have been told that for 12 sandwiches Rs. 31 were charged in one of the hotels. So I have already decided to take up that point. I have also decided to see that the menu is properly revised and a fair return is given for the money paid.

[Shri N. V. Gadgil]

As regards the provisions of this Bill, the general question is really this: What shall Government do when there is short supply of any particular commodity or service? One is to increase it. That is evident. The other is to make the most rational use of whatever is available. This Bill simply attempts to make a rational use of the accommodation available, and honourable Members will see that provision has been made that not a single room lies vacant and if the Government does not require it, immediately the management of the particular Hotel will be given the authority to use it for the purpose of temporarily accommodating others.

My honourable friend Mr. Naziruddin Ahmad raised the question of building programme and he was not very much inclined to congratulate my Ministry. I only want to give him the facts. In the course of this year, the demand for accommodation for government servants has increased so much that it was impossible to build houses or flats in order to meet the requirements of every officer concerned. There are still 13,000 officers of all classes who require accommodation. In the course of the last twelve months, at least serious attempts have been made and some members of the honourable House have already seen the construction that is going on all over New Delhi and Delhi. By the end of September, about 200 flats for the officers, 2000 units for clerks and about 1200 units for Class IV officers will be available for accommodation. With the limiting factors that one has to meet in these days, I do not think that this is entirely a discreditable performance.

My honourable friend Mr. Deshbandhu Gupta has always utilised every opportunity in this House to speak something against the Rent Control Act.

Babu Ramnarayan Singh (Bihar: General): Hear, hear.

The Honourable Shri N. V. Gadgil: I have no objection, but when he makes a point that this particular Act had discouraged building, I only want to state that there has been shift in the agency or ownership of the building, but the total construction has increased. Probably, the House is aware that in the course of the last six months, about 2800 units have been put into use on behalf of the Relief and Rehabilitation Ministry in Delhi. Now, the House knows that the building material is limited and we have got to make the best use of it. Apart from the constructional activities of the Government, including the constructional activities of the Relief and Rehabilitation Ministry, there have been certain houses built in Delhi and near Delhi. The grievance of my honourable friend seems to be that there should be perfect freedom for any private individual to build in any way and anywhere he likes. Things are moving definitely to a situation in which today or tomorrow Government will have to undertake the obligation of accommodating not only its employees but members of the public as well. Now, if that is so, to what extent shall private enterprise be encouraged? As regards construction of hotels in New Delhi or Delhi, the Ministry made several attempts and we really wanted a first-class hotel to be built. We invited those who were in the line and offered every facility, but the condition they wanted was that Government should give them an assurance that the policy of prohibition would not be applied in the case of these hotels. That was rather too much for this Government and hence nothing tangible was done. However, the attempt has not been given up and we hope that very soon some enterprising, patriotic and prohibition-minded contractor will come and take up the job and provide hotel accommodation over and above the persons for whom this Bill has been mainly introduced.

I have nothing more to say. I have noted some of the comments made by honourable Members and the useful suggestions that they have made. All I can say is that although they are not so much relevant to the consideration of this Bill, yet they will be given due consideration at the hands of the Ministry. Sir, I move.

Shri R. K. Sidhva: About rates?

Mr. Speaker: He has already said; the honourable Member perhaps was not attentive.

The question is:

"That the Bill to provide for the control of accommodation in certain hotels in the Province of Delhi, be taken into consideration."

The motion was adopted.

Mr. Speaker: We shall now take up the Bill clause by clause.

श्री लक्ष्मी नारायण साहू : वाचस्पति जी, काम, खान और शक्ति (वर्क्स, माइन्स और पावर) के मन्त्री जी ने हम लोगों के सामने जो बिल रखा है उस का मैंने बहुत अच्छा तरह से अध्ययन किया है। लेकिन इस में मं कुछ संशोधन देता हूं। पहिला संशोधन यह है :

"That in part (f) of clause 2 of the Bill, for the word 'seven days', the words 'a month' be substituted."

यह परिवर्तन देने का मतलब यह है कि (f) में लिखा है कि—

" 'temporary resident' means a person other than a Government allottee who is taken as a resident in a hotel for a period not exceeding seven days."

इस में कम से कम जो एक महीना रखा गया है उस का असर यह होगा कि···

Mr. Speaker: I find that similar amendments are tabled to clauses 4 and 8. I believe that there would be no further argument again when those clauses are moved. The principle is common to all.

श्री लक्ष्मी नारायण साहू : क्लाज़ ४ मे परिवर्तन करने का संशोधन इस तरह से आता है :

"That in sub-clause (1) of clause 4 of the Bill, for the words 'seven days', occurring in line three, the words 'one month' be substituted."

यह सब संशोधन का मतलब यह है कि जो आदमी बाहर से आता है वह कुछ दिन ज़रूर होटल में ठहरेगा तो उसको ज्यादा से ज्यादा दिन ठहरने के लिये सुविधा देनी चाहिये। सात दिन रह कर अगर उस आदमी को बाहर निकाल देंगे तो वह कहां जायेगा, इस के लिये भी हम को सोचना चाहिये।

इस बिल के ज़रिये स्टेट आफ़िसर को बहुत ज्यादा पावर दे दी गई हैं। इसलिये मेरा दूसरा संशोधन यह है कि इतनी पावर स्टेट आफ़िसर को नहीं देनी चाहिये। जैसा कि क्लाज़ ४ के सब क्लाज़ ३, ४ और ५ में, जो मेरे संशोधन आते हैं, उन से यह सब चीज़ हटा देनी चाहिये। यह जो प्रस्तुत विधि (बिल) है उस विधि (बिल) का लक्ष्य यह है कि:

"the object of the pjresent Bill is to provide him with such powers under such conditions as will ensure that while Government exercise adequate control over available accommodation in private hotels, the legitimate interests of the management do not suffer."

इस बात को देखने के लिये क्या प्रबन्ध है कि मैनेजमैन्ट किसी प्रकार से सफ़र (Suffer) नहीं करेगा। इस बात के लिये मैंने एक संशोधन रखा है जिस से मैनेजमैन्ट सफ़र (Suffer) न कर सकें और उन की रक्षा हो सके। इस संशोधन में कहा गया ह कि ३ मेम्बरों की एक कमेटी हो, जिस में एक मेम्बर तो स्टेट असाफ़ि की तरफ़

Pandit Lakshmi Kanta Maitra (West Bengal: General): If the cooking is

[श्री लक्ष्मी नारायण साहू]

से हो; दूसरा होटल वालों की तरफ़ से हो और तीसरा होटल में रहने वाले आदमियों की तरफ़ से हो। यह कमेटी खाने पीने का प्रबन्ध और कमरों को बांटने का भी प्रबन्ध अच्छी तरह से कर सकती है। इस तरह से तीनों के प्रतिनिधि इस कमेटी में रहेंगे तो काम अच्छी तरह से हो सकेगा और खाने पीने का भी प्रबन्ध अच्छी तरह से हो सकेगा।

मेरे और भी संशोधन हैं।

Mr. Speaker: The honourable Member seems to have misunderstood my suggestion. I did not want him to move all his amendments. This amendment says that so far as clause 2 is concerned, for the words "seven days", the words "a month" be substituted. There are identical amendment in respect of the further clauses, clauses 4 and 8. All that I wanted to say was that the argument in respect of this aspect of the Bill will be common to all these amendments. The other amendments which he proposes to move in respect of clauses 4 and 8 may be moved when we come to those clauses, not at this stage.

श्री लक्ष्मी नारायण साहू: समय कम है, इसलिये मैं चाहता हूं कि मेरे जितने संशोधन हैं, मैं उन के बारे में कह दूं।

Mr. Speaker: That will not be regular. He cannot speak in respect of clauses 4 and 8 when clause 2 is under consideration. He should restrict his remarks to clause 2 only.

श्री लक्ष्मी नारायण साहू: तो इस के बारे में मैं ज्यादा नहीं कहना चाहता हूं। मैं इतना कह कर यह संशोधन खत्म करता हूं।

(English translation of the above)

Shri Lakshminarayan Sahu (Orissa: General): Mr. Speaker, I have fully studied the Bill which the honourable Minister for Works, Mines and Power has placed before us. I would, however, propose some amendments to the same. I move the first amendment which is as follows:

"That in part (f) of clause 2 of the Bill, for the words 'seven days', the words 'a month' be substituted."

This change is proposed because part (f) contains the following:

" 'temporary resident' means a person other than a Government allottee who is taken as a resident in a hotel for a period not exceeding seven days."

The effect of fixing the minimum period herein as one month would be that.......................

Mr. Speaker: I find that similar amendments are tabled to clauses 4 and 8. I believe that there would be no further argument again when those clauses are moved. The principle is common to all.

Shri Lakshminarayan Sahu: The amendment seeking to modify clause 4 reads thus:

"That in sub-clause (1) of clause 4 of the Bill, for the words 'seven days' occurring in line three, the words 'one month' be substituted."

The idea behind all these amendments, is that a man who comes from outside is sure to stay at the hotel for some days. He must therefore be granted facilities for staying for the maximum prossible number of days. Where will the man go if he is turned out after a stay of 7 days? We must consider that point.

Very great power has been vested in the Estate Officer under this Bill. Therefore my second amendment is that the Estate Officer should not be invested with so much power. According to my amendments to sub-clauses 3, 4, and 5 of clause 4, all these provisions should be deleted. The aim of the present Bill is thus stated:

"The object of the present bill is to provide him with such powers under such conditions as well ensure that while Government exercise adequate control over available accommodation in private hotels, the legitimate interests of the management do not suffer."

What provision is there to ensure that the management would not suffer in any way? I have moved an amendment so that the management should not suffer and could be afforded protection. Under this amendment it has been proposed that there should be a committee consisting of three members, one representing the Estate Office, another representing the hotel owners and a third representing the hotel residents. This committee can very well attend to the messing arrangements as also the allotment of rooms. In this way, if the representatives of all the three interests are there in this committee work would proceed smoothly and it would also be possible to make satisfactory arrangements about the mess.

I have also other amendments to move.

Mr. Speaker: The honourable Member seems to have misunderstood my suggestion. I did not want him to move all his amendments. This amendment says that so far as clause 2 is concerned, for the words 'seven days', the words 'a month' be substituted. There are indentical amendments in respect of the further clauses, clauses 4 and 8. All that I wanted to say was that the argument in respect of this aspect of the Bill will be common to all these clauses. The other amendments which he proposes to move in respect of clauses 4 and 8 he may move when we come to those clauses, not at this stage.

Shri Lakshminarayan Sahu: The time is short; therefore I want to say now what I have to say about all my amendments.

Mr. Speaker: That will not be regular. He cannot speak in respect of clauses 4 and 8 when clause 2 is for consideration. He should restrict his remarks to clause 2 only.

Shri Lakshminarayan Sahu: Then I do not want to say anything more about it and would close with this.

Mr. Speaker. Amendment moved:

"That in part (f) of clause 2 of the Bill, for the words 'seven days', the words 'a month' be substituted."

The Honourable Shri N. V. Gadgil: Sir, I cannot accept this amendment. The honourable Member has not understood clause 4 of this Bill. What is stated here is that up to twentyfive per cent. of the accommodation will be taken over and will be called controlled accommodation. If that controlled accommodation is not required immediately for government purposes, the Estate Officer will permit the management to give it to a temporary resident for a period not exceeding seven days. If the Estate Officer finds that he can release the accommodation for any further period, he will continually go on releasing it. The whole position is that the Government should see that accommodation is available when they expect a lot of people for whom they are under an obligation to provide accommodation. Seventyfive per cent. of the accommodation is always available for the management to accommodate temporary residents. The period may extend even to a year. The Bill has nothing to do with that. The Bill is confined only to twentyfive per cent of the accommodation which will be controlled under the provisions of this Bill.

Mr. Speaker: The question is:

"That in part (f) of clause 2 of the Bill, for the words 'seven days', the words 'a month' be substituted."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Mr. Speaker: Shri Lakshminarayan Sahu, may move his amendments Nos. 5, 6 and 7. Amendments Nos. 3 and 4 are covered by the decision of the House just taken. He may, if he likes move them together for the deletion of sub-clauses (3), (4) and (5).

श्री लक्ष्मी नारायण साहू : क्लाज़ ३ में मेरा संशोधन यह है कि :

"That in sub-clause (1) of clause 3 of the Bill, for the word 'twenty-five' the word 'twenty' be substituted."

इस में ज़्यादा बहस करने की बात नहीं है। २५ रखने से बहुत ज़्यादा हो जायेगा और यह मैनेजमैन्ट करने वाले के लिये भी ज़्यादा हो जायेगा और असुविधा होगी। इस लिये मैं ने इस को २० रखा है और यह मैनेजमैन्ट के लिये भी अच्छा होगा।

(*English translation of the above*)

Shri Lakshminarayan Sahu: Sir, I move my amendment to Clause 3:

"That in sub-clause (1) of clause 3 of the Bill, for the word 'twenty five' the word 'twenty' be substituted."

It is not necessary to have lengthy discussion on this point. By having 25 it will be too much. It will be too much for the managers also and so much inconvenience will be caused. Therefore I have placed it as 20 and this will suit the management also.

Mr. Speaker: Amendment moved:

"That in sub-clause (1) of clause 3 of the Bill, for the word 'twenty-five' the word 'twenty' be substituted."

आनरेबिल श्री एन॰ वी॰ गैडगिल: मैं इस संशोधन को भी मंजूर नहीं करता।

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

Shri Lakshminarayan Sahu: Sir, 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.

Mr. Speaker: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Mr. Speaker: The honourable Member may move his amendments now, as I said. The substance of these amendments having been decided upon and rejected by the House, I do not think he can move amendments 3 and 4 for substitution of the words 'one month' in place of the words 'seven days'. He can move the other three amendments. He may move a consolidated amendment for deleting sub-clauses (3), (4) and (5).

श्री लक्ष्मी नारायण साहू: Sir, I beg to move:

"That sub-clauses (3), (4) and (5) of clause 4 of the Bill be omitted."

यह जो सब क्लाज़ (३) है इस को हटा देना चाहिये। इस में स्टेट आफ़िसर को बहुत ताकत दी गई है। मेरी समझ में इतनी ताकत स्टेट आफ़िसर को देने से होटल के मैनेजर को, बहुत दिक़्क़त में पड़ना पड़ेगा। इसलिये यह जो पावर सब क्लाज़ (३), (४) और (५) में दी गई है उस को हटा देना चाहिए। इस को हटा देने से जो होटल चलाते हैं उन के लिये बहुत सुविधा हो जायेगी। नहीं तो हर बात में स्टेट आफ़िसर आ कर उन के हर एक काम में अपना पंजा रखेगा, जिस से होटल चलाने वाले को बहुत मुश्किल का सामना करना पड़ेगा। इसलिये मैं चाहता हूँ कि यह चीज़ हटा देनी चाहिये। मैं इस मे इतना ही कहना चाहता हूं।

(*English translation of the above*)

Shri Lakshminarayan Sahu: Sir, I beg to move:

"That sub-clauses (3), (4) and (5) of clause 4 of the Bill be omitted."

In this clause too much power has been vested in the Estate Officer. By vesting so much power in the Estate Officer I think the hotel managers will have to face great difficulties. Therefore the power that has been vested according to sub-clauses (3), (4) and (5) should be done away. By doing so the managers of the hotels will get much relief. Otherwise the Estate Officer will poke his nose into each and every matter with the result that the managers of the hotels will have to face a lot of difficulties. Therefore, I wish that this should be deleted. I wish to submit only so much.

Mr. Speaker: Amendment moved:

"That sub-clauses (3), (4) and (5) of clause 4 of the Bill be omitted."

The Honourable Shri N. V. Gadgil: Sir, I cannot accept deletion of sub-clause (3). This sub-clause enables the management to ask for a further extension and the only consideration that will weigh with the Estate Officer is the requirements of accommodation for Government officers or other persons for whom he is required to find accommodation and if he thinks he can, he will certainly extend the time. Therefore, I cannot accept this.

As regards the omission of sub-clause (5), I think the position will be worse if this clause is omitted. In that case the temporary resident will have to be thrown out immediately. In sub-clause (5) power is given that even after the service of notice, the temporary resident can stay for three days more. If this is deleted, the position becomes worse. In order to see that some equitable relief is given, this sub-clause has been framed and in the interest of the temporary residents, it ought to be there.

Mr. Speaker: The question is:

"That sub-clauses (3), (4) and (5) of clause 4 of the Bill be omitted."

The motion was negatived.

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. Speaker: We can now take up clauses 5 to 8 of the Bill. As regards clause 8, I find Mr. Lakshminarayan Sahu has got an identical amendment.

Shri Lakshminarayan Sahu: I do not want to move that amendment.

Mr. Naziruddin Ahmad: Sir, I wish to speak on clauses 7 and 8.

With regard to sub-clauses (a) and (b) of clause 7, they are very drastic and dangerous in its nature. Sub-clause (a) empowers the Estate Officer to enter any hotel between sunrise and sun-set or authorise any officer subordinate to him to enter and inspect any hotel. Hotel includes also all rooms, including I believe bath-rooms. (*An honourable Member:* 'Hotel is a public place.') Sir, it puts no restriction upon the exercise of that authority. I submit, Sir, that the excercise of this power may lead to serious inconvenience to the residents and also trouble.

With regard to clause 8, a nominal right of appeal is given to the Manager or Proprietor of the Hotel. The proviso to sub-clause (1), however, seriously restricts the utility of this right of appeal altogether. It is said that no such appeal shall lie except on the ground that the provisions of this Act have not been complied with. All that is necessary to make it legal and absolutely final is only to formally comply with the provisions of the Act. Never mind whether it is *bona fide*, whether it is arbitrary, whether it is convenient or inconvenient. As soon as the Estate Officer thinks that he requires a room, he can at once give notice and take possession of it and there would be no appeal against his decision. The Bill gives him most arbitrary powers who might utilise them in a most tyrannical manner without any real right of appeal. In fact if the proviso is deleted, there will be some discretion in the appellate authority to give real relief in appropriate cases. It may be that the Estate Officer may on mistaken or meagre or incorrect information, pass orders, which may be highly inconvenient and unjust on the merits. To keep the proviso would seriously affect the hotel-keepers and it will also cause serious inconvenience to residents and visitors. These are the few things, which I wish to make.

Then coming to clause 9...

Mr. Speaker: I have not put in clause 9 yet.

Mr. Naziruddin Ahmad: Sir, I do not wish to argue the matter. I simply wish to point out the drastic nature of the penalty provided in clause 9. It makes the arbitrary power absolute.

The Honourable Shri N. V. Gadgil: The short reply to this is that if the provisions of this Bill are to be carried out thoroughly and efficiently, the power to enter and inspect must be there, because it is just there that abuses creep in. Whereas in the books, it will be shown that the room is kept by one person, as a matter of fact, more than two will be found there. That is the reason why this power is taken.

As regards the proviso in clause 8, my submission to this House is that this is a matter in which the Government of the day has to make up its mind. Take for example, Sir, the Government of the day has decided that a Conference on Indonesia should be called. Then it is the obligation of the Government to make provision for that. If the Court of Appeal is allowed to go into the merits, gates will be opened wider and the Court will decide whether it was in the interests of the country or not and whether the Conference should have been called or not. I think such a situation is bound to arise, if you go into the merits. Therefore provision is made that the grounds of appeal should only be restricted to the point whether the provisions of this Bill have been complied with or not, and I think that if this provision is deleted, the object of this Bill will be frustrated and the function which has to be discharged by the Executive will have to be given over to the judiciary of the land and this is not a desirable state of affairs.

Mr. Speaker: The question is:

"That clauses 5, 6, 7 and 8 stand part of the Bill".

The motion was adopted.

Clauses 5, 6, 7 and 8 were added to the Bill.

श्री लक्ष्मी नारायण साहू: मै एक नया क्लाज ८ ए देना चाहता हूं। Sir, I beg to move:

"That after clause 8 of the Bill, the following new clause be inserted:

'8A. There shall be an Advisory Committee of three people representing the hotels, the Estate Office and the permanent boarders respectively, to assist the Chief Commissioner, Delhi."

इस संशोधन के देने का मेरा मतलब यह है कि होटल का जो बन्दोबस्त है यह सब अच्छी तरह से चले और किसी को कोई आपत्ति नहीं रहे। इसीलिये जो होटल में रहते हैं उनका प्रतिनिधि, एस्टेट आफ़िस का एक प्रतिनिधि और जो होटल चलाते हैं उनका एक प्रतिनिधि यह तीनों प्रतिनिधि चीफ़ कमिश्नर की मदद करेंगे तो किसी को कुछ आपत्ति नहीं रहेगी।

(*English translation of the above*)

Shri Lakshminarayan Sahu: I wish to add a new clause 8A. Sir, I beg to move:

"That after clause 8 of the Bill, the following new clause be inserted:

'8A. There shall be an Advisory Committee of three people representing the hotels, the Estate Office and the permanent boarders respectively, to assist the Chief Commissioner, Delhi.'"

By this amendment I mean only this that the management of the hotels may be run properly and nobody may have any complaints. Therefore, if one representative each of the permanent boarders, the Estate Office and the managements of the hotels assist the Chief Commissioner then nobody will have any complaints.

Mr. Speaker: Amendment moved:

"That after clause 8 of the Bill, the following new clause be inserted:

'8A. There shall be an Advisory Committee of three people representing the hotels, the Estate Office and the permanent boarders respectively, to assist the Chief Commissioner, Delhi.'"

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

Mr. Speaker: The question is:

"That after clause 8 of the Bill, the following new clause be inserted:

'8A. There shall be an Advisory Committee of three people representing the hotels, the Estate Office and the permanent boarders respectively to assist the Chief Commissioner, Delhi.'"

The motion was negatived.

Mr. Speaker: The question is:

"That clause 9, 10, 11 and 12 stand part of the Bill."

The motion was adopted.

Clauses 9, 10, 11, and 12 were added to the Bill.

The Schedule was added to the Bill.

Shri Deshbandhu Gupta: Sir, I have made a suggestion to the honourable Minister that there should be time limit placed so far as the operation of this

[Shri Deshbandhu Gupta]

Bill is concerned. I could not move a regular amendment. But I would request him that the operation of the Bill should not in any case be more than two years. If he can accept one year that would be better. We have accepted that principle in the case of the Rent Control Act. I do not see any reason why the honourable Minister should not accept this suggestion by way of an amendment of which I have given notice. He may be pleased to accept it. The Act may be in force for two years. Let it not be for an indefinite period.

The Honourable Shri N. V. Gadgil: During War an Ordinance was promulgated to enable Government to take over accommodations. It was allowed to lapse. But situation became serious and hence this Bill. I can promise the honourable Member that if we find that this Act has become useless within six months Government will not make any use of it. But if we find it necessary to keep it in even for five years, we will have it for that period.

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 Shri N. V. Gadgil: I move:

"That the Bill be passed."

Mr. Speaker: Motion moved:

"That the Bill be passed."

Dr. P. S. Deshmukh (C. P. and Berar: General): Sir, we have very expeditiously agreed to giving extensive powers to the Estate Officer and I am sure the honourable Minister has reason to feel satisfied, if not thankful to the House.

Before the Bill is passed into law, however, I would like to make a few observations with regard to the Estate office and its management and affairs. I am sorry to say that more than one Member of this House has got very very severe complaints to make so far as the Estate office administration is concerned in spite of the increasing willingness, good wishes and energy, etc and promises on the part of the honourable Minister to help members to get what they want. In spite of all these, we find that even honourable Members have been put to a good deal of harassment. Honourable Members of this House may not probably be distinguished from ordinary citizens, but the point is that if the honourable Members of the House can be insulted with impunity and can be harassed without any redress for months and months, what must be the difficulties of an average citizen or refugee? This is the question I would like to ask the honourable Minister. Sir, while we agree that the Estate Officer should have wide powers I would impress upon the honourable Minister that there is necessity for stricter supervision. I do not find fault with any individual officer or with the honourable Minister. But something is extremely wrong so far as the Estate office is concerned. There are innumerable complaints which are well-founded and which are justified and which have not been rectified for months and months. So far as my own personal experience is concerned, I would not like to refer to it as it is an individual case. That would not be fair. But I would like to say to the honourable Minister that if this is the way in which honourable Members of

the House are going to be treated, I think nobody can have any respect either for his Department or for the Ministry or for himself. (*Interruption*) If my honourable friend and other members of the House would like to know the details I would give them. There are more than three members who have been victimized to my knowledge.

Mr. Speaker: The honourable Member could not go into those details.

Dr. P. S. Deshmukh: I was myself trying to avoid it, Sir. The grievance is certainly of a very grave nature. Not only I myself but many others have been left completely at the mercy of the Estate Office..........

Mr. Speaker: The honourable Member need not go into that.

Dr. P. S. Deshmukh: I will very briefly refer..........

Mr. Speaker: Not to that particular instance.

Dr. P. S. Deshmukh: I will only state the result. It was due entirely to the inefficiency of the Estate Office that I had to leave the bungalow allotted to me. I am also supposed to be continuing to pay rent, even when I am not occupying the House. What I object to most is that we have no remedy to stop even the calumny and the defamation which are going on of the honourable Members of this House by those people who have taken advantage of the Estate Office and their officers. This calumny arose out of the fact that our names have been stated in answer to a question and published in journals as people who have rented their houses to somebody and as if we had taken some *pugri*.

Mr. Speaker: The honourable Member is again going into something which is not allowed.

Dr. P. S. Deshmukh: These things cannot be set right without personal attention and, I am afraid that attention is not being paid. The case of Mr. Poonacha is worse. He has been most shabbily treated. No words can be sufficient to condemn the way in which he was harassed.

So, Sir, I have no objection to giving the authorities these powers. I only say that they must be well used. I am told the situation described by me arose owing to certain humanitarian circulars having been issued by high placed persons. This is another side of the whole question concerning the Estate Officers. But whatever that be, it must be seen that justice is done to everybody and there is no harassment. It is said that there are certain circulars which prohibit the Estate Office...............

Mr. Speaker: The honourable Member is again going into details at this third reading. His point is that the Estate Officer has been armed with very wide powers and that the Honourable Minister should be careful to see that those powers are not exercised arbitrarily or in a manner harassing others.

Dr. P. S. Deshmukh: But he would not be convinced of the necessity for close supervision unless he knows all the facts.

Mr. Speaker: He may be informed of these at a convenient place, not in the House, otherwise it will be discussion of an individual case where the other side has no opportunity of replying to the honourable Member.

Dr. P. S. Deshmukh: If that is the support which you are also inclined to give I do not wish to take any more time of the House. I hope the honourable Minister will kindly look into it personally and recognising that honourable Members who come here do so, not to fight out their cases in courts of law or to go to the District Superintendents of Police for protection, but for the country's cause, see that they are provided with proper accommodation and not harassment.

Babu Ramnarayan Singh: Sir, I will take only a few minutes and no more. We are passing legislation after legislation giving the Government unlimited powers in all spheres of life. If my honourable friend Mr. Gadgil is to personally make use of those powers, I would not be reluctant to give him such powers. Who does not know that these powers are going to be exercised by others and exercised not in the manner in which they ought to be used.

Sir, in the name of providing accommodation much mischief is being done here in Delhi. Lots of lands have been taken from the peasants some 13 or 14 years ago and no accommodation has been built thereon. The land is lying fallow and in some cases the tenants have been paid the price thrice. So in the name of providing accommodation a lot of mischief has been done in this very town of Delhi. Yet the Government are asking for more powers in this respect. Large powers have been given to the Estate Officer. There was a time when every week an officer used to come and make enquiries about our conveniences. For the past two years no officer has seen us on this mission.

Mr. Speaker: This is not an occasion for ventilating personal grievances against the Estate Officer. The relevancy consists only in the fact whether the Estate Officer is capable of exercising his powers in a proper manner without harassing other people and whether he should be trusted with the powers that are being given under this Bill in connection with hotels. That is how the relevancy of the management by the Estate Officer comes in. However, this is not the occasion for airing all sorts of grievances against management by the Estate Officer.

Babu Ramnarayan Singh: I am not talking in a detailed manner. I was only referring to matters as far as the exercise of the powers is concerned. The powers are now given for the convenience of the people concerned and here we say that the powers are to give occasion for mischief to the people and not any advantage to the people. I was only referring to that. This was also referred to by another honourable Member. Even we the Members of the Assembly are not properly dealt with. For the past two years no officer came to us to enquire about our conveniences and whenever we wrote anything to the enquiry office I do not think it is properly looked into. However I must say that recently I made a lot of complaint and this has been attended to I can say that this is after two years.

There are some hotels under the direct management of the Government. I hear a lot of complaints from those hotels, though I am not personally concerned with them. Food is not properly catered nor properly served. Not only that, though Government gives people accommodation there is a contractor in every hotel to manage it.

Mr. Speaker: I think the honourable Member is going beyond the scope of the Bill.

Babu Ramnarayan Singh: Only one sentence, Sir. The boarders are forced to take meals given in the hotels.

Mr. Speaker: Order, order. The honourable Member is going beyond the scope of the Bill. He will close his speech.

The Honourable Shri N. V. Gadgil: Sir, on the assumption that all that has been said is strictly relevant to the consideration of this Bill I propose to reply very shortly. As has been well said by my honourable friend Dr. Deshmukh that we have been always kind in helping honourable Members, I might say that I have always interpreted the rules liberally in favour of Members and wherever I could not help the only justification was that certain legal consequences that would follow were so terrible, that it was absolutely necessary on my part to interpret the rules strictly.

The difficulty about certain Members being charged rent although they were not or are not in occupation is this. Their kindness in sharing their accommodation with the refugees has been abused by the latter. In fact if I took eviction proceedings straightaway and throw them on the streets I would be perfectly justified. But there is such a thing as a human approach to a problem. (*Interruption.*) I am doing my best to see that no Member is made to pay illegally. Not only this I give an assurance that in regard to those who have been made to pay for a period during which they did not occupy the quarters I shall take steps to recover the corresponding amounts from those who were in actual occupation. If I succeed the money will be repaid. If we do not succeed, the House will I am sure take a liberal view of the position.

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Dr. P. S. Deshmukh: No, Sir. What is this liberal view?

Mr. Speaker: The honourable Minister may proceed.

The Honourable Shri N. V. Gadgil: As regards the complaint about Government hostels raised by Babu Ramnarayan Singh the position is that a contractor can only be expected to take a big contract on the understanding that those who live there will board there. That is the position. But even there wherever I found hard cases I have made exceptions. It is not in every case that I go strictly by the rule and wherever I am convinced that there is a justification for departure from the rules I have done so and shall continue to do so.

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

WEST GODAVARI DISTRICT (ASSIMILATION OF LAWS ON FEDERAL SUBJECTS) BILL

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

"That the Bill to assimilate certain laws in force in different parts of the West Godavari District of the Province of Madras, be taken into consideration."

This is a very small Bill. In June 1948 the Governor General passed an order called the Madras Partially Excluded Area (Cesser) Order, by which 37 villages which previously formed part of a partially excluded area in the West Godavari District of the Province of Madras were transferred to the ordinary administration of that Province with effect from 1st July, 1948. This transfer, however, did not mean that the laws which are available for the rest of the area of Madras were immediately available for this area also. In order to achieve this result something by way of legislation here in the Centre as well as in the provinces is necessary. This Bill is confined to Federal Subjects; as far as items in the provincial and concurrent lists are concerned a similar legislation will be soon introduced in the province of Madras. That is the only object of this Bill. It is a non-controversial measure. Sir, I move.

Mr. Speaker: The question is:

"That the Bill to assimilate certain laws in force in different parts of the West Godavari District of the Province of Madras, be taken into consideration."

The motion was adopted.

Mr. Speaker: The question is:

"That Clauses 1 to 4 stand part of the Bill."

The motion was adopted.

Clauses 1 to 4 were added to the Bill.

The Schedule 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. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

DISPLACED PERSONS (LEGAL PROCEEDINGS) BILL

The Honourable Shri Mohan Lal Saksena (Minister of State for Relief and Rehabilitation): Sir, I move:

"That the Bill to make special provision for the relief of displaced persons in respect of certain legal proceedings, be taken into consideration."

Due to the unavoidable absence of Dr. Ambedkar, I am making this motion. As stated in the Statement of Objects and Reasons, in addition to certain reliefs which have already been given to the displaced persons by an earlier Act by this House, this Bill provides for certain other reliefs. Firstly, it is in regard to the restoration of *ex-parte* orders passed dismissing a suit or the restoration of certain applications dismissed for default. Provision is made in this Bill for giving relief to the judgment debtors in regard to payment. As honourable Members must be aware there is a large number of displaced persons who have either taken loans from the Government or from other parties and they have set up certain businesses, and if a decree is executed on whatever assets they have been able to accumulate or attach, they will be again thrown out altogether. Therefore, it is proposed that discretion should be given to courts to exempt the judgment debtors or to fix up instalments in case of execution of these decrees. There is a provision to postpone insolvency proceedings against displaced persons where necessary and execute decrees passed before the 15th August 1947 by courts now situated in Pakistan in favour of persons now residing in India. As honourable Members must be aware Pakistan is foreign territory and as such a decree passed in a foreign territory cannot be executed in India. But by this Bill it is provided that where a judgment debtor and decree holder, both happen to be displaced persons and residing in India, such a decree may be executed irrespective of the fact that Pakistan is foreign territory. This Bill was placed before the Standing Committee for the Law Ministry and it has been approved and I hope the House will accord its approval to this Bill.

Mr. Speaker: The question is:

"That the Bill to make special provision for the relief of displaced persons in respect of certain legal proceedings, 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.

Pandit Thakur Das Bhargava (East Punjab: General): I have given notice of certain amendments that the proviso be deleted, but instead of deleting the proviso, with your permission I beg to move the following amendment:

"That in the Proviso to clause 3 of the Bill, for the words 'could not return to India in time for making the application' the words has subsequently returned to India' be substituted."

I hope the honourable Minister will kindly accept this amendment because by accepting this amendment he gives a right to certain persons mentioned in the proviso and those persons will be able to take advantage of his amendment in an efficient manner. Now in the proviso as it stands, I feel that the person whom the law wants to favour will apply and go to the court, but the court will not be able to give relief as the words "could not return to India in time for making the application" will be construed strictly. The law at present stands like this: that in any application for setting aside an *ex-parte* decree, a person has a right to apply within 30 days of the decree or within such time as the Courts thinks he has sufficient cause for not applying. If the law is taken as it stands at present, then this applicant whom the law wants to favour will be in such a position that he shall have to explain for every day after his return to India after August 1947. Now it is one year and eight months ago, and for him to explain every day's delay will be difficult. So if the law wants to give him a concession, these words will certainly entitle him to get the concession and the object of the law will be fulfilled.

Therefore, in moving this Amendment, I request the honourable Minister kindly to accept it.

Mr. Speaker: Amendment moved:

"That in the Proviso to clause 3 of the Bill, for the words 'could not return to India in time for making the application' the words has subsequently returned to India' be substituted."

I understand that he is not going to move the first part of the amendment with reference to the main paragraph.

Pandit Thakur Das Bhargava: No, Sir.

The Honourable Shri Mohan Lal Saksena: I accept the amendment.

Mr. Speaker: The question is:

"That in the Proviso to clause 3 of the Bill, for the words 'could not return to India in time for making the application' the words has subsequently returned to India' be substituted."

The motion was adopted.

Mr. 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.

Mr. Speaker: Is the honourable Member going to move his amendments?

Pandit Thakur Das Bhargava: I do not propose to move any of these amendments.

Mr. Speaker: The question is:

"That Clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clauses 5, 6, 7 and 8 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. Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

INDIAN TEA CONTROL (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister of Commerce): Sir, I move:

"That the Bill further to amend the Indian Tea Control Act, 1938, be taken into consideration."

I venture to think that this Bill does not raise any question of principle. It is concerned with three separate points which are of a technical character. The law itself which is sought to be amended by this Bill is likely to expire a year hence. Therefore I hope that no questions of principle would be raised in the discussion on this particular measure. The notes on clauses explain the objects with which this Bill has been promoted. The first point which is dealt with in clause 2 relates to the definition of the "owner of a tea estate". The owner of the land is not necessarily the owner of the tea estate. We wanted to make it quite clear that the reference to the owner of a tea estate will mean the owner of the garden and not of the land of the garden which may be leased out.

Clause 3 relates to certain permissions for expansion in tea cultivation which were granted but not utilised in respect of a particular period. Those permissions have lapsed and the intention is to revalidate these licenses.

The other point is with reference to the process of classification of tea gardens. In a particular case in Assam a tea garden instead of being acquired by Government under the Land Acquisition Act was purchased by way of private treaty. The question arose whether the privilege of replacement would be granted to the owner of this garden, unless a specific provision of this kind were made, namely that acquisition under private treaty would qualify for purposes of privilege of replacement and that clause under the Land Acquisition Act is not essentially for this particular purpose.

These are the three principal points. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Indian Tea Control Act, 1938, be taken into consideration."

Srijut Kuladhar Chaliha (Assam: General): Sir, I find some difficulty with regard to the definition of the owner in the clause, where it says:

"with reference to a tea estate or garden, or a sub-division thereof, the possession of which has been transferred by lease, mortgage or otherwise, means the transferee so long as his right to possession subsists."

My difficulty arises not as regards lease or mortgage but by the use of the words "or otherwise". Sometimes we find that owners had exchanged preliminary letters in order to facilitate business. They even inform the Tea Licensing Committee before actual transaction of business or receiving any advance of money or execution of formal documents. Sometimes it happens that over-intelligent people in Calcutta and other interests and agencies involve people in long-drawn out cases. I myself was involved in such a case for five or six years and I had to engage the best of lawyers, like Sir S. M. Bose, Mr. S. R. Das, Mr. G. C. Das and Mr. A. K. Sarkar, all of whom have become judges. After six years I got out of it through the intervention of Sir Roopen Mitter who advised the other party to compromise the suits. The word 'otherwise' is very dangerous in its implication. The preliminary letters which are sent to the Licensing Committee in order to have the negotiation formally confirmed afterwards should not be acted upon at once. The Licensing Committee should have confirmation letters by reference to the owner. I was myself involved in a very difficult case like this, simply because I sent a letter in anticipation that the other transactions would be fulfilled duly which the agents never did and kept me hanging in the air for seven years in the Calcutta High Court. The word "otherwise" gives a very big loophole. I would submit to the honourable Minister that we should not be outwitted by very clever lawyers and Box and Cox Companies. A reference should be made to the owner of the tea estate or of the owner of the land whether the letters which they have made over to the agents are going to be carried out and whether they should act upon the letters. If a confirmation is received subsequently, say after 15 days, there and then only the Licensing Committee should record the fact only. Small owners have been tricked out of existence in many cases by utilising the export quotas and getting all advantages by keeping up false correspondence and thereby huge profits have been made by dishonest companies. My suggestion is that it should be made clear to the Licensing Committee that when letters are forwarded by the agents or banks a reference shall be made to the owners of the tea estates before it is acted upon. If this is done the owners will be safeguarded and will not fall into the hands of smart lawyers and solicitors. In order to protect the small owners I trust the Licensing Committee should be directed to act very cautiously and in every case it should be referred to the proprietors.

As regards the term "worn out" it has become classical. The tea bushes after 60 years or so begin to die and become worn out. The omission of the word is one to bring it in consonance with the international agreement, but it does not improve our position. The meaning of the word "worn out" as the Industry understands it should still exist, even though the word is dropped to bring the Bill in line with the Agreement. Special direction should be given to the Licensing Committee that it is understood in exactly the same meaning as it has been understood all the time by the tea owners. Therefore in case of replacement there should not be any handicap.

If any tea land is acquired by the Government by private treaty, they should allow the company or estate to plant an equal quantity of land in another area. This is a welcome provision but I should like to utter a caution. We poor estate ownres are who come from villages are outwitted by clever lawyers and firms and agencies in Calcutta and even in this House we are outwitted very often. Therefore I hope the Minister will see that the simple estate owners in Assam are protected properly and I look to him for such protection.

I am not moving my amendments. I have already withdrawn them. I sent an intimation only.

The Honourable Shri K. C. Neogy: Sir, I have no difficulty in giving specific assurances on both the points which have been raised by my honourable friend Mr. Chaliha. In the first instance, with regard to the definition of owner, we

[Shri K. C. Neogy]

do propose to send down instructions to the licensing officer more or less on the lines that have been suggested by my honourable friend. But if still there be any ground for further intervention on the part of the Central Government we should always be prepared to receive suggestions from my honourable friend and others who may be interested in the tea industry.

As regards the other point the question of the omission of the words "worn out" my honourable friend has correctly stated the position, that this amendment has been necessitated by the fact that the expression does not occur in the International Agreement, to which this control Act merely gives a legal cover. It does not mean that in future there will be any departure from the practice that has been followed so far in this behalf.

As regards my honourable friend's apprehensions about the legal difficulties that may arise hereafter in the interpretation of the law relating to the Tea Control generally, I can again assure him that if any aspect of the matter which requires intervention on the part of the Central Government by virtue of the authority that it derives from the existing law is brought to my notice it will surely receive the best attention. And if the necessity is proved of even amending the law I should always be prepared to consider such a necessity.

Sir, that is all that I have to say.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Tea Control Act, 1938, be taken into consideration."

The motion was adopted.

Mr. Speaker: We shall now take the Bill clause by clause. Is the honourable Member Mr. Krishnamoorthy Rao moving his amendment?

Shri S. V. Krishnamoorthy Rao (Mysore State): No, Sir. I have discussed the matter with the honourable Minister.

Mr. Speaker: The question is:

"That clauses 1 to 4 stand part of the Bill."

The motion was adopted.

Clauses 1 to 4 were 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.

INDIAN WIRELESS TELEGRAPHY (AMENDMENT) BILL

Shri Khurshed Lal (Deputy Minister of Communications): Sir, I beg to move:

"That the Bill further to amend the Indian Wireless Telegraphy Act, 1933, be taken into consideration."

This is a very simple measure. It seeks to achieve two objects. The first is to extend the Indian Wireless Telegraphy Act to the whole of India, that is to the acceding States also. It does not extend to the States today and we

are now seeking to extend it to the Acceding States. The other object which it seeks to achieve is to enhance the penalty for the possession of unlicensed transmitters. The position today is that whether you have a receiving set or a transmitter for which you have not got a licence the penalty is a fine of Rs. 100 for the first offence and Rs. 250 for a subsequent offence.

[*At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar).*]

This penalty obviously is very inadequate for the possession of unlicensed transmitters. It appears that a number of people after the termination of the war have acquired wireless transmitters from various Army authorities and foreigners particularly—which are now being used for the purpose of speculation. This is also dangerous from a security point of view. Therefore, while the penalty for the possession of an unlicensed receiving set may continue to be what it is, the penalty for the possession of an unlicensed transmitter should be enhanced and it may be imprisonment up to three years and a fine of Rs. 1,000.

Then the procedure for search as at present contained in the present law is very defective. A search can take place only during the hours of sunrise and sunset and that too after a warrant from the Magistrate. That actually hampers the discovery of illegal transmitters and it is therefore proposed that power should be given to officers who may be specially authorised by the Central Government in this behalf. Sir, I move.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Indian Wireless Telegraphy Act, 1933, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clauses 2 to 6 stand part of the Bill."

The motion was adopted.

Clauses 2 to 6 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Shri Khurshed Lal: Sir, I move:

"That the Bill be passed."

Mr. Deputy-Speaker: Motion moved:

"That the Bill be passed."

Prof. N. G. Ranga (Madras: General): I am glad this Bill has been introduced and it is being passed so quickly. I wish to warn the Ministry concerned about the wrongful use that many subversive political parties are making of many of these transmitters. Therefore they should try to search and wherever there are these unlicensed transmitters have them ferreted out. If they concentrate only on the so-called speculators who use it for passage of information from one to the other and leave out the political parties which are utilising these transmitters they will be neglecting their duty. I therefore sincerely hope that the Ministry will pay special attention to this aspect of the problem and try to make use of this Bill when it is passed into an Act in order to safeguard the security of the state.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

The Honourable Shri K. Santhanam (Minister of State for Railways and Transport): Sir, I beg to move:

"That the Bill further to amend the Bombay Port Trust Act, 1879, be taken into consideration."

Sir, this is a very simple Bill. Under the existing law there is no power to the Bombay Port Trust to auction goods which are lying in its custody without being removed by the owners. There has been recently great congestion in the port of Bombay due to various causes. Owing to the loss of Karachi a lot of traffic had to be diverted to the Bombay port. In many cases the merchants have used the space in the port as private godowns. They have been trying to sell their goods outside, and till they manage to sell them they do not clear them from the port, so much so that the port has become very congested and as a result the American Conference Lines have put up the freight rates by 25 per cent and the whole country has to pay the penalty. This is a purely permissive Bill. It does not make anything obligatory. It gives the Bombay Port Trust the power to sell goods under certain contingencies. Under the Proviso to section 64A anyone who pays all the rates and charges payable shall be entitled to keep the goods for two months. Till two months are over the Port Trust will have no power to do anything. After that they will have to give notice, and after due notice if nothing happens they will be empowered to sell it by auction. If no charges are paid at all that means the consignee has not cared to claim his goods and the Port Trust authorities are empowered to give notice after one month.

In order to avoid hard cases part (3) has been put in. "The Central Government may, by notification in the official Gazette, exempt any goods or class of goods from the operation of this section".

My honourable friend Mr. Sidhva has given notice of an amendment to the effect that if goods cannot be removed owing to the difficulties of wagons not being available or other hardships they should not come under the mischief of this Bill. I fully appreciate the point and that is why this sub-clause (3) has been put in. But the amendment as framed by him will defeat the object of the Bill altogether. So I regret I cannot accept the amendment. But I am prepared to give this clear assurance that we shall issue instructions to the Bombay Port Trust to see that this power of auction is used only where the person concerned has refused to remove it through negligence or mere intransigence. If he is not able to remove it owing to reasonable causes, then we shall ask the Bombay Port Trust to be indulgent to him and see that he does not suffer. I hope, after this assurance, there will be no difficulty in passing this Bill.

Pandit Thakur Das Bhargava (East Punjab: General): And if he does not remove the goods because wagons are not available?

The Honourable Shri K. Santhanam: Clause 3 is intended to cover that, and we will issue clear instructions for cases where the wagons are not available. This is conditional, because a Bombay merchant who is bound to keep the goods in his own godown cannot simply say that because he is thinking of sending them to Cape Comorin and wagons are not available, he is entitled to keep the goods there. Suppose it is an upcountry merchant, then it is a real case of hardship and we shall see that all such cases are duly covered by our instructions.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Bombay Port Trust Act, 1879, be taken into consideration."

Shri R. K. Sidhva (C. P. and Berar: General): While moving the Bill for consideration, the honourable Minister has given reasons why he has been compelled to bring forward this measure. I entirely agree with what he has stated, that the merchants in Bombay generally want to take undue advantage of allowing the goods to remain in the Port Trust because there is a scarcity of private godowns in Bombay and that that has caused congestion in the docks. To that extent I am prepared to accept his viewpoint. But this has been the practice for a number of years, it is not a new thing, because in Bombay all along for want of space no new godowns have been constructed. At the same time the fact that due to loss of Karachi most of the cargo is going to Bombay is also correct.

But on the other side it cannot be forgotten why these *bona fide* companies are compelled to keep their goods there which they could remove if transport was available. That is the point I am stressing. The other day, I made a grievance during question time—I cannot make any grievance, I can only seek information during question time—and stated that the Bombay Port Trust had failed in reconstructing godowns which had been gutted in the explosion in 1944. No steps were taken to rebuild them and the floor area to that extent has been lost. They were simply waiting for a better time to have the prices of steel come down. That is the foresight with which the Bombay Port Trustees are working. My complaint is that our Government took no steps in directing the Bombay Port Trust to see that cost or no cost new accommodation should be provided. After all the Bombay Port Trust gets plenty of money and they should have constructed these godowns. If they had done it earlier they would have had no trouble today. There were one-storey godowns and *kutcha* construction has been put up with one-fourth of the floor area of the original.

As far as availability of wagons is concerned, I can tell the honourable Minister that a large number of consignees have been obliged to pay demurrage. It is no pleasure to them to pay money from their pockets to the Port Trust when they were prepared to remove these goods from the Port Trust area as quickly as possible. In 1946 the demurrage amount which the Port Trust got was Rs. 4½ lakhs. In the previous year it was Rs. 1·17 crores. May I ask whether it is a pleasure for them to pay that much money? Complaint after complaint has been made by the merchants saying that these demurrages had been taken from them without any transport facility being provided. The result has been that the prices have been put up and ultimately the consumer has to pay; the merchant is not going to bear this 1·17 crores. Due to the fault of the Government, for many reasons, particularly the shortage of wagon supply, this demurrage went to the Port Trust coffers with the result that the Port Trust Budget which would have been otherwise deficit was surplus this time It is this fleeced money which has brought a surplus to the Port Trust.

Coming to the supply of wagons, let me say this. I myself visited the place on the 30th January before coming here to attend this session. I went to the Chairman of the Bombay Port Trust who sent the Harbour Master along with me; we went to the docks and what I say now is the version of the Harbour Master. I saw the position with my own eyes and I want to bring it to the notice of the honourable Minister as far as the wagon position is concerned. On the 30th January, there were salt bags for 1,000 wagons; one thousand wagon-loads of salt was lying there for three months. 400 wagon-loads of bobbins meant for textile machinery lying there for two months for want of wagons. 400 wagon-loads of dates coming from Basrah—formerly they used to go to Karachi—and lying there for 2½ months for want of wagons. Apart from these, there were 600 wagon-loads of general cargo. This is the information which I was given, and I saw the thing with my own eyes. Sir, salt is

[Shri R. K. Sidhva]

scarce in the country today. In the summer season salt will melt if it is not removed. A whole godown was full of salt and there was no wagon available to remove it. Then, dates are a good substitute for use by workers; they have been coming in loads and loads to Karachi and diverted to Bombay; they were lying in piles and no efforts were made to remove them. This is the condition regarding wagon supply and yesterday I was told by the honourable Minister that the wagon position is very satisfactory! Sir, I don't know what is the position today in the Bombay Port but as far as it was these two months ago, I can vouchsafe for this statement which I have made. The honourable Minister may refer to the Harbour Master who was with me; I went with him in the car and we had a survey of all these things.

May I ask, when the wagons are not available, do you want to compel these merchants to pay the demurrage? For your fault, is it fair, is it just, is it right? Therefore, I had sent in an amendment that if wagons are not available the goods should not be auctioned. The clause which says that the goods will be auctioned is a severe clause. By all means auction in the case of people who utilise the Port Trust godowns for their private purpose. I have no sympathy with them. But when it is a case of want of wagons, why should they be penalised for no fault of theirs? They pay all charges and yet their goods will be auctioned! That is why I sent in an amendment. The honourable Minister finds a little difficulty in accepting my amendment and therefore he stated that he will issue instructions or orders. That is something for me. If really, from the constitutional point of view, he does not find his way, which he ought to if he really wants to, and he is bent upon saying that he cannot accept my amendment, the justification for which I hope he realises, and if he merely says that he will issue orders to the Port Trust authorities regarding goods for which *bona fide* payment has been made and the consignees were ready to take delivery but could not do so for want of wagons, then I shall have to be satisfied with the lesser of the two evils. This is a lesser evil which I am prepared to accept. I am not pleased with it but I cannot help it. The honourable Minister says he cannot help it. But I hope he will bear in mind the figures I have given. The commodities which I have mentioned are articles of food—salt, dates, etc. Only by the way I quoted bobbins because that was part of the machinery for our cloth. These essential articles are lying there. It is no pleasure for anybody to keep them there. The country clamours for more salt. The price of salt in certain places is eight annas a seer. Is it a pleasure? Has the Minister given any attention to this matter? I have accepted his statement, similarly he must also accept my *bona fides* in this matter and come to the rescue of *bona fide* merchants and thus prove that Government is reasonable and just and will not allow the Port Trust to fleece these merchants. When the Bill is passed, I hope he will immediately issue instructions, so that no undue advantage will be taken of the provisions we have passed, by the Port Trust authorities. When these goods are ready to be taken delivery, yet for want of wagons, if they were not taken delivery of, these people cannot be penalised for no fault of their own. It may be that an excuse may be put forward, "Who is going to prove that the wagons were not supplied?" Yes, this matter is contentious and the Railway or Port Trust Authorities may ask the merchants to prove in writing that wagons were not supplied although they were available. It is really a difficult point, but after all, if Government's intention is honest, of which I have no doubt, then a *via media* can be found, some agency can be devised whereby it could be proved that wagons were supplied and delivery was not taken or that wagons were not supplied at all and delivery could not be taken. As I have already proved by facts and figures, 1¼ crores of rupees were forcibly realised from the merchants for no fault of their own. I hope therefore that the honourable Minister will very sympathetically consider this matter and issue very strong instructions to the Port Trust in this matter.

The Honourable Shri K. Santhanam: Sir, there is no question at all of doubting the *bona fides* of my honourable friend. Nor am I in the least inclined to question his facts. In fact, his own facts are the justification for this Bill. If there was not so much congestion, there would have been no need at all for this Bill. His arguments show that it is much more profitable for the Bombay Port Trust to keep these goods and claim demurrage rather than put them to auction. So when they can earn a lot of money, they are not likely to put them to auction at all, and it is only to deal with those merchants who deliberately and to some extent maliciously use the Bombay Port simply as a private convenience that we want this Bill. They go about trading in the whole country; they do not even care to reveal themselves to the Port Trust and let their goods lie without letting the Port Trust know what to do with them and periodically they also pay the charges so that the ordinary law may not come into operation. It is only to deal with such cases that this has to be brought into force.

There is also one other point about wagons. It is true that there has been difficulty about wagons. The honourable Member knows why. We did not create all the conditions, and nobody can create wagons out of nothing. Even if we had the wagons, the Port Trust Railway is designed to carry only a certain load. We cannot load more than a given load in the Port Trust Railway and there may be circumstances in which we may ask the merchants to take the goods and load them at some other station, say Karnak Bunder. Now, the merchants say "Either give us wagons at Bombay Port Trust or we won't load it anywhere else." They are entitled to say that normally—I do not deny—but under the existing difficulties, we want co-operation in all possible ways and that co-operation can only be had from the private vested interests when we have the power conferred by this Bill. That is why we want this Bill. I again repeat my assurance that we will give very clear and categorical instructions that no honest businessman should be penalised on account of this Bill. I hope the House will approve of the Bill.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Bombay Port Trust Act, 1879, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: We shall now 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.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. Santhanam: Sir, I move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

INDIAN RAILWAYS (AMENDMENT) BILL

The Honourable Shri K. Santhanam (Minister of State for Railways and Transport): Sir, I move:

"That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of Shri Gokulbhai Daulatram Bhatt, Pandit Thakur Das Bhargava, Dr. Bakshi Tek Chand, Shri Satis Chandra Samanta, Srijut Rohini Kumar Chaudhuri, Shri Sita Ram S. Jajoo, Shri M. Ananthasayanam Ayyangar, Shri R. K. Sidhva, Shri Khandubhai K. Desai, Mr. Naziruddin Ahmad, Shri Krishna Chandra Sharma, and the Mover, with instructions to report on or before the last working 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."

Sir, I do not know if the House would like me to take much time over this Bill. In the Statement of Objects and Reasons, a clear and comprehensive analysis of the provisions has been given. In fact, there are only two major points to be considered with reference to this Bill. One is procedural. Many articles are now sent by owner's risk and the consignor has to execute a separate big document full of all kinds of particulars. The law at present provides two risks, owner's risk and railway risk. Now more than 90 per cent. of the goods which may be sent under both risks are sent by owner's risk and the present Bill provides that it is only when he sends them by railway risk he will have to execute the form; otherwise, he would ordinarily be presumed to have sent by owner's risk. That is one thing.

The second point is about the Claims. Commissioners to deal with compensation claims promptly when an accident occurs. In fact, this part of the Bill was part of the Bill creating the Railway Rates Tribunal, but the Select Committee considered that certain points concerning that Bill required fuller consideration and suggested that it may be taken up. This consideration has been given, and those provisions have been incorporated. As a result of these provisions, we expect that within a few weeks of an accident, if people unfortunately have lost their lives, at least their sons and wives will have compensation; in the case of those who have sustained injuries or lost their limbs, they will receive compensation. As I am moving for reference to a Select Committee consisting of able lawyers, I am sure that every clause will be subjected to careful scrutiny and I think the fuller discussion may be taken up after the Bill emerges from the Select Committee. Sir, I move.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of Shri Gokulbhai Daulatram Bhatt, Pandit Thakur Das Bhargava, Dr. Bakshi Tek Chand, Shri Satis Chandra Samanta, Srijut Rohini Kumar Chaudhuri, Shri Sita Ram S. Jajoo, Shri M. Ananthasayanam Ayyangar, Shri R. K. Sidhva, Shri Khandubhai K. Desai, Mr. Naziruddin Ahmad, Shri Krishna Chandra Sharma, and the Mover, with instructions to report on or before the last working 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.

Shri T. T. Krishnamachari (Madras: General): Since no Ministers are here, I suggest that the House may now be adjourned.

The Honourable Shri Satyanarayan Sinha (Minister of State): We may adjourn now till 2-30.

Mr. Deputy-Speaker: The House stands adjourned till 2-30 in the afternoon.

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.

COAL MINES LABOUR WELFARE FUND (AMENDMENT) BILL

The Honourable Shri Jagjivan Ram (Minister of Labour): Sir, I beg to move:

"That the Bill to amend the Coal Mines Labour Welfare Fund Act, 1947, be taken into consideration."

I have nothing to add, Sir, to what has been said in the Statement of Objects and Reasons of this amending Bill. It is a very simple measure, and I hope the House will unanimously accept it.

Mr. Speaker: Motion moved:

"That the Bill to amend the Coal Mines Labour Welfare Fund Act, 1947, be taken into consideration."

Shri Harihar Nath Shastri (U. P.: General): Sir, in according my formal support to this formal motion that has just been made by the honourable Minister, I take this opportunity of offering my congratulations to him for the successful working of the Coal Mines Labour Welfare Fund Act since it has been in operation. There is no doubt that labour in the Coal Mining Industry has been greatly benefited by amenities provided under this Act.

Coming to the question of the provision of housing amenities to labour in the Coal Mining Industry, this question has been on the forefront for several years, particularly after the commencement of the War, and the Trade Unionists in this country have been urging on the Government to give priority to this important matter. To the extent that this question has been tackled in the mining area, the honourable Minister deserves congratulations, but I should like to observe, Sir, that the progress that the Act in regard to the provision of housing amenities has made, is rather slow. It was some three or four years back when there was an ordinance under which this Welfare Fund was being operated in the mining area, when the Government of India decided that two townships of 5,000 each in Bihar and one township of 5,000 in Bengal would be constructed for labour in the mining area and although four years have since then elapsed, the idea has not yet materialised. I am glad to note that recently the Ministry of Labour has set a target of constructing 50,000 houses in the coal mining areas within the next five years, and I do hope that the idea will materialise and that steps will be taken to expedite it, so that the target that has been set by the Ministry may bear fruit and materialise. In this very connection I take this opportunity to once again draw the attention of the honourable Minister to the general question of industrial housing in this country. Without taking any more time of the House, I would appeal to him to pay his most earnest consideration to this question about which there have been repeated commitments by the Government of India and by his Ministry in particular.

The Honourable Shri Jagjivan Ram: I may assure the House Sir, that my Ministry is equally anxious to expedite the housing scheme not only for the workers in the coal fields but for other Industrial labour as well. As the House is aware, only a few days ago, in reply to an interpellation, I informed that we have practically finalised a scheme for general industrial housing and it will be announced in a few days. As far as building material is available, the Government will make available the necessary funds to the provincial Governments and approved employers for the construction of houses for industrial workers. I can assure the House once more that the Government are anxious to do this, because they are convinced that if we have to increase production we have to see to the housing accommodation of the industrial workers as well. So in the interests of increased production, we are going to expedite the question of housing industrial workers. I hope the House will accept my assurance.

Mr. Speaker: The question is:

"That the Bill to amend the Coal Mines Labour Welfare Fund Act, 1947, be taken into consideration."

The motion was adopted.

Mr. Speaker: 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 Shri Jagjivan Ram: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

DOCK WORKERS (REGULATION OF EMPLOYMENT) AMENDMENT BILL

The Honourable Shri Jagjivan Ram (Minister of Labour): I move:

"That the Bill to amend the Dock Workers (Regulation of Employment) Act, 1948, be taken into consideration."

This Bill is also a very simple measure and the intention of the Bill has been made clear in the Statement of Objects and Reasons. After the passing of this Act we appointed a committee to go into the question of decasualisation of the workers in Bombay Docks. It was a tripartite committee consisting of representatives of the employers and dock-labourers and our Chief Labour Commissioner was the Chairman of it. A scheme was formulated by that committee. It was examined by the Government and approved. The difficulty arose when we found that a statutory body to give effect to or implement that scheme could not be constituted under the Act as it stands at present. So this small amendment became necessary in order to constitute a corporation or statutory body to implement the scheme. Hence this amendment.

Mr. Speaker: The question is:

"That the Bill to amend the Dock Workers (Regulation of Employment) Act, 1948, be taken into consideration."

The motion was adopted.

Mr. Speaker: 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 Shri Jagjivan Ram: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

CINEMATOGRAPH (AMENDMENT) BILL

The Honourable Shri R. R. Diwakar (Minister of State for Information and Broadcasting): Sir, I move:

"That the Bill further to amend the Cinematograph Act, 1918, be taken into consideration."

This is a very small amendment of the Cinematograph Act of 1918, as amended in 1934. The reason for this amendment is that today film censorship, which is provincial permits the passing or restricting or banning films without taking into consideration whether a particular film is good enough for universal exhibition or fit only for adults or fit for children only. No such discrimination can be made by the film censors today. Therefore it was found necessary that in order to discriminate between films which may be suitable for adults but may not be suitable for children or adolescents, some legislation of this kind should be passed. This matter was then examined and provincial Governments were consulted. The provincial Governments thought that this provision was necessary but that if they were to pass this kind of legislation there would be different provisions in different provinces and certain anomalies would arise. Honourable Members know that film censorship though provincial today is sought to be made a central function and at the last meeting of the Constituent Assembly an amendment was moved to the Government of India Act by which this Parliament is now authorised to pass legislation of this kind. But that may come later. Even before that, as it is, in order that some discrimination may be made between films which are suitable for adults and not suitable for children and adolescents, this amendment is considered necessary and, in order that it may be uniform in all the Provinces, this Bill has been moved in this Parliament. It is needless for me to emphasise the necessity for such a Bill. What now happens is that when a film comes before a film censor, if there are even very small portions which are not very suitable for being seen by children and adolescents, then the whole film is banned. Thus an otherwise artistic and good film has to go by the board; there is no discrimination which can be exercised today under the present law. That is the main reason why this amendment is being moved here empowering the provincial Censors and Censor Boards to go into the matter and see if a particular film is suitable for the whole population or only for adults. That power is sought to be given by this amendment. I may here explain also that this whole film industry is growing in importance and there are a number of different aspects to this industry. But the scope of this particular Bill is very restricted and there is no intention of expanding that scope so far as this amendment is concerned. But since the whole film industry is an important one and as I see from the number of amendments tabled that honourable Members are also taking a keen interest in the matter,

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I am alive to the situation and a thorough inquiry is going to be made into the film industry from all points of view. It is then that this House may go into the different aspects of the question, as regards the length of time that a film should be shown, the length of the film and a number of other considerations which may come in. As I glance at the amendments tabled here, I see that a number of amendments are of that nature. It is natural that these amendments are placed before the House; but I beg to submit that since the object of this particular amendment is very restricted and one-pointed, it is better that we concentrate upon this one single aspect, postponing the consideration of other aspects to the occasion when a more comprehensive Bill is to be introduced in this House. We shall have ample opportunity at that time to go into the whole matter when the inquiry committee makes its own recommendations on different aspects and a suitable Bill is framed in terms of those recommendations. Therefore I should like to request honourable Members to see that we restrict ourselves to consider this one single important aspect and leave the matter there.

Now the main considerations which weigh with us at the time we see a film are these. Some people would say that if it is a bad and unsuitable film we should completely ban it; why make a discrimination between a film which is suitable for adults only and not suitable for children and adolescents? But as we look at the films that are coming up and also as we look at the law that exists in some of the foreign countries we see that a discrimination is made. In fact in a number of other things also we make this discrimination between children and adolescents on the one side and adults on the other. In clubs or in dance halls or some such other places membership is restricted only to adults. So, it is on the same principle but for a greater number of considerations that this amendment has been introduced here. For instance, among films there are what are called horrific films where bloody scenes of murder or sudden catastrophes such as fire or thunder occur. Now adults can very easily stand these, and possibly sometimes in the course of a story all these have to be shown. But if such films are shown to children and adolescents. They may act on the tender nervous system and emotional structure of younger people and therefore they may be said to be unsuitable for children and adolescents. Then there might be crime films which glorify crime and make a robber or somebody a hero for the time being; possibly at the end he is punished and real retribution follows the crime that he has committed. It might happen that in the course of showing a film, children and adolescents might be impressed only by the glorification part of it but might not catch the latter part, *i.e.*, the retribution part of it. Thus it might be said that such a film may be suitable for adults but it is certainly not suitable for children and adolescents. That is another illustration.

Then there is another type where not only crimes but details of crimes are shown. We have experience that many a time children pick up these details and try to imitate them, whereas it might be that for adults who have grown and who are not amenable to take impressions so easily or whose fibre may be a little tougher this may not be unsuitable. Not that I advocate these films being shown to adults. If they are not good for adults or grown-up men they should of course be banned; there is provision under the film censorship powers to ban them. But I am making a distinction where certain things might be suitable or might be not very harmful to adults but which would be positively harmful to children and adolescents.

Then the same may be said of what are called sexy or sex films where passionate love-making is shown on the screen. In this matter also it depends upon the taste and upon the customs and manners of certain countries as to which of such films should be shown, how far people should go and should not go. All these are matters which are dictated by what may be called social

customs and social privileges and social opinions of the particular times and of the particular countries. But I wanted to make a distinction between certain matters which may be shown to adults and which adults may stand but which children and adolescents positively cannot stand. In the same way there might be certain problems which might be beyond the comprehension of children and adolescents. It is no use showing these films to them and trying to exercise their minds beyond the state of comprehension which they have reached. I may cite here certain geological films, for instance, of what might be called palaeobotany of which a research station was recently opened by the Prime Minister. Some such subjects might be beyond the comprehension of children and it is no use showing these to them. I may also cite films of astronomical mathematics or such other films. Then there might also be certain parts in films, where respect for general morality or good conduct or sense of justice is likely to be undermined. In the case of adults whose opinions are to a certain extent formed and who are not likely to misunderstand, to them these films might be shown. But where respect for morality and justice are likely to be undermined even partially on the screen, they should be completely banned so far as children and adolescents are concerned.

These are the real reasons why we should not show certain films to children. But unless we empower the censors to ban them they cannot do it today under the law as it stands. Therefore when the industry as well as the provincial Governments were consulted in this matter, the different film associations in different parts of India were practically unanimous in saying that such a provision is necessary, and the provincial Governments too agreed to such a provision. That is why this thing has been taken up and this amendment has been moved in this House.

Now I may also say a few words about the types of amendments that have been proposed, so that honourable Members may have occasion to see that it may not be very relevant or useful here to discuss those amendments

3 P.M. and that they might well be postponed to a day when a more comprehensive Bill is bound to come before this House after due enquiry has been made into that industry. There is the question for instance of the hours when films ought to be shown. There is an amendment which says that any film or cinema show should not run for more than 2 hours. There is also another amendment which says that films should be shown to children and adolescents only during the day and not at night after nine o'clock. Some such amendments are there. My plea is that all these amendments are good in themselves. They ought to be considered but then they do not fall into line with the particular amendment of the Act that has been moved now and the purpose of which is a restricted one.

Then there is the question of age. In this Bill I have put 18 years as the age, including children and adolescents. In certain other countries, like Denmark, Australia and England especially from where we could get details about such provisions, the age has been put down as 16. There are a number of amendments saying that the age should be raised to 21. Some of them of course say that the age should be brought down to 16. There were some honourable Members who said that the age should be 25. But taking into consideration all these different suggestions, I think that so far as our country is concerned—the type of education and the type of understanding that our children have—18 is a very reasonable age. It is also said to be the age of discretion. It has nothing to do with the age of 21 for instance, which is the age for franchise. In our Constitution an adult is described or defined as one who has attained the age of 21. We have nothing to do with the exercise of votes or the understanding which may be necessary for voting purposes. Here we are more concerned with what is called the power of understanding or the power of discretion. So 18 may be said to be the age of discretion, and therefore I would request honourable Members to think

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about this provision and not to press the amendments as regards changing the age.

Then there is the question of the responsibility of showing any restricted film to children of the age of 18 or below. In all cases where such provisions exist, so far as we have studied those provisions, the responsibility is on the exhibitors. Of course, certain rules might be framed and certain precautions may be taken by the exhibitors whereby they may be able to prove their *bona fides*, but ultimately the responsibility does lie on the exhibitors and on nobody else. To put the responsibility on anybody else would be going against the very principle on which the Cinematograph Act has been framed. It will be going out of the way and out of the line, and therefore whatever provision we make we have to make it in accordance with the original Cinematograph Act as it stands, and therefore that is also an important consideration.

These are a few of the considerations which I place before the House in moving for the consideration of this Bill. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Cinematograph Act, 1918, be taken into consideration."

Shrimati G. Durgabai (Madras: General): I have great pleasure in supporting the Bill which has just been moved by the honourable Minister, which seeks to restrict the exhibition of films which are considered to be not suitable for children and adolescents. Sir, under the law as it exists today, there is no discrimination of any kind made between one film and the other. All sorts of films are shown to all alike. There are certain films shown today which are very harmful. The honourable Minister has described some of the bad features of the films that are shown today. Films of horror, films of crime and also films with a sex appeal are being shown and no doubt they produce very harmful effects on the children, especially on the impressionable age of these children. So there is a great need to restrict the exhibition of these films to a certain class.

I have already stated that according to the law as it exists today, the authorities who are in charge of certifying the films are not empowered to restrict the exhibition of these films to one particular class only. This Bill if passed would enable them to restrict the films to one particular class by introducing a system of two certificates: that is Certificate "A" and Certificate "U." Certificate "A" restricts the films only to persons above 18 and Certificate "U" gives a license for unrestricted use of these films.

No doubt, Sir, today we are banning some kinds of very harmful films for children and adolescents. Of course we approve of this, but our responsibility does not end there. We have got to give very good substitutes in the place of these films. We must take note of this. We are taking away certain films from the purview of the children. But we have to educate the children also through films. Therefore we have to realize that we have a great responsibility to give very good films—good from the point of view of all-round development of these children. To-day the radio and the film are the two very powerful factors which can shape the future of the coming generations of our country. Therefore these two—that is the radio and the film—have got to play a great part and the honourable Minister who is presiding over this Department has got to take every care to see that good films are supplied to these children. We have the Films Division working under his able leadership and this Division working under his Ministry has very good equipment and the honourable Minister also has promised that he will give nearly 50 to 60 good films by next year. I am afraid that the private

people who have taken to produce these films may not care to produce these films with educational and cultural value because they say that they have no market for these films and they cannot make any profit because films of an educational and cultural nature do not attract many. Therefore they cannot market them properly. It is therefore the Government's duty to come to the rescue and see that in the Films division good films are produced from the educational point of view. I ask the honourable Minister to see that the Films Division works very actively and the authorities who are in charge of running it will take every care to see that the films are supplied to every theatre, so that they are shown all over India.

I would also urge upon the honourable Minister that this Films Division of his Ministry should be advised and guided by a body of experts with regard to the particular subjects on which films should be taken. This Films Division should have the guidance of that committee of experts who have made a special study of the subjects. For instance children are educated in several methods. The Montessori system has done some good research work and they know how to develop the child's brain and psychology. Therefore with a body of experts who have made a special study the Films Division would do well and these films will be very good substitutes for those children from whose purview we are taking away a very great number of other films. Not only by banning but by giving substitutes I think this Bill could aim at very good results and achievements.

Shri Mahavir Tyagi (U. P. General): Sir, after the promises given by the honourable Minister there remains little to be said. He has himself practically apologised before the House by saying that the Bill was only a simple amendment just to pave the way for the main Bill which will be coming. I am glad the honourable Minister is conscious of the great position which cinemetograph occupies in society today. He will soon bring a full-fledged measure to put it right. I feel heartened about it.

This is an occasion when I cannot help expressing myself. I feel that the greatest injury is being done today to the nation by cinematograph and therefore I cannot let this occasion pass without bringing on the record of this House my feelings about it.

There are two types of psychology today prevailing in the country. There is a section of people who feel that all foreign ideas are progressive and should be adopted by us. They are enamoured of them. There are others who feel that we must stick to our old civilisation, culture and moral values. Between these two sections our Government could not make up their mind as to what we have to give through these organs of propaganda. I have also been to cinema houses a few years ago, not now. I do not know if they have made any progress now. I see every evening quite a good part of the nation stands in a queue before cinema houses in every city. They stand for hours in queue and tickets are not easily available. And when they come out I see urchins, small boys and girls come out with some cinema songs ringing in their ears and dancing on their lips. I know of my childhood when I heard the first song sung in the village Sangit Party. I was a villager and when I heard it I jumped about and sang it. Songs first heard always ring in the ears and it therefore that our first education came to us in songs and we attribute a lot of good to music, song and poetry. When I see these youngsters coming out of cinemas and singing songs I find the songs are not only vulgar but also have a demoralising effect on the children. If Government were to look into the sort of songs propagated through the cinemas then alone they would know the danger or poison which they are spreading throughout the country. In fact up till now only one thing has been done and I do not know on what grounds. I saw the old Cinematograph Act and I find that there was an arrangement of

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censoring films under that Act, so that the healthy and better ones would be allowed to be exhibited and the rest are not to be given any licence. I do not know how far this will be of any benefit to the people. What is sought to be done is that in place of the words "suitable for public exhibition" the words "suitable for unrestricted public exhibition or for public exhibition restricted to adults" shall be substituted. It all depends upon the machinery which is set up for circulating the films. It also depends upon the basis of the instructions issued. I would for my part prefer that this work should be given to the Education Ministry, because the cinemas are more a part of education than recreation from my point of view and it is through recreation also that education is imparted. It should have been better if some educational authority were put in charge of censoring films, for it is on the Ministry of Education that the duty of seeing that our culture, civilisation and progress are maintained devolves. In the old days servicemen used to censor films in their own way. However the films which are exhibited today are a sad commentary upon the machinery which is censoring them. The present type of censor films are foisting new values, new fashions and new morals on our people. We are having a bad substitute for our old mode of life. If that is the criterion or standard that the Government applies, then I am afraid this Bill will be of little avail. Up till now I do not know how many films were rejected on the ground that they were not proper to be exhibited to ladies, or small youngsters, because in India for a long time past moral grounds had nothing to do with the stopping of films. If those were the grounds then demoralising films would not be exhibited as they are done today. There must be some other consideration. I do not know what is the percentage of films rejected and I am very doubtful if films are rejected in good numbers. By changing the words "suitable for public exhibition" to "suitable for unrestricted public exhibition or for public exhibition restricted to adults" we are now relaxing the rule. We say that those films which are suitable for unrestricted public exhibition will be permitted which means that all which had been permitted till now shall remain on the list approved as "unrestricted" and those which had been rejected may find place in the list of "restricted" ones. Now somehow or other people have taken it that adults have a sort of freedom to go anywhere and do anything they choose, as if adults are not impressionable. I am sure that the number of films and the standard of films which are permitted today after censoring, have been permitted as innocent because children also could go and see them. If you are going to have films particularly for adults my fear is that even worse films will be permitted under the heading 'U' because they will be shown to adults only—and adults are considered to be above the line of any demoralising effect. Therefore the provisions of this Bill I am afraid may be misused to allow still worse films to creep into the cinema houses and have a worse effect. Because you are now separating children from adults and giving the latter "healthy education". Through films, the adults would be left free to see whatever they like to and a boy of 18 or my daughter of 18 will also be free to go to these more filthy films which will now be allowed—because there will be no danger of children getting impressed! So I am doubtful—and I am very strong in my conviction—that this Bill will not give you any advantage from that point of view, and I would request the honourable Minister not to insist on this. What does it matter after all if they go on without this measure for a few months more? But don't allow more dirty ones to come in. If parents want licence to see such films which are to be kept away from children and want them to be shown to them exclusively, you can deny them the licence altogether rather than bring this Bill. I am sure this Bill does not do much good.

It is said that children get easily impressed and, as I said, the belief is that adults do not get impressed. My feeling is that impression is always the same whether it is auditory or visual and it impresses both children and adults equally.

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar)].

The only difference is that while children always acknowledge that they have received an impression, good or bad, from outside, adults in their arrogance, though they get impressed in the same manner from outside, pretend that they owned the impression and pose as if it was their own internal film and refuse to acknowledge the outside impression which they really receive. Otherwise the impression is always the same. For everyone, whether boy, parent or child, from the time the baby is born up till he is old, the impressions go on affecting and man is nothing without affections. Man is but his impression which he has gathered all through his life—a bundle of impressions and ideas. So it is the very reality of man so to say or the very content of man that is influenced by cinemas and radios. I submit that we have done enough harm by allowing so much of freedom to bad films to go into the cinema house and impress themselves on society.

In fact cinemas up till now are running from the motive of profit-making. It is profit-making everywhere and even in the cinema field films are allowed to be exhibited because some people have invested money—and it is an industry which is productive or whatever it is called, it must return profits to the investors. Every industry must thrive and the cinema industry must also therefore thrive, therefore cinema films must be encouraged! Irrespective of the fact whether they are good or bad. If I had my way I would not allow this industry to go into the hands of any private individual. I would not allow people to make money at the cost of our morals—by making or unmaking them—because the cinema is nothing if it does not make or unmake our morals. No recreation remains as it is: every recreation goes directly into one's brain. It is the cinema which creates an atmosphere which changes our civilisation.

Everyday I hear very big people in India saying that the world is shrinking, closing down, and distances are being reduced. I quite understand and I see that through the radio and quick means of communication the world, as it is said, is shrinking and I admit that physical space is being fast annihilated and perhaps the world may shrink and shrink and become either a zero or a point. But one thing remains, so long as the world exists—geographically it may shrink and become one integrated unit, but psychologically, or say, historically there must be distinction between men and men and between people and people. Every set of people live in their own civilisation and culture. So long therefore as we do not agree to allow our culture to become hybrid, so long as we do not agree to give away or forget our historical past, the world will exist compartmentally amongst people holding strongly to their own respective cultures and civilisations. After Swaraj, I submit, now was the time that we did something to strengthen our own culture and make it grow and encourage the old values which we have so long cherished; now was the time that we had made some progress in the line of our culture, language and our civilsation. Now, Sir, what is the cinema doing?

Culture originates from songs.—the songs which our Sages sang. Our music is now being spoiled by cinema films. If I had my way I would declare it as illegal that *Bhairav* should be sung wrongly. If you like your music to remain, you have to protect it and it is time that we protected it because it is the most precious music and the best of the world. If I had my way, if I had a Swaraj of my liking, I would have enacted that a man who sings *Bhairav*

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wrongly shall be prosecuted and penalised. Nobody has a right to spoil our music. It is pure art and if we begin to spoil our music like that we lose our art. We are protecting monuments—stone monuments. The honourable Maulana Abul Kalam Azad and his Department will come in the way if I were to break an idol or a monument of the old days. But you don't protect this greatest monument, music. The cinemas are spoiling our music. I submit our music is losing both its tune and tone, it is becoming prosaic. Poetry is becoming prose. You just see the songs sung in the cinema.

Mr. Deputy-Speaker: Does the honourable Member say that the difference in music produces a change in morality?

Shri Mahavir Tyagi: Yes, Sir, because it is the songs which give us the *darshan* of God. You cannot reach God by using material means; song is the only means in your possession to reach God because song is art, song is the language of the soul and you express your devotion through songs. Music was therefore valued in our civilisation and the *Vedas* were nothing if they were not music.

I submit that these cinemas are doing a great injury to our old treasure of music, poetry and art.

Now, take the drama. Our nation was the first pioneer in drama. We had the first drama played, and other nations copied drama from us—we gave the idea of drama to the world. We were the first to write one.

Mr. Deputy-Speaker: I am afraid the Bill is confined to the differential treatment between adult films and non-adult films.

Shri Mahavir Tyagi: The Government policy with regard to the exhibition of cinema films is under consideration and I submit, Sir, that it is doing a severe injury to our most precious art and literature which we treasured and therefore I hope I am not irrelevant. Drama is our oldest art. The first dramas in the world were written in India. But the standard of drama is also getting spoiled by these cinemas. Need we only see that the cinema pictures should be such that they don't physically affect our nerves, our auditory nerves or our visual nerves or other nerves? Is that all we have to see? No. We have to see whether the cinema is contributing to progress in our art, music and morals or whether it is spoiling them. But this is a consideration which is not taken into account. So, I say no question of children and adults arises here. No distinction need be made in the pictures. I will have one cinema for everybody. Why do these adults want a cinema house separate for themselves? When the mother and father want to go to a place alone leaving their children behind, be sure, Sir, there is something wrong there. It is always in the society of children that they are better. Why do you leave your children behind? Because you want to do something which you do not like your children to see and don't want your children to know that. I would therefore oppose the idea of mother and father going astray. If the parents were to go alone to a picture, where will they leave their children? I tell you, under the scheme of separate cinemas for adults, very few will go to a cinema because even today it is the children that carry their parents to cinemas. So only the children's cinemas will be seen and the ambition of the Ministry will fail because the cinemas for adults will remain empty because the children will not go there as no children will be permitted, and a father would not like to go to a cinema without his children. So the other films will not run. From that point of view, I am sure this is bound to fail. Sir, adults and children cannot be separated in India. Families go together. So, why not have a healthy cinema which the whole family will enjoy and appreciate and which the parents may make

their children appreciate? I remember when I saw a *sangeet* party for the first time. They arranged a sort of a drama, *Harischandra*. I am proud of those impressions which I have of that village life. My parents and all of us were there. We were looking at ideal relations between wife and husband and mother and daughter. Then we see the *Ramayana*. We always see the *Ramlila*. There we do not feel tired; it gives us all the pleasure of an ideal life of family. When Lakshman was hit by the arrow, we see how the brother wails for him and we see how Sita loves her husband. It is those old stories which have given us life. How do wife and husband love each other. It is not because of the oaths and pledges which we have taken on the altar, but because we inherit and cherish a conception of this relationship—a conception which we have taken from the behaviour of our forefathers. It is only because of man's habit to emulate. Through emulation we live. The ancient epics still exist with us. Therefore, when we see good theatres or cinemas containing good stories we emulate them, we copy them and that is how we develop our character. Everybody recognises his wife as Rama recognised Sita. That is the position, that is the ideal conception of relationship which has been given to us by our forefathers. Man proceeds on analogies. From the beginning till he dies, it is analogies that guide him.

Sir, it is the mode of life and not the form in which a nation lives. That mode is affected by these cinema films. Up till now the affect of films was only visual but now it is auditory also. Man, as far as his impression goes, is either primarily visual or auditory. Some children are auditorily better impressed and therefore they can remember songs better. There are other types of children who cannot remember things because auditorily they are not so receptive as visually, so they remember the pictures more. And this cinema today is both visual and auditory. Therefore, I submit it is doubly impressive and it requires double care to see that it does not inject any poisonous and demoralising influence among the people. Queues of people are found standing every evening before the cinema houses just to drown themselves in the dirty pool of demoralization and degradation. That is the position which we are facing today. It is a great problem. I would therefore submit that it should not be so lightly treated. I am waiting for that Bill which my honourable friend has just promised. I have great hope in him; amongst us all, I must submit, he is a greater moralist—I am only a talker, but he is in practice a moralist. I have fullest confidence that he will bring forward a measure which will really be effective.

An Honourable Member: Now, something about the Bill!

Mr. Deputy-Speaker: He has said enough.

Shri Mahavir Tyagi: I thought it was a general discussion about the Bill.

Mr. Deputy-Speaker: Of course, but that does not mean it should be out of the scope of the Bill.

Shri Mahavir Tyagi: Sir, all that arises out of the Bill.

Then, in this Bill it is mentioned that "adults" for the purpose of this Bill will be above 18 years of age. Between 18 and 19 there is not much of a difference. As I was telling you, I can permit you to show even vulgar films to small children because they cannot appreciate the vulgarity of it, but to a boy or girl of 18 or 19 it is dangerous to show such films. I say the age of 5, 6, 10 or 12 is impressionable all right, but the age of 19 is not only impressionable, it is excitable, it is provokable and I tell you it is inflammable. That age is more dangerous for such vulgar films, so it will not do to have that age limit.

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Do you mean to say that all those boys and girls who are above 18, are above doubt for immunity? It is they who are liable to commit the biggest sins. I submit that it is always men above 18 who commit the most heinous types of sins. So, I would say, 'Physician, heal thyself'. It is the adults themselves who really need more restrictions on their recreation than the younger ones.

So, about this age also I have a serious objection. Even if it be a decision of the Party or of the House, I shall raise my voice against it so that after its failure, when you come with your second measure, I might say that I did not agree with the measure and the means sought to achieve the landable objective. I want a complete enactment just to control this industry with a view to make it a means to emphasise moral values.

With these words, I beg to oppose this Bill because it is half-hearted and does not take us into progress at all. I request the honourable Minister to go the whole way in the matter and not stay by these small efforts. My request to him is that either he may withdraw it or it may be sent to a Select Committee or the question may be considered in the next session when he brings forward a bigger enactment. With these words, I oppose the motion.

Shri Moturi Satyanarayana (Madras: General): I am not a habitual film-goer. Till about three years ago, I would have seen hardly four or five films, but during the last three or four years I had some experience of censoring films, and from what I have been able to see during this period, I get confirmed in the belief that this measure which is before us will not at all give any kind of satisfaction in meeting the situation. The basis for bringing this measure seems to be that in foreign countries there are two sets of films, one intended for children and one intended for adults. Some people seem to have advised that the same division should be adopted in our country also. The situation in foreign countries is quite different and they are able to make a division between children, adolescents and adults. We need not go into the merit of that question. But as it is, if this Bill is passed and two certificates are given, one "A" and another "U", what will happen is that in the theatres two types of films will be shown, one meant for children and one meant for adults. In this connection, there are two or three things which I would like to place for your consideration.

It is said here that adult means a person of 18 years and above. What will happen in the case of a wife who is fifteen years old and a husband who is twenty or twenty-one years old? If they both want to go to a film, what will be the position of the people in charge of the theatre? Will they drive away the wife saying "No, you are not an adult," and will the husband have to send her back home and see the film alone? If a film is at all harmful, it is harmful to a person who is seventeen years, be it a woman or a man. Therefore, it is very difficult for the authorities to make any distinction whether a particular film is harmful to a person who is below 18 years or above 18 years.

As has been mentioned in the very wise speech made by my honourable friend, Shri Mahavir Tyagi, the basis of the whole Bill in making this differentiation is to take away from the scope of children a film which is likely to influence them wrongly. This means that adults are not likely to be influenced by such vulgar films. Now, the difficulty today is that there are a large number of films, the general effect of which either on adults or adolescents is not at all good. What is required is therefore a complete change, a complete improvement in a constructive manner of the whole film production. It may be asked, "Who is to do it?" What control have Government got? If Government want to control, they must take the whole film production under their control and give constructive guidance to the film producers and make them realize that these raw films that are being produced and the theatres that are showing these films are having a very great effect on the morals and education of the people and therefore, with the help of constructive suggestion and guidance, better films should be produced for the well being of these people. Instead of doing that, if Government bring forward a half-hearted measure like the present one, probably it will not help much; on the other hand, this division into adults and children may make the position worse. Many a time have I seen that when we point out to these film producers that a particular close-up or a particular scene is likely to demoralize people, they argue, "Oh, it won't harm children, it won't harm women, it won't harm adults." That is how they argue. So instead of giving two kinds of licences, which may probably be utilised for producing films which will be more vulgar than what they are today, we must tackle the problem in a different way. I had a personal talk with the Minister in charge and I told him, "Let this wait till you are going to bring a fuller measure in order to control and give guidance to the film producers." This would alone ensure that better films are produced.

Another fact which I want to bring to his notice is this. Is it possible to control people who are below 18 years of age from seeing these films when they are exhibited in the public theatres? Just imagine what an amount of police force would be required for the purpose of preventing them from going to these films. If you take the statistics, you will find that most of the people who go to films are between the ages of 14 and 18. In my own opinion, their number would not be less than 40 per cent. Now, these 40 per cent. of the people are mostly of the school-going—not even school-going, but college-going—type. You know the trouble that is created generally by boys between the ages of 14 and 18 in colleges. All those people, when they are told that a particular film is not to be seen by them, they will start a new *satyagraha* and probably a huge police will have to be posted at the theatres in order to suppress this *satyagraha*. I therefore, ask why this measure should be undertaken. What exactly is the way in which we can use these films for better purposes? I have not seen any purpose stated in the Bill. Instead of adopting this division, if you give help to producers to bring out better films which will be uniformly good, either for children or for adults, irrespective of age, standard, education or culture or sex, that would be much better. Therefore, I submit that it is better that this Bill is withdrawn or referred to a Select Committee with a view to making it a fuller measure, so that we may have a kind of film Censor Board or a Bill which will be useful uniformly to all people. In foreign countries I understand there is no censorship. Censorship is voluntarily imposed on themselves by the producers. There is a general Producers' Code in which what is harmful and what is not harmful is all described in detail and which producers are supposed to observe. Each producer has to observe what is contained in that Code and produce films which will be useful and highly educational. They observe it and censorship is removed. In our country also, we must see that our film producers do it. If they do not do it, we must take the whole film production into the hands of the Government itself. That is what I would very much like and that would be to our ultimate good.

Another thing that I would like to place before you for consideration is that the films such as are produced today not only contain vulgar matter—what we may call sex matters— but other things also which are very harmful to children, *viz.*, crime, violence, theft and several other crimes. All these things are likely to produce such a great impression on our children that probably they would get shocked. If that is accepted, is it not equally harmful to

[Shri Moturi Satyanarayana]

women? The minds of the women are as sensitive as the minds of the children. Therefore, why should a distinction be made between children and women? Therefore no distinction at all should be made. If you want, you can make a distinction between the classes of people that go to a particular cinema. If you want to encourage valour and heroism in the minds of the military peolpe, let separate films be produced and shown to the military people. If you want to encourage a particular type of education, let separate films be produced and shown to that particular class of people. As it is, today instructional films are produced and shown; information films are produced and shown. These films may be specially shown to school-going children. But the films that are produced for public exhibition should be such that they should be capable of producing uniform effect on everybody, that they will go a long way in rebuilding our nation and make a large contribution to our moral emancipation.

With these words, Sir, I request that this Bill may not be insisted on to be passed by this House and that it may either be postponed or referred to a Select Committee so that we may have a fuller measure and a more useful Act.

Prof. N. G. Ranga (Madras: General): I am sure the House is grateful to my two honourable friends Mr. Tyagi and Mr. Satayanarayana for having made it recognise the importance of the Bill that is before us for discussion and also the very great influence indeed that cinema has come to have upon our social life and upon educational system.

Sir, there is very great force in what Mr. Tyagi said when he maintained that we should not make this artificial distinction and which is very difficult indeed to be enforced. Mr. Satayanarayana is certainly right when he says that you will be obliged to maintain a large army of policemen at cinema houses in order to prevent those who are below 18 years of age from going in. Indeed, it would only prove another source of income to our policemen and another source of harassment not only to the cinema goers but also to the cinema proprietors and various other people connected with this industry. Therefore I do deplore that this mischance should have come to my honourable friend, Mr. Diwakar, that he should have had to come to this House for the first time with a Bill of this kind, a Bill which really does not rise to the status of a Bill at all. Sir, my honourable friend has said that he is extremely anxious to get this thing passed so that within the next fiive or six months our children may be prevented from getting demoralised. If our children had not been completely demoralised till now, they can certainly be expected to be looked after by their parents during the next six months and there is no reason why this House should be hustled into passing this Bill in this very short time. Secondly, Sir, as everybody has come to recognise in this House as well as in the country, cinema has become one of the most important educational agencies of this age. Therefore it is the special responsibility of the State to see that through cinema such type of education is imparted to our people as will prove to be a progressive force as also raise the spiritual, social, cultural and moral standards of our people. My honourable friend, Mr. Tyagi, has done right in drawing our attention to the great influence that *Ram Lila* and various other performances have come to have upon the impressionable minds of our people, children, adolescents and adults, through the ages. It is therefore our duty to see that this industry is controlled, regulated and developed under the special direction and care of the Government. I am sorry to find, Sir, that more than a year and six months ago the idea was mooted that there should be a Central Censorship Board. A year ago there was a Bill brought forward before this House when an assurance was given by the Government that such a Board would come to

be established. The Standing Advisory Committee of this House for this Department had definitely made the recommendation that such a Board should be established. Till now, no action has been taken. Indeed, I am told on very good authority that very little action has been taken in pursuance of this Act which was passed by this House a year ago. Sir, it is true that there are a number of Provincial Censorship Boards. But there should be a Central Censorship Board. It is the duty of that Board first of all to satisfy itself that any film that is sought to be produced and exhibited does not do violence to our general conception of morals and other standards of life in this country, secondly that it contributes to the educational as well as the moral progress of our people and thirdly that it will increase not only the quantity but also the quality of the education that is being made available to our people. From these three points of view, the Central Censorship Board should examine every film and then only pass it. After having done that, it would be the duty of the Provincial Censorship Board to further scrutinise it. You may be wondering why there should be any Provincial Boards at all. As everyone knows, our social life and ideas differ from province to province. Because of this, the Provincial Censorship Board concerned should be given a certain amount of latitude in order to scrutinise these films and satisfy itself that the films that are sought to be exhibited in any particular province are suited to the people of that particular province. Having said this, I would like my honourable friend, Mr. Diwakar, to remember that there is much truth in what my honourable friends have already said. How can you expect a boy or girl between 14 and 18 years of age to be influenced by these films in a different way from those who are above 18 years of age? In other countries, once there is a thing like this, one can easily expect the parents not to indulge in their children going in for films which are meant only for adults. But the parents there have much less control over their children than parents have over their children in this country. Therefore this distinction is absolutely useless even in those countries and it would be much more so in this country.

Thirdly, it is true that there can be two sets of films, one to cater to a certain class of people in order to prepare them for certain avocations. These are educational films and also scientific films. The other is for entertainment—song hits and stories—and general education. You can make a distinction between these two. You can produce films such as are suited to children below 18 years of age and specially exhibit them in schools and colleges and make their exhibition even free as our earlier dramas and theatres were free in our own villages. Now as for the general films you could leave them as at present to private industry; there is not much harm, but then you will have to take care, Sir, to see that there is not much profiteering.

4 P.M. I do not wish to go into the subject now, because on another occasion when my honourable friend will try to introduce a general Bill, a bigger and more satisfactory Bill to tackle the problems of this great industry, that would be the occasion both for this House as well as for individual members to discuss it at greater length. One thing must be realized, Sir, that this Bill at present is not ended. This does not go anywhere at all to meet the situation and it may only create more mischief and not produce any benefit and I strongly suggest to my honourable friend not to stand on any *Izzat* but to make a handsome gesture and withdraw this Bill, and in that way avoid worsening the situation, which is really every day going very bad.

Dr. P. S. Deshmukh (C.P. and Berar: General): Sir, this is undoubtedly a very entertaining subject and my honourable friend, Mr. Tyagi had certainly added very much to the entertainment. Sir, I have the misfortune once again to take a somewhat different view from what some members seem to hold. I however agree that the Bill should be withdrawn. I would also request the honourable Minister to withdraw the Bill, but for somewhat different reasons. For some of the reasons, of course, I agree with my honourable

[Dr. P. S. Deshmukh]

friend, Prof. Ranga and others, but I look at it from the point of view of the cinema industry. I hope honourable members do not misunderstand me and think that I am an industrialist and therefore, that I am holding a sort of a brief on their behalf. I think, Sir, it is probably the experience of many people, looking at the lucrative nature of this profession of cinema going and other things that it may be possible for some of us to at least get high profits and high salaries which is possible for the cinema actors today. That is not, however, the way in which I look at it; I look at it from the point of view of the cinema industry and while considering the Bill from that point of view, I do not agree that the time has come when Government should take the whole industry under its care as has been suggested. I fully agree that it is time and it is in fact a little late that the Government have not taken up the work of producing educational films because visual instruction can be far more effective than any other kind of education and if the Government had really tackled this problem seriously, it should have been possible to achieve greater results. I also agree with Prof. Ranga that the Central Censorship Board ought to have been brought into being by now, so that the very necessity of this Bill would have been probably diminished. After all. Sir, I have a high regard for the technical skill as well as for the way in which the films are produced in our country. It may be that there are films now and again which depict some features which are not very healthy for the adults in this country, and for those children who are below the age of 14, but on the whole, Sir, I think our cinema producers have produced successfully good films which have contributed a great deal to the advancement of the art of singing as well as photography and other ancilliary arts. For instance, whereas in the American and British films there is hardly a single film in which the heroine and the hero do not kiss each other at least half a dozen times, but so far as the Indian films are concerned, such things are absolutely absent. There is no member of this House who can appreciate the scenes of the heroes and heroines coming together so close.

Then, Sir, amongst the bad effects of even Government controlling the whole industry or taking it over as I thought my honourable friend Mr. Tyagi would have foreseen it, his love heroine Sita and his love hero Harish Chandra would probably very rarely find a place, if the industry is taken over by Government. It is more possible that the present manufacturers will like and depict the life of Buddha and I do not know if my honourable friend has seen the *Ram Rajya*—I am sure he has seen that cinema—and then he would like to produce more films of *Ram Rajya* itself because of better music and probably lesser noise in that film (*Shri Mahavir Tyagi*: "That is one film that I like also".) There is a film, "The Tukka Ram" which I am sure my honourable friend will like and there are good many films which are really a very high credit to our industry and I do not think it would be correct to hamper their work, because legislation like this, is likely to do considerable harm both to the industry as well as dislocate the law and order as has been suggested by some honourable friends.

Then I would suggest the constitution of a good censorship Board, not with a large number of people, because I am afraid in one of the Boards there are about 12 members and each vies with another in cutting the length of the film. If one cuts four feet, the others say they will cut 10 feet and so the whole film is mutilated. I do not want to take a one-sided view of the whole affairs and we must look at the matter in its totality and then alone can remove the portions which are likely to do definite harm. So from this point of view, Sir, I think neither the Government control of this industry is desirable nor would this Bill worded as it is be practicable. There would be many difficulties and many bad results are likely to flow from it. I would not be surprised if the enrolment in the high schools and colleges falls as a result

of this legislation, because what is the fun in going to school or to a college, if you cannot go to a cinema? It would not be worth while going to the colleges at all because films are one of the principal attractions of a young man going to the college.

Then, Sir, about the excitable nature or the excitement that it creates. My honourable friend said that some of the films are very excitable, but I think this objection is not valid against many of our own films and I do not know whether my honourable friend chose exactly those films which happened to be more exciting than others.

Then, Sir, from the point of view of the industry, the Act will be unworkable; there would be a lot of frivolous prosecutions both of the boys as well as of the cinema-owners and proprietors and this enmity would not be at all in consonance with the public peace and tranquility. The honourable Prime Minister, Sir, we know, does not like the cinemas very much. In fact, he declared that he will see that not a single cinema house is erected. Fortunately Sir, people do not seem to take him so seriously and it is most gratifying to see that there are good many cinema houses still existing in the country. I do not take the view that the cinema should be condemned. I think the remedy lies somewhere in a happy compromise between the two. It is far better to produce special films for children going to schools and leave the responsibility on the guardians to see that they do not attend bad films. After all what are the guardians and parents there for, if they do not know what is good for their children and what is not. As my friend Mr. K. M. Munshi said the other day, we are flooding the country with legislation, I fear that criticism is apt in this case. Although I do not agree with him in his general observation. I certainly think that this Bill is of that nature which seeks to create offences which it will be very difficult for us to administer and will therefore result in evil consequences.

An Honourable Member The question be now put.

Mr. Deputy-Speaker: The question is:

"That the question be now put."

The motion was adopted.

The Honourable Shri R. R. Diwakar: I am very glad that some of my friends here have contributed to the debate on this important subject. But at the same time I must point out that some of the speeches, and at least parts of them, were not made with the realisation that the point at issue is a very small one. Of course it might be that I have come before the House with a very small point, but then there is a history about it. This Bill was ripe for introduction as long ago as the 31st August of last year. Since then it has been there and I am now responsible for introducing it.

Shri Mahavir Tyagi: You are holding another man's baby?

The Honourable Shri R. R. Diwakar: I have made it clear that before this amendment was introduced, all the provincial Governments were consulted and the industry itself was consulted. After all this history it is that this Bill has come before the House. Therefore I pleaded from the very beginning that we should restrict our consideration and discussion to this one point, postponing all other considerations to a later date when, after a full enquiry of this industry we shall have recommendations before us and then in terms of those recommendations a more comprehensive Bill would be brought in.

One point that was raised related to central censorship. I submit that no Act has been passed here as regards central censorship as such. What has been passed is an amendment of the Government of India Act and that too was by the Constituent Assembly in its last session. Not more than four or

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five months have elapsed since then. That amendment authorised this Parliament to legislate regarding central censorship and therefore suitable legislation would be framed and brought before this House to bring central censorship into operation. This is the exact position. There is no meaning in saying that Central Censorship law was passed.

Prof. N. G. Ranga: Is it not a fact that the Standing Committee has stated that it should be constituted?

The Honourable Shri R. R. Diwakar: It can be constituted only by law and power to make that law was obtained only three or four months ago. After that power was taken, suitable legislation has to be framed and it has to come before the House. That is the whole position. Therefore, rather than looking at it from this perspective, it is no use looking at it as something which is overdue. In one sense it may be overdue, but so far as the procedure is concerned, it is there and it has to be followed. We cannot but submit to the procedure that has been laid down.

Now, I may classify the objections raised and the arguments advanced under three types: One is total rejection of a Bill of this kind altogether.

Prof. N. G. Ranga: Withdrawal is the best.

The Honourable Shri R. R. Diwakar: Mr. Tyagi stands for the total rejection of the Bill altogether. I have not much to say about it, because that is a matter for the House to decide.

As regards the argument that he advanced I do not think I yield to any one regarding the value of our culture and so on. At the same time I could not shut my eyes to the remark that what is called modern civilization, and modern methods of spreading ideas are inherently opposed to our ancient culture and high and noble ideas. On the other hand, I would plead with every one who stands for Indian culture to see that every modern method and *media* is utilised properly for the spreading of those ideas and culture and also establishing the greatness of Indian culture. We can neither run away from broadcasting stations nor can we run away from newspapers, authors and printing presses today. If there are some bad films, well I can say there are bad books and bad newspapers as well. That being so, since we are not condemning journalism wholesale or authorship wholesale or printing presses wholesale, there is no meaning in picking and choosing a particular industry like the film industry and saying that whatever is produced by the industry is rotten and is demoralising. If this is demoralising us, I do not see why we should not condemn all literature as demoralising and lots of things written by the journalists. So I think there is no meaning in singing out this industry for condemnation. We are all here for bettering the conditions. Those conditions can be bettered in two ways, one in a negative way, another in a positive way. The Bill before us is of the former type. It is a negative way. Censorship is only of a negative type. All censorship for the matter of that is negative. However, highly placed the censors may be, however intelligent the censors may be, and whatever high standards the censors may set before themselves, still censorship after all is an act of negation, saying 'Don't do this.' But there is a positive way and that positive way can be taken up only when there is a full enquiry into the whole subject. For this we have to wait a little. That is the situation so far as the positive way is concerned. Now, when we are on the negative way, namely censorship, when there have been demands from provincial Governments as well as from the industry and other people, naturally we should try to see in what way we can improve the negative manner in which we are going about in this matter. So far as the positive way is concerned I am at one with everyone in the House in saying that a very high type of films should be produced and if necessary the Government also should come into the field and try to see that the best possible educative films are produced. I am very thankful to some of my friends who said that this line should be taken up. Even our Films Division could do it. No doubt at present there are limitations of personnel, etc. and also limitations on the purpose for which documentary film section exists. We are not trying to produce only educational films, but that does not mean that something should not be done in that line. I am one with those honourable members who want to take up that line and see that not only the film industry but all *media* of knowledge, information and entertainment are improved to the best possible extent so as to make them a source of strength to the nation. But that does not mean that we should meanwhile sit with folded hands. We shall have to do something and that something is along a certain line that has been followed in this matter and we are at a particular stage of that development. Therefore it is that I have brought this Bill and I think it should not only be considered but also passed so that it might be a step in the right direction. If this is a step in the right direction—which is the main question—a delay of three or four months would not matter as regards other steps to be taken.

Now as regards the difficulties it has been said that so many policemen will be required and so on. I do not think that that is a valid objection. In fact no policemen will be required at all; it is not a cognisable offence. It is only when a complaint is made and brought to the notice of the court that the wheels of law will move. So, to say that it will give the police a source of income is to scandalise the police, which is not a good thing to do.

Shri M. Tirumala Rao (Madras: General): The point is that it will be a temptation put before the police.

The Honourable Shri R. R. Diwakar: It might be very delicate language but the meaning is quite plain, and I would not be prepared to accept any such remarks. So I think that that fear is baseless. In view of these facts I would request that this Bill—small as it is—should not be postponed but should be passed as one step in the right direction.

There was one very important consideration, namely, that if a particular film is bad for adults it is bad for all. I think abstractly speaking these matters can be argued at any length but what does commonsense say? In ordinary life when we allow certain things to adults we do not allow the same things to younger people and children and adolescents. It is from that point of view that we have to look at these things. Then about age, what may be good for a man of 19 may not be good for a man of 18. These arguments lead us to what is called *anabastha prasanga i.e.*, confusions, anarchy. Somewhere we have to lay down rules and say that a man of 21 is good enough to give a vote at an election. Why not 21½ or 20? But some such line has to be drawn and it is to be drawn, either from the point of view of past traditions, or from the point of view of psychological tests or from the point of view of impressionability. In modern days, psychology has advanced so far that apart from what is called the physical age each man has what is called a psychological age. If we take these things into consideration, I do not think it would be easy for us even to take one step in this direction. Therefore in a rough and ready manner and according to old tradition we have taken 18 years as the age of discretion and that age of discretion is the line which should divide an adult from a child or an adolescent. That is how this particular line has been drawn and if a line is to be drawn I think it should be drawn in this manner.

Shri Mahavir Tyagi: Why not make a distinction between married and unmarried?

The Honourable Shri R. R. Diwakar: There will be greater difficulty about bachelors! Some of my friends argue that something which is shut off from children is really something which might be very bad. Still I think every man and woman and every adult does shut out certain things from children! So I do not think there is any sense of sin in the parents when they shut out children from certain activities of theirs or certain parts of the house and so on at certain times of the day! These things are there and so we have to take a commonsense view. But what I want to impress on the House is that a full and complete inquiry is in the offing, and when that comes all the different aspects of the question like age, the time and length of the film, the length of the trailer, types of films, etc., will be before the House. Therefore, I commend this motion to the House as a step in the right direction.

Shri H. V. Kamath (C.P. and Berar: General): Sir, on a point of clarification, in the event of a film being shown to unauthorised audiences among whom are children and adolescents, if a complaint is made will doctors be dragged in to certify the age of the children or adolescents.

Pandit Thakur Das Bhargava: The question of age is common to many civil and criminal matters. The age of majority, the age of marriage, abductions, kidnapping, succession and guardianship has to be determined and when cases come to court the doctors certify the age.

Mr. Deputy-Speaker: In railway trains children below three are not charged, and they do not bring in doctors every time.

Shri H. V. Kamath: That is why I asked that question. What does the Minister say?

Mr. Deputy-Speaker: It is common knowledge and need not be answered.

Shri H. V. Kamath: Not so common, Sir.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Cinematograph Act, 1918, be taken into consideration."

The motion was adopted.

श्री लक्ष्मी नारायण साहू: माननीय उप वाचस्पति जी, आज यह जो बिल हमारे सामने आया है, उस के क्लाज़ दो में मैं एक ऐसा संशोधन करना चाहता हूं:—

"That in clause 2 of the Bill, in the proposed amendment to section 2 of the Cinematograph Act, 1918, for the word 'eighteenth' the word 'twenty-first' be substituted."

उप वाचस्पति जी, मेरे पास उम्र बढ़ाने के लिये जो कारण हैं वह मैं संक्षेप में यहां देता हूं। पहिले तो यह जो बिल आया है, उस का जो लक्ष्य है और जो कारण दियें गये हैं उस में यह बतलाया गया है कि!

In order to prohibit and restrict the exhibition of unsuitable films to young persons of impressionable age and to ensure maximum circulation of any films, it is necessary to distinguish between adult audiences on the one hand and children and adolescents on the other."

यह लक्ष्य जो है उस का जो मतलब है उस से भी मैं सहमत नहीं हूं। यह ठीक है कि:

"In order to prohibit and restrict the exhibition of unsuitable films to young persons of impressionable age ....."

यह तो ठीक है लेकिन फिर यह बतलाया गया है कि "टु एन्श्योर मैक्सिमम सर्कुलेशन आफ़ आल फ़िल्म्स" इसे बढ़ाने के लिये इतनी कोशिश करेंगे। मैं तो इसके ख़िलाफ़ हूं क्योंकि इस देश में अभी भी बहुत आदमी हैं जो कहते हैं कि जो सिनेमा है या चित्रपट है जिसे हम देखते हैं वह देखना हराम है। चित्रपट नहीं देखना चाहिये एक ऐसा मत है और दूसरा मत यह कहता है कि जो चित्रपट हम देखेंगे तो सब देखेंगे, पूरा देखेंगे, जिसे जन समाज में सब आदमी पसन्द कर सकते हैं, टुकड़े कर के किसी को नहीं देखेंगे। मेरे मित्र सत्य नारायण जी ने कहा है कि जो स्पेशल फ़िल्म हैं, उस के लिये कुछ करना चाहिये। कोई वैज्ञानिक फ़िल्म है, कोई कल्चरल फ़िल्म है, जो बड़े बड़े आदमी समझ सकेंगे, उन के लिये यह जो स्पेशल फ़िल्म्स होती हैं, उन के लिये कोई बात नहीं है। लेकिन और जो फ़िल्म होंगी वह सब समाज के लिये होनी चाहियें क्योंकि बाल बच्चे सब साथ में, पिता माता के साथ में, जायेंगे। अगर बाल बच्चों को अकेले छोड़ कर माता पिता दूसरी जगह जायेंगे तो यह ठीक नहीं है। इसलिये मैं कहता हूं कि जब १८ वर्ष से २१ वर्ष तक की उम्र ज़्यादा कर दी जायेगी तब वहां कुछ सिनेमाग्रह होंगे जिस में वह सिनेमा देख सकते हैं। अब यदि दूसरे आदमियों के लिये सब सिनेमा होंगे तो इस के बारे में मैं इतना ही कहना चाहता हूं कि उन लोगों के लिये जो उम्र ब्रह्मचर्य के लिये होती थी वह पचीस बरस तक थी और पचीस बरस के बाद हम लोग शादी इत्यादि किया करते थे। अब भी मैं कहता हूं कि वह सब ठीक है। लेकिन अब जो नया तरीक़ा आ गया है, इस समय जो हम लोगों की सिविलाईज़ेशन है उस में हम ऐसा नहीं मानते।

फिर मंत्री जी ने कहा कि आदमियों की साइकौलोजिकल एज एक है और फ़िज़ियालोजिकल और होती है। इस के लिये हमें क्या करना है यह ज़रा मुश्किल है। मैंने देखा है आदिवासियों में सब नग्न रहते हैं, बहुत युवती लोग हैं वह भी नग्न रहती हैं। यदि यहां कोई नग्न औरत हम देखें तो मन में पाप उठता है, लेकिन वहां की जो आबोहवा है, उन पहाड़ों में सभी लोग ऐसे रहते हैं कि उन के बीच में कोई नग्न औरत आ जाय तो उन के मन में ख़राब भाव नहीं पैदा होता। मैं ने उन लोगों में काम किया है, इसलिये देखा है। बड़ी शंका पैदा होती है कि शायद हम लोग ख़राब हो जायेंगे। उन लोगों को सहायता पहुंचाने के लिये हम जाते हैं इस लिये हम कपड़ा देते हैं। ओढ़ने के लिये कपड़ा देते हैं। लेकिन मैं कहता हूं कि यह साइकौलोजिकल चीज़ है। इस को ख़याल में रखना चाहिये। १८ वर्ष से २१ वर्ष जब हम करेंगे तो हम लोग सावधान ज़्यादा हो जायेंगे और फिर लड़के की लिखने पढ़ने की उम्र ज़्यादा हो जायेगी। तब क्या छोटे छोटे बाल बच्चों की शादी हो जायेगी। अब

[श्री लक्ष्मी नारायण साहू]

बाल बच्चों की शादी भी ठाकुरदास जी ने बन्द कर दी। हम चाहते हैं कि बाल बच्चे एम० ए० तक पढ़ें और जब एम० ए० तक पढ़ेंगे तो उन की उम्र कितनी ज़्यादा हो जायेगी। १६ वर्ष में मैट्रिक पास कर सकते हैं, उस के बाद ४ वर्ष में बी० ए०, बीस वर्ष हो गए, और दो वर्ष में एम० ए०। इस तरह से २२ वर्ष हो गये। तो जो ब्रह्मचारी नहीं बनेगा उस का लिखना पढ़ना ठीक से नहीं होगा। इसलिये उन्हें २१ वर्ष तक तो ब्रह्मचारी होना ही चाहिये। जब तक यह नहीं होगा तब तक हमारा देश ठीक नहीं होगा। हमारा देश तो डरपोक हो गया है और उस की ताक़त भी कम हो गई है। इसलिये हम ऐसा प्रबन्ध करेंगे कि जिस से हम में ताक़त होगी। हम डरपोक नहीं रहेंगे। मैं इसलिये चाहता हूं कि जब हम फ़िल्म बनायेंगे तो सब के लिये एक तरह की फ़िल्म बनायेंगे और दुसरे आदमियों के लिये, ऐडल्टस के लिये, विशेष आदमी के लियें विशेष प्रकार की। लेकिन जब १८ से २१ वर्ष करेंगे तो जो सेक्सुअल साइन्स है उस को भी दिखा सकतें हैं, और जो सेक्स के बारे में इतनी अड़चन आती हैं उन को भी दिखा सकते हैं। तो जो चीज़ हम छिपाना चाहतें हैं वह २१ वर्ष के बाद दिखाना चाहिये। लेकिन १८ वर्ष में क्या होता है, १८ वर्ष में लड़का लड़का ही है। १८ वर्ष से ज़्यादा जब तक नहीं होगा तब तक यह ठीक नहीं है। इसीलिये मैं कहना चाहता हूं कि कम से कम १८ वर्ष से २१ वर्ष कर देना चाहिये।

(English translation of the above speech)

Shri Lakshminarayan Sahu (Orissa: General): I wish to move an amendment to clause 2 of the Bill that is before us. Sir, I move:

"That in clause 2 of the Bill, in the proposed amendment to section 2 of the Cinematograph Act, 1918, for the word 'eighteenth' the word 'twenty-first' be substituted."

Sir, I here give in brief the reasons that I have for the increase of the age-limit. In the first instance in the aims and objects of the Bill before us it has been mentioned that:

"In order to prohibit and restrict the exhibition of unsuitable films to young persons of impressionable age and to ensure maximum circulation of any films, it is necessary to distinguish between adult audiences on the one hand and children and adolescents on the other."

I do not agree also with the idea behind this aim. It is true that:

"In order to prohibit and restrict the exhibition of unsuitable films to young persons of impressionable age............"

This is quite correct but after this it is laid down, "to ensure maximum circulation of all films", *i.e.*, we will make full efforts to develop it. I am opposed to this because even today there are many people in this country who say that it is forbidden for them to see the cinema or whatever is shown on the screen. Some ho'd the opinion that cinemas should not be seen, while some say that whatever pictures we would see, we will see them complete in all respects and not mutilated ones. My honourable friend Shri Satyanarayan has said that we should do something for special kinds of films. Some films are of scientific nature and some are cultural. I do not want to say anything about the special films that are meant for the cultured audiences

but the other films should be for the whole of the society because children also will go to see them along with their parents. It would not be proper if the parents would go to other places leaving the children alone. For this reason I submit that if the age would be raised from 18 to 21 then there would be some cinema houses where they would be able to see pictures. But if all the cinemas will be for all the people then in this connection I wish to submit only so much that for children the period for *brahmcharya* used to be up to 25 years of age and we used to perform marriages, etc., after this 25 years of age. I say that for the present time also this is true. But in this new age, in the present civilization we do not think so.

Then the honourable the Minister has said that in the human beings the psychological and physiological ages differ from one another. It is difficult for us to decide what we have to do in this respect. I have seen that among the *adibasis* all the people remain naked, many grown up women also remain naked. If we see any naked women here our thoughts become sinful. But therein the climatic conditions that are found in the fastness of those mountains nearly everybody lives in such a manner that if some naked women happen to come before them no sinful thoughts arise. I have worked among those people and I have seen all this. We entertain grave doubts that perhaps we also will become corrupted. We go to render help to them and we give them clothes for covering their bodies. But this is a psychological problem and we should keep this fact in mind. If we would raise the age limit from 18 to 21 the children would become more sensible and the children's years of study will also increase. Then will the children of tender age be married. Pandit Thakur Das Bhargava has now stopped child marriages also. I wish that the children should read upto M.A. standard and what their age would be when they would read upto M.A.? They can pass Matric at the age of 16, then after four years B.A. that is at the age of 20, and then after 2 years M.A. In this way their age would be 22 years. So anyone who would not remain *brahmcharya* would not be able to get proper education. Therefore they must remain *brahmcharies* upto 21 years of age. So long this is not done the condition of our country will not become better. Our country has become cowardly and her power has also decreased. Therefore we would make such efforts whereby we would become powerful. We will not remain cowards. Therefore I wish that when we will produce films we will make similar films for all, and for others, for adults and for special persons we will produce special films. But if we would raise the age limit from 18 to 21 we can show them sex films too and can also show them the intricacies of the sexual side of life. Then the things which we want to conceal should be shown after the age of 21. But what happens during these 18 years? Up to the age of 18 a child remains a child. It is not proper to show him these things till he is not above 18 years of age. Therefore I wish to submit that the age limit should at least be raised from 18 to 21 years.

Mr. Deputy-Speaker: Amendment moved:

"That in clause 2 of the Bill, in the proposed amendment to section 2 of the Cinematograph Act, 1918, for the word 'eighteenth' the word 'twenty-first' be substituted."

The Honourable Shri R. R. Diwakar: I am sorry I cannot accept it.

Mr. Deputy-Speaker: The question is:

"That in clause 2 of the Bill, in the proposed amendment to section 2 of the Cinematograph Act, 1918, for the word 'eighteenth' the word 'twenty-first' be substituted."

The motion was negatived.

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.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I move:

"That in clause 3 of the Bill, in the proposed sub-section (2A) of section 5 of the Cinematograph Act, 1918, between the words 'not' and 'exhibit', the word 'knowingly' be inserted."

You will find from this clause that the condition is sought to be inserted in every license that certain films are not to be shown to persons of a certain age. The question is, if the owner of the house has done everything that is possible for him, and by putting in advertisements, that people of a particular age are not to be admitted, and he has done everything else that may be needed of him, would you still throw the burden on him if somebody below the prescribed age enters the house against his wishes, or rather without his knowledge?

Mr. Deputy-Speaker: Then there is no *mens rea*. He is not responsible.

Shri Prabhu Dayal Himatsingka: That is what my amendment seeks to suggest if you will say, "will not *knowingly* exhibit..." If that is agreed to, it will be all right.

The Honourable Shri R. R. Diwakar: I am not prepared to accept it, Sir.

Mr. Deputy-Speaker: There are a number of amendments. I do not know how many are likely to be accepted by the honourable Minister. For the convenience of the House it would be better if the honourable Minister would indicate what amendments are likely to be accepted by him.

The Honourable Shri R. R. Diwakar: I am accepting only one amendment which is a technical one and that is to clause 1, *viz.*, that in sub-clause (1) of clause 1 of the Bill, for the figures '1948', the figures '1949' be substituted.

Shri Prabhu Dayal Himatsingka: I do not want my amendment to be put to the House.

श्री लक्ष्मी नारायण साहू : उप वाचस्पति जी, जो मेरा संशोधन है, वह इस प्रकार है :

"That in clause 3 of the Bill, after the proposed sub-section (2A) of section 5 of the Cinematograph Act, 1918, the following new sub-section be inserted :

'(2B) There shall be separate cinema houses for children and adolescents and the cinema shows shall be shown in the day time.' "

अब हम लोग देख सकते हैं कि हमारे लिये सिनेमा से बुरे भाव को हटाना बहुत मुश्किल होगा। इसलिये मैं चाहता हूं कि इस भय से छुट्टी पाने के लिये हम लोग अलग अलग सिनेमा बना दें। कुछ सब आदमियों के लिये, कुछ adolescons और चाइल्ड के लिये। अलग अलग करने से पुलिस प्रबन्ध से छुटकारा मिलेगा। और इसीलिये मैं चाहता हूं कि इस संशोधन को ग्रहण कर लेना चाहिये।

दूसरी जो चीज़ मैं ने दी है जिस में मैं कहता हूं कि "सिनेमा शोज़ शैल बी शोन इन डे टाइम" वह इसलिये कि जो बच्चे ज़्यादातर स्कूल में पढ़ते

हैं उन को रात को सिनमा में नहीं जाना चाहिये। ऐसा मालूम होता है कि दिन में जो चीज़ लोलुप नहीं मालूम होती वह रात में मालूम होती है। रात में लोलुपता अधिक होती है, इसलिये वह रात में जायेंगे वहां चित्रपट म चंद्रालोक विदित सब देखेंगे और रात में ज़्यादा देर करके घर लौटेंगे। और दारू भी पी कर आयेंगे, क्योंकि गवर्नमेन्ट ने सब जगह पूरा प्रबन्ध कर दिया है इस का। ऐसा मैं ने देखा है, इसलिये मैं चाहता हूं कि जो लड़के छोटी उम्र के हैं उन्हें रात में सिनमाग्रह नहीं जाना चाहिये। कम से कम यह तो होता ही है कि वह सिनेमा जाने के लिये पैसा माँ-बाप से लेते हैं, बदमाशी के लिये भी लेंगे, दारू पीने के लिये, तम्बाकू खाने के लिये, पान खाने के लिये या और चीज़ खाने के लिय। इस से भी पैसा बरबाद होता है और उन में भी ख़राबी पैदा होती है। इसलिये मैं चाहता हूं कि हमें कम से कम इतना तो करना ही चाहिये।

(English translation of the above speech)

Shri Lakshminarayan Sahu: Sir, I move:

"That in clause 3 of the Bill, after the proposed sub-section (2A) of section 5 of the Cinematograph Act, 1918, the following new sub-section be inserted, namely :

'(2B) There shall be separate cinema houses for children and adolescents and the cinema shows shall be in the day time.' "

Now we can see that it would be difficult for us to remove the bad effects from the cinemas. Therefore I wish that in order to dispel this fear we may have separate cinemas. Some cinemas should be for all, some for adolescents and some for children. By having separate cinema houses we will also be free from police control, and for this reason I wish that the amendment may be accepted.

The second point mentioned by me wherein I have laid down that "the cinema shall be shown in day time" has been given for this reason that the children who mostly read in schools must not go to cinemas in night shows. It seems that the things which do not appear cupidious in the day time become cupidious in the night time. Cupidity is always more in the night, so they would go to the night shows, would see everything on the screen and will come back to their houses quite late. They will also come back drunk because everywhere the Government have made full arrangements for it. I have seen this thing, therefore I wish that the children of tender ages should not go to see cinema in the night shows. At least it happens so that they extort money from their parents for going to cinemas, and so they will ask money for dissoluteness, and similarly they will extort money for drinking wine, for smoking, for chewing betels and for other eatables also. In this way not only the money is wasted but the children also acquire bad habits. Therefore I wish that so much at least should be done.

Mr. Deputy-Speaker: I am not sure if the amendment is not out of order. The whole Act is not being amended but only certain sections are taken in a particular manner and amendments are sought to be made. So amend-

[Mr. Deputy-Speaker]

ments can only be tabled to amend the amendments proposed. However, I will put it to the House.

The question is:

"That in clause 3 of the Bill, after the proposed sub-section (2A) of section 5 of the Cinematograph Act, 1918, the following new sub-section be inserted:

'(2B) There shall be separate cinema houses for children and adolescents and the cinema shows shall be in the day time.'"

The motion was negatived.

Shri Jaspat Roy Kapoor rose—

Mr. Deputy-Speaker: The honourable Minister has said that he is not prepared to accept any amendments.

Shri Jaspat Roy Kapoor (U. P.: General): I will make one attempt to persuade the honourable Minister of State to accept my amendment. I would like to move only the alternative amendment of mine. I move:

"That in clause 3 of the Bill, after the proposed sub-section (2A) of section 5, of the Cinematograph Act, 1918, the following new-sub-section (2B) be inserted:

'(2B) The following conditions shall also be inserted in every licence:

That the licensee shall not exhibit, or permit to be exhibited, any film in such place between the hours of 9 P.M. and 6 A.M. to any person who is not an adult'."

I am not moving my other amendments because the honourable Minister has said that the scope of this Bill is a restricted one and that the object is only to cover one aspect, which is the protection of the interests of children, and young boys and girls. But even this aspect is not fully covered and no adequate protection will be given to children and young boys and girls unless this amendment of mine is also accepted. In this Bill it is said that there shall be two kinds of films A and U—A for adults and U for all. That is all right so far as it goes but I think from the point of view of the health and morals of the children and boys and girls it is very necessary that the time of the exhibition of 'U' films should also be restricted. It would be readily admitted by everybody that it is against the interests of the health of the young boys and girls if they are allowed to keep awake till midnight or 1 A.M. or 2 A.M. in the morning. This is a necessary amendment and this restriction must be imposed on the licensees. From the point of view of morality also, as has been pointed out by my honourable friend Mr. Sahu, it is necessary that children and young boys and girls should not be permitted to stay out of their homes till late hours in the night. They would generally go alone though they can also go in their parents' company, but as things are they would not generally go with their parents. If they are allowed to go to late shows they are likely to go astray. For these reasons I would submit that this amendment should be accepted and I would earnestly appeal to the honourable Minister to kindly accept it. Already he has heard a lot of criticism against the Bill. If he accepts at least this amendment many of the Members who have severely criticised the Bill would feel obliged to him and after the Bill is passed they would not be sorry as they would be if the Bill is passed without amendment being accepted by him. I would request the honourable Minister to kindly accept this amendment at least.

The Honourable Shri R. R. Diwakar: Sir, I have very patiently heard the speech in favour of the amendment but I have again to submit that this will introduce a number of complications which are not really visualised by the amendment before the House. Therefore, it is with great regret that I have to say that I cannot accept the amendment.

As regards the criticism against the Bill I have heard that also very patiently but all the criticism was not against this particular Bill or its provisions but against a number of other things which are not really before the House.

Mr. Deputy-Speaker: Does the honourable Member press his amendment?

Shri Jaspat Roy Kapoor: No, Sir, I am not pressing it.

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.

Shri B. N. Munavalli (Bombay States): Sir, I beg to move:

(i) "That in part (i) of clause 4 of the Bill, in the proposed amendment to sub-section (1) of section 7 of the Cinematograph Act, 1918, after the word 'adults', the words 'and children in arms, below the age of five', be inserted."

(ii) "That in part (ii) of clause 4 of the Bill, in the proposed amendment to sub-section (2) of section 7 of the Cinematograph Act, 1918, after the word 'adults', the words 'and children in arms, below the age of three', be inserted."

Sir, in this Bill children and adolescents are restricted from seeing certain films but it is not described children and adolescents of what age. Certain films are restricted to adults. If this amendment is not accepted many mothers with children of the age of five or below are also likely to be debarred because the small children are always with the mothers and we see that the mothers always go with the small children in their arms. If they are not allowed to take their children it will not be possible for them also to see these films. So I was prompted to move this amendment and I hope that the honourable Minister will accept it.

The Honourable Shri Satyanarayan Sinha (Minister of State): I suggest that the honourable Minister should be requested to accept the amendment with a slight modification namely "three years" instead of "five years."

The Honourable Shri R. R. Diwakar: If it is three years I can accept it.

Mr. Deputy-Speaker: Amendments moved:

(i) "That in part (i) of clause 4 of the Bill in the proposed amendment to sub-section (1) of section 7 of the Cinematograph Act, 1918, after the word 'adults', the words 'and children in arms, below the age of three', be inserted."

(ii) "That in part (ii) of clause 4 of the Bill, in the proposed amendment to sub-section (2) of section 7 of the Cinematograph Act, 1918, after the word 'adults', the words 'and children in arms, below the age of three', be inserted."

Shri Jaspat Roy Kapoor: Sir, I want to oppose this amendment. I would earnestly request the honourable Minister to consider first of all whether he should really accept this amendment, because I think it will be very much against the interests of the children. Small children of the age of one, two and three should not be taken to the cinema house which will spoil their eyesight at such early age. And then there will be confusion in the cinema itself when they begin to cry. That is also one aspect of the question. Mothers who have children of the age of one, two or three years should not be anxious to go to cinemas but should rather devote all their time to the proper bringing up of those children. It will be positively injurious to the health of the children if we accept this amendment. I therefore urge on the honourable Minister to consider this aspect of the question a little more seriously. As he has said that he is thinking of bringing in a comprehensive Bill in about six months' time it might be time enough then to consider all these questions seriously. Just on the spur of the moment to say 'yes' or 'no' to an important amendment which is fraught with such serious consequences is not desirable. I have nothing more to say on this.

Shri H. V. Kamath (C. P. and Berar: General): There is one other point. If the mother of the child which is under three happens to be under eighteen and the child refuses to go without the mother, what will happen?

Shri Mahavir Tyagi: I have to point out one thing. In case children below three are permitted the result would be that parents would go with their small children below three—it may be the third child, but the first two children will be left behind and there will be a queue of such children crying hoarse "mother has gone in".

Mr Deputy-Speaker: The question is:

"That in part (i) of clause 4 of the Bill, in the proposed amendment to sub-section (1) of section 7 of the Cinematograph Act, 1918, after the word 'adults', the words 'and children in arms, below the age of three' be inserted."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That in part (ii) of clause 4 of the Bill, in the proposed amendment to sub-section (2) of section 7 of the Cinematograph Act, 1918, after the word 'adults', the words 'and children in arms, below the age of three' be inserted."

The motion was adopted.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, I beg to move:

"That in part (iii) of clause 4 of the Bill, in the proposed sub-section (2A) of section 7 of the Cinematograph Act, 1918, for the words 'to grant', occurring in line 2, the word 'granting' be substituted."

I have not much to say about it. I leave it to the honourable Minister to accept or reject it.

The Honourable Shri R. R. Diwakar: I have consulted lawyers about this particular thing. "Granting" is not suitable here in this particular context. "Authority to grant" is one thing and "authority granting" may mean something else. It may mean "after granting"—that will be the implication of using the word "granting". Therefore I think the wording should stand as it is.

Pandit Thakur Das Bhargava: The appeal will only lie after a certificate has been granted...

Mr. Deputy-Speaker: It is an appeal against refusal to grant. Evidently "to grant" is qualifying the word "authority" and not the action of the authority in granting or refusing.

Pandit Thakur Das Bhargava: "To grant" is wrong.

Mr. Deputy-Speaker: It is an authority who is appointed to grant or refuse the certificate. It is better to leave it as it is. Is the honourable Member pressing the amendment?

Pandit Thakur Das Bhargava: No, Sir.

Mr. Deputy-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.

Pandit Thakur Das Bhargava: Sir, I move:

"That after clause 4 of the Bill, the following new clause be added:

'5. *Amendment of section 8, Act II of 1918.*—In clause (b) of sub-section (2) of section 8 of the said Act, for the words "suitable for public exhibition", the words "suitable for unrestricted public exhibition or for public exhibition restricted to adults" shall be substituted'."

This is a consequential amendment. It is not an amendment by itself. Since the object of the Bill is to differentiate between two classes of
5 P.M films it is necessary that we should make section 8 quite explicit. It is with that view that I have moved this amendment.

The Honourable Shri R. R. Diwakar: I am not accepting it. There is no necessity of adding this as it is quite clear.

Pandit Thakur Das Bhargava: Then I am not pressing it.

The Honourable Shri R. R. Diwakar: Sir, I move:

"That in sub-clause (1) of clause 1 of the Bill, for the figures '1948', the figures '1949' be substituted."

Mr. Deputy-Speaker: The question is:

"That in sub-clause (1) of clause 1 of the Bill, for the figures '1948', the figures '1949' be substituted."

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 R. R. Diwakar: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Deputy-Speaker: Motion moved:

"That the Bill, as amended, be passed."

Shri Mahavir Tyagi: Sir, I want to say a few words.

Shri R. K. Sidhva (C. P. and Berar: General): Sir, it is 5 o'clock now. The office has sent us an invitation of importance for 5-30. We might take up the Bill tomorrow.

Mr. Deputy-Speaker: The House is concerned primarily with its business. The honourable Member, Mr. Tyagi may go on.

Shri Mahavir Tyagi: The Bill which we have considered just now and which the honourable Minister has asked us to pass finally, will be a bad piece of law, when these clauses as considered are put into action. In the first place it will have a bad economic effect on the film industry. Up till now every film used to attract a certain proportion of population as visitors. In every audience, I take it that at least half are below the age of 18 and half over 18 at present. That is my estimate. Now, after passing this measure every film will have at least half of its audience eliminated. (*An honourable Member*: "No, no.") You may say. "No; no", but you can't say no to mathematics. So, half the audience will not visit these pictures. The income of the cinema houses will be halved immediately. In the case of films for children, adults would mostly not go to them because they would have no interest. If they go it would be only for fun's sake. But then those films will not be of the present standard of their liking and they will be tasteless

[Shri Mahavir Tyagi]

for them and will not be attracting adult people very much. So, economically, every film produced will not get its proper return, and your industry is bound to fail.

Mr. Deputy-Speaker: The producers will take care of themselves.

Shri Mahavir Tyagi: Yes, Sir, but I as a legislator and as a Member of Parliament have to see that the industry does not die out. I am the guardian of the industry too. While I am a guardian of children, I am a guardian of the interests of those industrialists also. So, I say in their interest that this is a wrong measure. It will do a great harm to them. Their income will at once be halved.

The next point is that there will be disturbances and riots before every cinema house. You have asked the owner of the cinema to restrict the show to people above 18, and he will object to minor students being allowed. There are, say, 100 students coming who are either matriculates or in high schools. They will say they are 19 or 20 and the owner will say, "No, no, I can't allow you". They will say *inquilab zindabad* and break the glasses and doors. So there will be a problem. Even now, when tickets are sold out and there is no accommodation, the gates are sometimes broken open. In the films meant for adults, the children will have legitimate inquisitiveness and they will say there is something special in it so they must see it. That is human nature. They will be very anxious to go in and look or peep into that cinema house. The natural tendency will be to smuggle in. The result will be there will be disturbances and you will have to give them over to the police. There will be always a danger of the house being set on fire or raided. I tell you this will be the result and this is my prophesy. The police will have to be posted everywhere for safety measures.

Shri R. K. Sidhva: How long are we sitting?

Shri Mahavir Tyagi: Sir, I am in your hands.

Mr. Deputy-Speaker: After all much has been said on this Bill. We took a number of hours over it. If any substantive amendment has been made it is better to refer to it. No doubt it is up to the honourable Member to persuade the House to throw out the Bill. Under these circumstances, the honourable Member will kindly restrict his remarks to one or two sentences and then we can proceed.

Shri Mahavir Tyagi: I will respect your wishes, Sir, but I assure you I was not at all light in my criticism, I was very serious.

Mr. Deputy-Speaker: I have never said so. I always take the honourable Member at his words.

Shri Mahavir Tyagi: I only wanted to bring it on record that I for one am of the opinion that this measure is very ridiculous. It will create difficulties both economic and administrative, economic to the industry and administrative to the police and others.

From the family point of view, it will be very impractical if only children of three are allowed with the parents. If there are three children to each couple of parents and two are left behind there would be crowds of small boys and girls round about the cinema house who will cry out their hearts and say "Where have you gone mummy? Why have you left me out? How long will you make me wait?" So, I tell you it will not be a popular measure. It will invoke no enthusiasm in the country and there will be no popular response to it. It will be of no use except that it will be bringing a lot of criticism against the Parliament if we pass it. I would therefore still insist and recommend that it may be kept in abeyance or be withdrawn or postponed till the final measure comes up.

Shri H. V. Kamath *rose—*

Mr. Deputy-Speaker: There has been enough discussion.

Shri H. V. Kamath: I don't think so, Sir.

Mr. Deputy-Speaker: All right, Mr. Kamath.

An Honourable Member: We can sit tomorrow, if necessary tomorrow night.

Mr. Deputy-Speaker: There are three or four Bills for tomorrow. If honourable Members are prepared to sit tomorrow night what prevents us sitting today?

Prof. N. G. Ranga: There is an important engagement in another place where most of us have to be.

Mr. Deputy-Speaker: Mr. Kamath wants to speak for a long time?

Shri H. V. Kamath: I think I will take 15 minutes.

Mr. Deputy-Speaker: Then the House will stand adjourned.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Saturday, the 9th April, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Saturday, 9th April, 1949.

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.

(No Questions: Part I not published).

ELECTIONS TO STANDING COMMITTEES FOR MINISTRIES OF INDUSTRY AND SUPPLY AND OF LABOUR

Mr. Speaker: I have to inform the Assembly that upto the time fixed for receiving nominations for election of one Member to each of the two Standing Committees for the Ministries of Industry and Supply and Labour, one nomination in the case of each of these Committees was 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. *Standing Committee for the Ministry of Industry and Supply.*—Srijut Rohini Kumar Chaudhuri.

II. *Standing Committee for the Ministry of Labour.*—Shrimati Renuka Ray.

CINEMATOGRAPH (AMENDMENT) BILL—*Contd.*

Mr. Speaker: The House will now proceed with the Legislative Business. The following motion was under discussion:

"That the Bill further to amend the Cinematograph Act, 1918, as amended, be passed."

Shri H. V. Kamath (C.P. and Berar: General): Mr. Speaker, I am sure the House would have very much wished that the honourable the Minister of State for Information and Broadcasting might have selected some other Bill for his maiden performance in this House. This is the first Bill he is piloting through this House and it is a matter of the deepest regret and not a little pain that it should have evoked so much, I would not say opposition, but so much criticism. The criticism is not entirely unfounded, nor is it unjustified. To my mind, the Bill, especially as amended yesterday afternoon, is a classic instance of how not to legislate, what legislation should not be like, and if that be the case with the first Bill that my esteemed friend is piloting through this House, I am really sorry.

The Bill as it was, before the amendment, was not satisfactory enough, as has been pointed out by my honourable friends Mr. Mahavir Tyagi, Dr. Punjabrao and Mr. Satyanarayana. After the amendment, it has made confusion worse confounded, at any rate so far as domestic and social life is concerned. The Minister of State stated yesterday that there was a very comprehensive measure which was under his active consideration. I would have certainly desired that he might have waited for a more auspicious day when he could have brought forward that more comprehensive and more positive measure. Where was the hurry, why this haste, in seeing this measure through? As a matter of fact, we know that this Bill was introduced in this House last August, but for various reasons the House could not proceed with it and we are taking it up today, April, about nine months later. Surely, the Minister could have waited

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for another nine months or even a year when that more comprehensive measure would have been ready, which would have perhaps embraced all the various facts of the Cinematograph industry and cognate matters. That would have been far more welcome. There were repeated and insistent requests yesterday to the Minister to withdraw this Bill, but unfortunately the Minister was not in a mood to do anything of the kind and he proceeded further. It is my view that the acceptance of the amendment would make the Bill a butt of ridicule and the laughing stock of most sensible persons.

The Bill as it was presented originally contained the following in the Statement of Objects and Reasons:

"In order to prohibit the unrestricted exhibition of unsuitable films to young persons at an impressionable age and to ensure maximum circulation of all films, it is necessary to distinguish between adult audiences on the one hand and children and adolescents on the other."

That means to say, that the original Bill contemplated two categories: one of persons above 18—because adult is defined as "a person who has completed his 18th year"—and another of persons below 18. The Bill as amended visualises two categories: one of persons above 18 up to whatever age man may live up to plus persons below three, and another of persons between 3 and 18. Section 4 would read, after the acceptance of the amendment, that any film suitable for public exhibition restricted to adults would be also good enough for children in arms under the age of 3. I fail to see why this amendment regarding babies in arms under the age of 3 commended itself to the Minister. If it was intended that babies in arms under the age of 3 are fond of seeing films, I suppose it won't be considered as tenable by anybody. If the argument is that mothers cannot leave their little babies at home whenever they go to pictures, then as I said yesterday, the difficulty would arise that the mother who is under 18 cannot herself go to a picture which is restricted to adults, because even according to Pandit Thakur Das Bhargava's latest Act, the marriageable age has been raised only to 15, not 18. My friend the honourable Minister stated yesterday that if the age of 18 is regarded as suitable for exercising franchise, then why should not the same thing be applied here?

I think comparison is not always proper and it is sometimes odious. We passed a Bill only the other day fixing one age for boys and another for girls, so far as marriage is concerned. In case a mother of sixteen or eighteen has a baby under three; which is natural and quite probable, the father might like to go to a picture, the baby can go if it is under three, but the mother cannot. It will lead to domestic disputes if the father alone goes to a picture, perhaps with his little child but without the mother because she is under eighteen. This will create unnecessary difficulties so far as domestic life is concerned. I do not think that domestic life in this country is very happy as it is, and we should not introduce more complications by way of this very harmless entertainment of cinemas.

Srijut Rohini Kumar Chaudhuri (Assam: General): What authority has the honourable Member got to speak of babies and mothers?

Shri H. V. Kamath: I can understand the argument, "Close down all cinemas". There is a story told about an eminent Bengali professor. He was opposed to all cinemas and theatres, and he was very truthful, devoted to truth. He would never allow anybody to go to pictures. One fine evening he was walking along the streets of Calcutta when a boy from some high school or college ran after him and asked him, "Could you tell me where the picture house is?" The professor was very wild. He said, "I do not know, go away", though probably he knew where it was. But hardly had he gone a few paces when he

realised that he had told a lie. He called the boy back and told him, "*Jani, kintu bolibona*". It means, "I know but I will not tell you". That kind of attitude I can understand. I understand that Bernard Shaw also is of the same opinion, that theatres and cinema houses are stuffy places where you lose your health and suffer in consequence. He prefers open air entertainment. (*Interruption*).

Mr. Speaker: Let there be no interruption; but the honourable Member must remember that this is the third reading of the Bill. He should not try to extend his arguments by giving stones. He seems to go in the strain as if this is the first reading of the Bill.

Shri H. V. Kamath: I bow to your ruling. As this amendment was not before the House during the first reading, I only wanted to speak on this particular amendment which has to my mind, made the Bill more or less an object of ridicule. It shows a false reading of psychology to say that children under three can be shown these films which are—to use the Minister's words—horrific, sexy and crime, while children above three could not be shown these films. The reading of psychology is that films which are sexy or about crime have a far greater effect on persons between the ages of 18 and 25 than on little children of six, eight or twelve. I can understand a classification of people, say, between fifteen and twentyfive, because it is they who are liable to be affected by the sort of films described as horrific, sexy or crime.

The other point that I want to make is that the Minister said some days ago that Government was going to constitute a Central Censorship Board. At present there are Provincial Censorship Boards. These Provincial Censorship Boards certify that a particular film is suitable or not suitable for universal exhibition. Until there is a Central Censorship Board, there is no use bringing in these legislations piecemeal, authorising the Provincial Censorship Boards to deal with films as they like, because a film banned in one province, may be passed for exhibition in another province and people can always cross the border to see a picture where it is being shown, the forbidden fruit being somewhat tempting.

The last point, Sir, that I want to make is that it is necessary to see that censorship as such has got to be avoided as far as we can. At best it is a necessary evil. Let me give my experience to show that censorship as it is done today defeats the very purpose for which it is intended. There was the instance of one of the books of Rabindranath Tagore which was banned, called "Red O banders". Because the word "red" there, they thought that it had something to do with communism. If you will permit a personal reminiscence, when in 1935 I returned after a short visit to the U.S.S.R., the police at Bombay seized many of my books. Among the books confiscated was Plato's "Republic", because the word "Republic" was there. There was a catalogue of vegetarian restaurants in Europe, printed in German. They could not understand what it was about. So they seized that also. Then there was another book called "Socialism in Great Britain" written by Hugh Dalton, lately Labour Minister. Because the word "socialism" was there, that book also was seized. More than a dozen books were seized and ultimately when the matter went up to the Police Commissioner, he returned most of the books and confiscated only one, it was "A handbook of Marxism" by Emile Burns. It was sold openly in London, but in India it was taboo, and so that book was confiscated. I am not wholly against censorship, but as I said, where it is not intelligent censorship, it fails in its very purpose and so far as films are concerned. I fail to see how a particular film could be definitely described as a crime or horror or sex picture. Recently I saw in the papers that the Bombay Government had decided to cut out film bits showing drink scenes. There are certain films which show the evil effects of drink, and ultimately the effect of the drink on the man or the family and the moral about it is good; but a not

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very intelligent censor might cut this out. "*Ekach Pyala*"—a play in Marathi which shows the evil effects of drink, if that is put on the screen the censorship authority may say that it should be excised. A very good picture like *Chitraleka*, that showed the life of a *yogi* and the life of a *bhogi* and ultimately the *bhogi's* life was shown as tending towards the same goal as the life of the *yogi* and in different ways they approached the same ultimate goal, but if a censor is going to apply his scissors to it before he applies his mind, if he thinks "Here is a man drinking a goblet of wine", then he will cut it out of the picture.

Then, Sir, unless and until we have the Central authority it would not be wise to move in haste; I find that there are two authorities in the Bill, the original and the appellate authority in every province, but all this would have been avoided if Government had decided to bring a comprehensive measure for constituting a Central Censorship Board to decide which films are to be exhibited. I personally would have desired this end—Universal exhibition or no exhibition. We can certainly produce films which can be seen by adults, by children, youngsters, adolescents and by women alike, but from political point of view or any other to restrict the exhibition of films like these will defeat the very purpose. It will introduce complications and difficulties from the domestic point of view, from the social point of view and it won't have the desired psychological effect and I think it will be impracticable. Every time that a complaint is made that so and so is showing a film to adolescents and children above three and not under three, somebody will have to lodge the complaint in court and the manager or the proprietor will be dragged into the court and the audience too will be brought into it, along with doctors to certify the age.

Mr. Speaker: I think the honourable Member is going into unnecessary details. I asked him to be relevant to the point and to be short. He has taken about 25 minutes by now.

Shri H. V. Kamath: I will require one minute to conclude.

Mr. Speaker: He will finish then in one minute.

Shri Mahavir Tyagi (U.P.: General): May I know whether it will be in order to impress now at this stage for the postponement of the passing of the Bill?

Mr. Speaker: It will not be now in order. The motion is there.

Shri H. V. Kamath: So, Sir, I would in the end appeal to the honourable Minister once again to stay his hand, if that be possible at this stage, and we should all await that more auspicious day when he will after great meditation and contemplation bring forward a more comprehensive measure before this House, and also constitute a Central authority for censorship of films—a very intelligent authority composed of wise and eminent persons in the field of education, arts and letters who will properly deal with every film that comes before them. I do hope the Minister will reconsider the whole issue and try to postpone or to stay his hand or to withdraw this Bill, if it be not too late.

The Honourable Shri R. R. Diwakar (Minister of State for Information and Broadcasting): Mr. Speaker, Sir, I have nothing much to say in reply to what has been said about the Bill in the third reading. In fact, I have replied to most of the arguments in my earlier speeches, and therefore, what I now want to point out is only one important thing, and that is, this is not a Bill which has been sprung as a surprise, but the Standing Advisory Committee has given its full consent to it. All the Provincial Governments who have to deal

with these matters at first hand have shown their anxiety that there should be some such provision. Then the industry itself has come forward with suggestions that there should be some such distinction and discrimination between films which can be shown to the whole of the population or films which can be restricted only for the adult population. Then there are progressive countries which have deeply thought over the matter and have better experience so far as this matter is concerned, and have legislation to this effect. In addition to all these things, many eminent thinkers, in our own country have approved of this kind of distinction not only in this matter, but also in matters of education, in matters of literature and so on. That being the case, when I am here with this Bill before the House, I think I am in good company. If at all the whole lot looks ridiculous in the eyes of some of the honourable Members, well. I have cast my lot with them. So with these few words and with only one reference as regards the child in arms, I would finish. That particular amendment is really a thing which is permissive. There is no obligation that a child of three in arms should go to the cinema, because, constituted as our society is, it is very difficult for parents to leave the children at home. They have no governesses or nurses or any such arrangement by which they can leave their children at home. So when that is the case, when these children are allowed along with their parents. I do not think that it is going absolutely out of the way. On the other hand, in some other countries, so far as this particular matter is concerned, even if children and adolescents go along with their parents, well, they are exempted from this particular provision in those countries. I have not gone so far and I have said that only where it might be a kind of difficulty or hardship for the parents to leave their children behind, while they themselves want to go, that permission has been given and it is only the acceptance of that arrangement and nothing more than that. With these few words, I commend that this Bill be passed.

Shri H. V. Kamath: On a point of information, may I ask whether there is any country in the world where there is such a piece of legislation linking adults and children under three in one category?

Mr. Speaker: I think under the guise of information, further arguments are being carried on. The honourable Member may search for the information elsewhere.

Shri Moturi Satyanarayana (Madras: General): What will happen to those films which have already been censored and will they be re-classified?

The Honourable Shri R. R. Diwakar: Yes They can be reclassified.

Mr. Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

RUBBER (PRODUCTION AND MARKETING) AMENDMENT BILL

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

"That the Bill to amend the Rubber (Production and Marketing) Act, 1947, be taken into consideration."

The object of this Bill is to amend the Indian Rubber Act, 1947 so as to secure representation of labour. At present this Board consists of 23 representatives, 10 represent rubber growers, 8 rubber manufacturers, one rubber dealer and the rest are nominated by the Central Government and the Governments of Madras, Travancore and Cochin. It was pointed out to us that it would be desirable to have some representatives of labour on this Board. The reasons why this was urged are obvious and I need not dilate upon them. We

[Dr. Syama Prasad Mookerjee]

consulted the Labour Ministry as also the Rubber Board and there was an agreement that this would be a desirable step to take. At first we thought that we would have only one representative of labour; but then it was pointed out to us that both for the purpose of representing the different classes of labour working in this industry, as also for the purpose of representing the different organisations, it would be desirable to have three representatives on the Board to represent labour. The object is to enable Government to nominate these three representatives. We will consult the Ministry of Labour as also the Governments of Madras, Travancore and Cochin.

This is a non-controversial measure. It is nothing exciting like the film industry and I hope it will receive the unanimous and immediate support of the House.

Mr. Speaker. Motion moved:

"That the Bill to amend the Rubber (Production and Marketing) Act, 1947, be taken into consideration."

Srijut Kuladhar Chaliha (Assam: General): Sir, I think the Bill is a very harmless one, but it has within itself the possibilities of improving the rubber industry. In Assam there was an experimental station where rubber trade was going on very successfully for a very long time with Bhutan hills. If it is possible to explore the possibilities of expanding rubber cultivation in those areas it would be very helpful. I would suggest therefore that if possible a representative from Assam should be nominated to this Board. If the amendment given notice of by Srijut Berman is accepted it will be possible to include one representative from Assam, a person who has personal knowledge of the possibilities of rubber production there. Formerly there was a lot of rubber coming from the Bhutan hills and it has been lost to us. I do not know how and why this trade which was there till 1920 was lost to us. If a nominee from Assam is taken in, probably this market can be explored and rubber from Bhutan and from the Arakan hills can be obtained. With these few words I support the motion.

Prof. N. G. Ranga: (Madras: General): I am very glad that this principle of providing representation for labour has at last come to be accepted so far as this particular marketing board is concerned. I trust that the Labour Minister will take steps to see that with regard to tea and coffee marketing boards also similar principles are adopted and adequate representation given to labour.

My honourable friend the Minister in charge said that he increased the representation for labour in view of the rival or competing labour unions functioning amongst the workers. I wish to suggest that it is a very dangerous precedent to adopt. It does not matter how many labour unions are there. So long as there are workers employed in the rubber industry they should be provided a certain quota of representation and within that quota it should be possible for all the workers employed therein to develop their own organisation the most representative one, and thus qualify themselves for that representation. If it is not possible for the Government to make up their minds as to which one of them is the most representative labour organisation, then they ought to be prepared to hold regular election among the workers who are on the registers and give them an opportunity to elect their representatives. I hope the honourable Minister will keep this point in mind and see to it that every mushroom labour union is not given representation, but on the other hand effective representation is duly provided to workers in the only democratic process that is possible in the present circumstances.

Babu Ramnarayan Singh (Bihar: General): I support the measure and the view point of Professor Ranga that the labour representatives must be regularly elected.

The Honourable Dr. Syama Prasad Mookerjee: Two points have been urged before the House. Mr. Chaliha asked for representation from Assam. So far as the provinces are concerned; as I said just now, we have representatives from Madras, Travancore and Cochin. These are the three main producing areas at present in India. I quite sympathise with the honourable Member's view point that every possible step should be taken to ensure that rubber may be grown in other areas also in the Indian Union. That is a matter which is also being investigated by the Council of Agricultural Research, a representative of which body is a member of this Board. It is not necessary to elect a Member of the Legislature from Assam on the Rubber Board in order to ensure greater rubber production in Assam. This will have to be taken up separately and considered. If any representation is received from the Assam Government in regard to this I shall certainly have the matter enquired into and I shall ask the special officer to contact the Assam Government to find out what possibilities there are for growing rubber in that area.

Srijut Kuladhar Chaliha: There was a big market formerly in Assam doing a lot of business. The possibilities of reviving that trade should be explored.

The Honourable Dr. Syama Prasad Mookerjee: These are matters which will be examined. If it is a question of marketing, that will depend upon other considerations and for which special representation is not necessary.

With regard to labour, I quite agree that we will have to avoid the possibility of rival organisations within one area competing for representation on this Board. We were persuaded to accept three nominees because we were told that at the initial stage it would be desirable to have different areas and interests represented. But I am prepared to examine that matter in due course and see that it does not lead to the strengthening of any unhealthy rivalry among competing labour organisations.

Mr. Speaker: The question is:

"That the Bill to amend the Rubber (Production and Marketing) Act, 1947, be taken into consideration."

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 Dr. Syama Prasad Mookerjee: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

COFFEE MARKET EXPANSION (AMENDMENT) BILL

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

"That the Bill further to amend the Coffee Market Expansion Act, 1942, be taken into consideration."

The object of the amendment proposed is to implement a Resolution from the Coffee Board asking for Government sanction to contribute a donation of

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Rs. 95,000 to the Gandhi Memorial Fund. It was pointed out by the Law Ministry that the Resolution could not be implemented unless the Act was suitably amended. I may assure the House that no pressure at all was put upon the Board and this was a spontaneous recommendation which the Board made. And having received the recommendation we thought it was the duty of Government to make suitable legislative change so that the voluntary contribution which the Board desire to make may become effective. It is not necessary to make any speech in support of this; I hope it will be accepted by the House.

Mr. Speaker: The question is:

"That the Bill further to amend the Coffee Market Expansion Act, 1942, be taken into consideration."

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 Dr. Syama Prasad Mookerjee: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

REPEALING AND AMENDING BILL

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

"That the Bill to repeal certain enactments and to amend certain other enactments, be taken into consideration."

In this Bill there are two Schedules. In the first Schedule there are embodied those enactments which are now obsolete, and under the provisions of Section 6A of the General Clauses Act they have been included. In the Second Schedule there are certain enactments in which certain amendments have become necessary on account of certain changes that have come into existence. For example, the Chief Court in Oudh is no longer in existence. These amendments are merely of a formal character and nothing substantial is being done Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill to repeal certain enactments and to amend certain other enactments, be taken into consideration."

Shri R. K. Sidhva (C.P. and Berar: General): Sir, I should like to have information in regard to the Second Schedule, whether these amendments proposed are in accordance with amendments made in this House. For instance, there is an amendment of the Employment of Children Act, 1938 where a change is sought to be made in section 3C. I find similar changes proposed in other enactments which are very recent. I hope the honourable Minister will give us clearly the reason for these changes.

Mr. Speaker: That will be found in the Notes on Clauses.

The Honourable Shri N. V. Gadgil: That is just what I was going to say. With regard to section 3C of the Employment of Children Act it has been made clear in the Notes on Clauses that this has become necessary because of certain amendments in the Indian Factories Act. The same is true of other amendments. These are of a purely formal character.

Mr. Speaker: The honourable Member will notice that in each case of amendment which requires explanation, some explanation is given in the Notes on Clauses. He will find it on page 5. Of course it is not required in respect of each and every amendment but amendments which require some explanation are stated there.

The question is:

"That the Bill to repeal certain enactments and to amend certain other enactments, be taken into consideration."

The motion was adopted.

Clauses 1 to 4 were added to the Bill.

The First and the Second Schedules were 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. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

CODE OF CIVIL PROCEDURE (AMENDMENT) BILL

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

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

This is a very simple Bill and the necessity for this arose out of some proceedings taken against Government in the case of an award passed in the Calcutta High Court. Under section 82 some time is given for Government to comply with the decree. What happened was that this was an award under the Arbitration Act, and it was interpreted by the Calcutta High Court that section 82 only applied to those cases in which there was notice under section 80 of the Civil Procedure Code. Therefore any award under the Arbitration Act or any order under the Land Acquisition Act was not covered by the provisions of section 82, with the result that as soon as the award was declared the successful party could attach the furniture and some other property of Government. Now I think in ordinary experience this is too much and Government should be given an opportunity to have some time to comply with the directions in any decree passed. Therefore this Bill provides that in all cases in which an award or an order or decree has been passed against Government, the same provisions which are in section 82 should be made applicable. From that point of view sub-clauses (a) and (b) of clause 2 have been provided. This is an inoffensive Bill and I have nothing further to say. Sir, I move:

Shri S. V. Krishnamoorthy Rao (Mysore State): My amendments are only recasting amendments, provided they are acceptable to the Minister.

Mr. Speaker: Are they acceptable?

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

Shri S. V. Krishnamoorthy Rao: Therefore, I am not moving them.

Mr. Speaker: There is an amendment by Mr. Naziruddin Ahmad but it is only for a change from small to capital letters.

Mr. Naziruddin Ahmad (West Bengal: Muslim): On account of the convention I am not moving my amendment.

Mr. Speaker: I think Pandit Thakur Das Bhargava has an amendment.

Pandit Thakur Das Bhargava (East Punjab: General): I am not moving it as the honourable Minister is not prepared to accept it.

Mr. Speaker: 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 Shri N. V. Gadgil: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

CHARTERED ACCOUNTANTS BILL

The Honourable Shri K. C. Neogy (Minister of Commerce): Sir, I move:

"That the Bill to make provision for the regulation of the profession of accountants, as reported by the Select Committee, be taken into consideration."

The Select Committee has made certain important alterations in the provisions of the original Bill and I desire to say a few words dwelling upon some of the more important of these amendments. First and foremost, I should like to draw the attention of the House to a new clause in Clause 4, namely sub-section (3), which seeks to extend the qualification for registration to a class of persons who are not at present qualified to be registered as Accountants under the Auditor's Certificate Rules. The Committee was impressed by certain representations which had been received from an Association of Accountants who hold a Government diploma in accountancy, but are not permitted to practise as Auditors under the rules that I have referred to because of certain lack of practical experience as Articled Clerk. We have made provision that subject to these persons fulfilling certain conditions that might be prescribed by the Central Government, they would be qualified for registration under this new measure.

Likewise, another body of persons, namely those who hold degrees in Commerce from the universities of India, made representations to Government that their case might be similarly treated.

While we were considering that particular request, my honourable friend, Mr. Sidhva, gave notice of an amendment, which is numbered 6 in the consolidated list of amendments, seeking to expand this particular concession to other persons who may have passed an examination recognised as equivalent to the Government Diploma in accountancy, subject of course to their satisfying the same conditions as would apply in the case of G.D.As. I am prepared to accept this amendment so as to enable this class of persons also to

be qualified for registration, subject to fulfilment of the conditions that I have mentioned.

A third category of persons has been brought to our notice, namely Certified Auditors practising in the Acceding States. This law will be extended to the Acceding States as much as to the provinces of India. But in the Acceding States at the present moment, under their own rules, there are accountants privileged to practise as Registered Accountants these rules being analogous to the rules that now operate in the provinces. We are not quite satisfied that these persons conform to the standards which have been laid down in the British Indian provinces for Registered Accountants, but at the same time we recognise that we should not do anything that might interfere with the practice of accountancy which these persons have been following in the past under the laws of the Acceding States themselves. Therefore, we have decided to accept the two amendments that my honourable friend, Mr. T. T. Krishnamachari has given notice of and which appears in the supplementary list as Nos. 2 and 3. The effect of these two amendments is that those accountants who are at present authorised to practise as Registered Accountants under the laws of the Acceding States, will continue to exercise that right in their respective States, although they may not be fully qualified according to the standards that we are now laying down.

The second provision is that just as in the case of G.D.As. and other accountants to whom I have referred and who would be given a chance for qualifying themselves for registration, such opportunities would also be extended to this category of accountants on similar conditions.

These three provisions would have the effect of considerably expanding the scope for persons who are doing the work of accountancy or who have qualified themselves, at least on the theoretical side, only if they complied with the conditions that Government propose to prescribe in this behalf after consulting all the various interests and experts. Of course, each case will have to be perhaps dealt with on merits having regard to the nature of the theoretical training and the practical experience which may have been gained by each candidate for such special treatment.

There is one other amendment which I should like to mention in this connection and that appears as No. 1 in the supplementary list in the name of my honourable friend, Mr. T. T. Krishnamachari. In the Bill as it stands the right to entertain articled clerks would belong to practising Chartered Accountants only that is to say, those who are not actually practising—of course they would not be entitled to be called Chartered Accountants—would not be entitled to have articled clerks. But in this amendment a special case is sought to be made in the interests of the profession itself: that is to say we are likely to be short of the necessary number of accountants that this country may need, and the amendment that my honourable friend suggests would have the effect of expanding the opportunities for practical training to persons who may not find it possible to be articled to practising Chartered Accountants but who at the same time may find it possible to be an apprentice or an assistant to a non-practising accountant who would be an Associate or a Fellow of the Institute of Chartered Accountants properly so called but who may be employed as a paid assistant to a firm or to an individual chartered accountant. In other words, we are looking to the substance of the thing. If an articled clerk gets an opportunity of getting the necessary practical training, this training may be taken not merely directly under a practising chartered accountant but also under a qualified accountant who may not be technically a practising chartered accountant but who may be employed as a paid assistant to a chartered accountant or to a firm of chartered accountants.

I had better now refer to a rather important amendment which the Select Committee has made and that is to be found in clauses 20 and 21 regarding

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removal from the register. In the original Bill it was left to the Council to hold the enquiry and give a decision as regards any case in which any misconduct may justify the removal of the name of an accountant from the register of this body. In that provision in the original Bill there was an appeal provided for to the High Court in all such cases, though the initial order would have been passed by the Council itself. There was, however, an important exception and that related to income-tax proceedings, it being laid down that where anybody was suspected to be guilty of any malpractice in connection with income-tax proceedings, then the matter would be inquired into by the Government itself and the decision of the Government would of course be subject to appeal to the High Court in the same manner as a decision of the Council itself. The Select Committee have altogether changed these provisions. In the first instance, the Council is now to be authorised merely to hold an enquiry and to forward the findings of the Council to the High Court. That is to say the final decision would, in every case, be that of the High Court and not that of the Council itself. Secondly, the special provision that was made in regard to income-tax proceedings has been done away with and in place of it what we have done is to make it obligatory on the part of the Council to inquire into a matter, if the Central Government had made any complaint in that connection. But here again the decision would have to be given virtually by the High Court and the Council will merely forward its findings to the High Court.

These, Sir, are all the provisions and also the substance of some of the amendments I am prepared to accept, to which special reference is needed.

Shri R. K. Sidhva (C.P. and Berar: General): What about the amendment to the clause on apprentices?

The Honourable Shri K. C. Neogy: I am coming to that. Before I conclude I should like to give an assurance to this House in regard to the question of the refund of the premia which would be payable by the articled clerks to the accountants. I understand that some of my honourable friends are anxious that there should be some understanding that the premia would be refunded in every case. As a matter of fact I am in a position to give the undertaking that by the rules that will be framed under this law we would provide that the premia would be returned in full on satisfactory completion of Articles. I think, in view of what I have stated, my honourable friend Mr. Sidhva would not find it necessary to move his amendment.

As I have already stated I am going to accept one of his amendments but there is another of a more or less formal character which also I should be accepting and that is the amendment to clause 1, proposed by my honourable friend Mr. Sidhva.

Mr. Speaker: Motion moved:

"That the Bill to make provision for the regulation of the profession of accountants, as reported by the Select Committee, be taken into consideration."

Shri S. V. Krishnamoorthy Rao (Mysore State): Sir, one question I would like to ask. I am glad that the honourable Minister has made the position very clear and has stated that sub-section (iii) of clause 4 covers G.D.A·s. and the accountants from acceding States that, "fulfil such conditions as the Central Government may specify in this behalf". He also gave us an assurance that each case will be considered on its own merits. Will this apply to the period of articles also?

The Honourable Shri K. C. Neogy: I think so: that is what is intended.

Shri S. V. Krishnamoorthy Rao: If that is so I do not propose to make any speech.

Mr. Speaker: The question is:

"That the Bill to make provision for the regulation of the profession of accountants, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Speaker: I should like to know which of the amendments are going to be moved by honourable Members.

Pandit Thakur Das Bhargava (East Punjab: General): I do not propose to move any of the amendments to any of the clauses.

Shri S. V. Krishnamoorthy Rao: Nor do I, Sir.

Shri T. T. Krishnamachari (Madras: General): Sir, I beg to move:

"That to sub-clause (2) of clause 2 of the Bill the following *Explanation* be added :

'*Explanation.*—An associate or a fellow of the Institute who is a salaried employee of a chartered accountant or a firm of chartered accountants shall, notwithstanding such employment, be deemed to be in practice for the limited purpose of the training of articled clerks.' "

In view of the fact that the honourable Minister has explained the reason why he is willing to accept this amendment I think the House will not expect me to make a speech on it.

Mr. Speaker: Amendment moved:

"That to sub-clause (2) of clause 2 of the Bill, the following *Explanation* be added :

'*Explanation.*—An associate or a fellow of the Institute who is a salaried employee of a chartered accountant or a firm of chartered accountants shall, notwithstanding such employment, be deemed to be in practice for the limited purpose of the training of articled clerks.' "

The Honourable Shri K. Santhanam (Minister of State for Railways and Transport): Sir, this amendment requires one explanation. Now the number of apprentices which any chartered accountant can take is regulated by the rules. As the amendment stands it looks as if a man who is in employment can take an apprentice apart from the chartered accountant or firm of chartered accountants in which he is employed. It is not intended. What is intended is that his presence also will be counted in the number of apprentices which the chartered accountant or firm of chartered accounts in which he is employed, can take. It should be made clear so that there may be no misunderstanding. Otherwise he cannot take a proper apprentice when he has no work of his own. That would be impossible.

Shri T. T. Krishnamachari: The position is that a man who is employed in a firm of chartered accounts will be guided by that firm as to whether he can take an articled clerk or not. He cannot take an articled clerk apart from the policy of the firm in this regard. I am sure in actual practice no such contingency similar to what my honourable friend Mr. Santhanam is visualising can possibly happen.

The Honourable Shri K. C. Neogy: Sir, I accept the amendment.

Mr. Speaker: I have not been able to follow the amendment exactly on its merits. I take it that the honourable Minister has examined the wording to see that it fits in with his intention.

The Honourable Shri K. C. Neogy: It does. The details will have to be provided for in the rules.

Mr. Speaker: The question is:

"That to sub-clause (2) of clause 2 of the Bill the following *Explanation be added*:

'*Explanation.*—An associate or a fellow of the Institute who is a salaried employee of a chartered accountant or a firm of chartered accountants shall, notwithstanding such employment, be deemed to be in practice, for the limited purpose of the training of articled clerks.' "

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.

Clause 3 was added to the Bill.

Shri R. K. Sidhva: Sir, I beg to move:

"That in part (iii) of sub-clause (1) of clause 4 of the Bill, after the words 'Government Diploma in Accountancy', the following be inserted:

'or an examination recognised as equivalent thereto by the rules for the award of the Government Diploma in Accountancy.' "

Sir, I am very thankful to the honourable Minister for having accepted this amendment as that would really give relief to so many of the concerns who would otherwise have been affected. Sir, I move.

Mr. Speaker: The question is:

"That in part (iii) of sub-clause (1) of clause 4 of the Bill, after the words 'Government Diploma in Accountancy', the following be inserted:

'or an examination recognised as equivalent thereto by the rules for the award of the Government Diploma in Accountancy.' "

The motion was adopted.

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

"That after part (iii) of sub-clause (1) of clause 4 of the Bill, the following new part be inserted:

'(iii) (a) any person who, at the commencement of this Act, is engaged in the practice of accountancy in any Acceding State and who, although not possessing the requisite qualifications to be registered as an accountant under the Auditors' Certificates Rules, 1932, fulfils such conditions as the Central Government may specify in this behalf;' "

This is again a matter which has been explained by the honourable Minister. It merely facilitates those auditors who are practising in an Acceding State and who fulfil the necessary conditions becoming members of the Institute. I move,

Mr. Speaker: The question is:

"That after part (iii) of sub-clause (1) of clause 4 of the Bill, the following new part be inserted:

'(iii) (a) any person who, at the commencement of this Act, is engaged in the practice of accountancy in any Acceding State and who, although not possessing the requisite qualifications to be registered as an accountant under the Auditors' Certificates Rules, 1932, fulfils such conditions as the Central Government may specify in this behalf;' "

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.

Clauses 5 and 14 were added to the Bill.

Shri R. K. Sidhva: Sir, I do not wish to move my amendment but only want to say something on it. The amendment relates to a very important matter affecting apprentices. Although my amendment is not acceptable to the honourable Minister I am very glad that he has given a definite undertaking here that he will see that the fees will be refunded and that their interests will be safeguarded. That serves my purpose and I hope the honourable Minister will do the needful. Under these circumstances I do not feel that there is any justification for me to move my amendment.

The Honourable Shri K. Santhanam: As a Member of the Expert Committee I insisted that only if the Accountants agree to such a provision we would sponsore the Bill and they readily accepted it in the Ooty Meeting. It has already been incorporated in the Rules which will be promulgated.

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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 31 were added to the Bill.

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

"That after clause 31 of the Bill, the following new clause be inserted:

'31A. *Act not to affect right of accountants to practice as such in Acceding States.*—Nothing contained in this Act shall affect the right of any person who, at the commencement of this Act, is entitled to engage himself in the practice of accountancy in any Acceding State under any law in force in that State to continue to engage himself in the practice of accountancy in that State after the commencement of this Act.' "

Sir, this again has been dealt with by the honourable Minister and it needs no further explanation.

Mr. Speaker: The question is:

"that after clause 31 of the Bill, the following new clause be inserted:

'31A. *Act not to affect right of accountants to practice as such in Acceding States.*—Nothing contained in this Act shall affect the right of any person who, at the commencement of this Act, is entitled to engage himself in the practice of accountancy in any Acceding State under any law in force in that State, to continue to engage himself in the practice of accountancy in that State after the commencement of this Act.' "

The motion was adopted.

New Clause 31A was added to the Bill.

Mr. Speaker: The question is:

"That clause 32 stand part of the Bill."

The motion was adopted.

Clause 32 was added to the Bill.

The Schedule was added to the Bill.

Shri R. K. Sidhva: Sir, I beg to move:

"That in sub-clause (2) of clause 1 of the Bill, for the words 'as respects', the words 'with respect to' be substituted."

Sir, it should be "with respect to" and not "as respects" as appearing here.

Mr. Speaker: The question is:

"That in sub-clause (2) of clause 1 of the Bill, for the words 'as respects', the words 'with respect to' be substituted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clauses 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. Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

INDIAN SUCCESSION (AMENDMENT) BILL

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

"That the Bill further to amend the Indian Succession Act, 1925, be taken into consideration."

Sir, it is a very simple Bill. Succession certificates granted by District Judges from Acceding States are recognized by the courts in India but not the certificates granted by the District Judges from the territory of Hyderabad. What the Bill provides is that this will also be the case with regard to certificates granted by the District Judges in the Hyderabad territory. Sir, I move.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Succession Act, 1925, be taken into consideration."

The motion was adopted.

Mr. Speaker: We take up the clauses now.

Maulana Hasrat Mohani (U.P.: Muslim): Sir, I want to oppose this Bill.

Mr. Speaker: He can oppose the clauses now. The motion for consideration has already been carried.

Maulana Hasrat Mohani: I do not want to oppose any clause. I have to suggest that if some change is made in the Preamble of the Bill, it may not be necessary at all to oppose the Bill.

Mr. Speaker: My point is that if he has nothing to suggest in respect of the clauses and has only to make suggestions with reference to the Preamble, he may speak when I put the Preamble to the House.

Maulana Hasrat Mohani: It will be useless to express my views at that time; I want to express them here and now.

Mr. Speaker: All right.

Maulana Hasrat Mohani: Sir, I am sorry that I have most reluctantly to come forward to oppose this Bill. Not that I don't appreciate the motive

behind this Bill which is to remove certain difficulties, but in my opinion, this Bill is quite unnecessary. My reason for saying that is that as far as Section 382 of the Act is concerned, there was no mention there of any Acceding State. It was at the instance of the Governor-General, according to the rules adopted in the Constituent Assembly, that certain changes were introduced but otherwise the whole section remains as it was. Now, we find, on closely reading this section, that it introduces three parties: the first is the Indian Government, the second is the Acceding State, and the third are foreign States.

Sir, my submission is that there can be no half-way house between an Acceding State and a foreign State. What is the real fact? The Nizam or the Hyderabad Government has not as yet signed the Instrument of Accession, and as such Hyderabad remains in the position of a foreign State. I do not object if you introduce a change and say that we place Hyderabad State in the same category because it is the lookout of the Indian Government to say that they will accept any succession declaration whether made by a foreign Government or by the Government of Hyderabad. What I object to is the wording of this Bill. It says:

"In section 382 of the Indian Succession Act, 1925, after the words 'an Acceding State', the words 'or the State of Hyderabad' shall be inserted."

And then in the Statement of Objects and Reasons it says:

"This is causing considerable inconvenience to the public and it is therefore necessary that Hyderabad should in this respect be put in the same position as the Acceding States."

Shri R. K. Sidhva (C. P. and Berar: General): What are his grounds for opposition?

Maulana Hasrat Mohani: My ground is that it is not necessary to have this wording that Hyderabad should be put in the same position as the Acceding States. There is a suspicion in my mind that by introducing these words you are thrusting this on the Hyderabad State without their consent. Therefore, what I want to suggest is this. We know that the Hyderabad Government is now in quite a conciliatory mood. It has expressly declared that it is not opposed to any of the things proposed by the Indian Government. They have got no foreign relations. The Nizam has voluntarily ended his *Sarf-e-khas* system and the *jagirdari* system. He has also accepted that he will henceforth act as a democratic Ruler with an elected Cabinet. There remains nothing in which we can expect any opposition from the Nizam. Therefore, if we want to be in a conciliatory mood, we can also say after the words, "an Acceding State", also, "the State of Hyderabad". If we say that, I will be able to co-operate in this matter. I am sure they will be agreeable to this and that they will have no objection to it. When Hyderabad has agreed to throw in their rights with the Indian Government on other bigger matters, I don't think there is any difficulty in saying this. Also, there is no harm if we do use some such words. Therefore, what I appeal and what I suggest is this. If we add these few words. "The State of Hyderabad is agreeable to co-operate with us" it at once removes that difficulty. Otherwise, it may appear that we are bringing the Hyderabad State in the same category as Acceding States over its head. We know that the State is agreeable to act according to our wishes and they have actually agreed to do so and co-operate in every matter. If we add these few harmless words, I think it will only be conceding something necessary. It will also be quite consistent with the attitude of my friend Sardar Patel for whom I give my expression of appreciation on his attitude towards Hyderabad. His attitude has been generous and very conciliatory

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and in a way very magnanimous. I am sorry he is not here, otherwise I would have appealed to him directly and told him that as he has been so very generous to the Nizam's Government and the Nizam, if we add a few words after the.........

Mr. Speaker: The honourable Member is now repeating it for the third time.

Maulana Hasrat Mohani: If these few words are inserted then I support this Bill. But if they are not put in then I am sorry I have to oppose this Bill altogether because as I have said before there is no half-way house between an Acceding State and a foreign State. We cannot make something of a hybrid and say it is neither an Acceding State nor a foreign State. What is it then? Therefore if you accept my suggestion I have no objection and I will fully support this Bill. Otherwise, I am sorry that I have to oppose it categorically.

Shrimati G. Durgabai: *rose*—

Mr. Speaker: I do not think any explanation is necessary.

The Honourable Shri N. V. Gadgil: I would have been surprised if the Maulana had not made the speech which he has made. I will ask him to reconcile himself to what is inevitable and what is going to be inevitable. The Hyderabad State is not at present included in the Indian Succession Act. The attempt now by this Bill is to include it, because its exclusion is causing great hardship to the people and the State belongs to the people and not to the Nizam.

Maulana Hasrat Mohani: I accept but......

Mr. Speaker: Order, order. No reply.

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 Shri N. V. Gadgil: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

INDIAN PASSPORT (AMENDMENT) BILL

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

"That the Bill to amend the Indian Passport Act, 1920, be taken into consideration."

This is also a simple Bill. It has become necessary in order to have complete security in the Indian territory and the only intention is to include the Acceding States by the provisions of this Bill. Sir, I move.

Mr. Speaker: The question is:

"That the Bill to amend the Indian Passport Act, 1920, be taken into consideration."

The motion was adopted.

Mr. Speaker: The question is:

"That clauses 1 to 5 stand part of the Bill."

The motion was adopted.

Clauses 1 to 5 were 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. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

REGISTRATION OF FOREIGNERS (AMENDMENT) BILL

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

"That the Bill to amend the Registration of Foreigners Act, 1939, be taken into consideration."

The object of this Bill is similar to the object of the Bill that has just been passed by this House, namely, to secure complete security and to have the registration of foreigners who may be living in the Acceding States. This is a simple measure. Sir, I move.

Mr. Speaker: The question is:

"That the Bill to amend the Registration of Foreigners Act, 1939, be taken into consideration."

The motion was adopted.

Mr. Speaker: The question is:

"That clauses 1 to 6 stand part of the Bill."

The motion was adopted.

Clauses 1 to 6 were 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. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

Mr. Speaker: That brings the session to a close, and I heartily thank the Members for all the co-operation that they have given to me.

The Assembly then adjourned sine die.

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